WEST VIRGINIA LEGISLATURE
Regular Session, 2003

ENROLLED

SENATE BILL NO. 486

(By Senator Minard, et al)

PASSED March 8, 2003

In Effect NInety days from Passage
ENROLLED

Senate Bill No. 486

(BY SENATORS MINARD, JENKINS, ROWE, SHARPE, ROSS AND MINEAR)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section nine, article thirty-three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the requirement that a certified public accountant must notify the insurer's board of directors or its audit committee if the insurer has materially misstated the insurer's financial condition.

Be it enacted by the Legislature of West Virginia:

That section nine, article thirty-three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 33. ANNUAL AUDITED FINANCIAL REPORT.

(a) The independent certified public accountant shall immediately notify, in writing, the insurer's board of directors or its audit committee and the commissioner of any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the commissioner as of the thirty-first day of December immediately preceding or of any determination that the insurer does not meet the applicable minimum capital and surplus requirement of this chapter or, in the case of an insurer not subject to capital and surplus requirement, that the surplus of the insurer is less than one hundred thousand dollars as of the thirty-first day of December immediately preceding. For purposes of this article, material misstatement shall have the meaning prescribed by the professional standards and pronouncements of the American institute of certified public accountants: Provided, That the independent certified public accountant shall report a misstatement that overstates the surplus as regards policyholders in single financial statement items by five percent or more or, when taken together with all financial statement items, the surplus as regards policyholders is overstated by ten percent or more.

(b) No independent public accountant shall be liable in any manner to any person for any statement made in connection with subsection (a) of this section if the statement is made in good faith in compliance with said subsection.

(c) If the accountant, subsequent to the date of the audited financial report filed pursuant to this article, becomes aware of facts which might have affected the report, the commissioner notes the obligation of the accountant to take action as prescribed in volume 1, section AU 561 of the professional standards of the American institute of certified public accountants.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 27th Day of March, 2003.

Governor