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HB 4513

FILED

2006 MAR 31 P 2:44

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR

## House Bill No. 4513

(By Delegate H. White)



Passed March 11, 2006

In Effect from Passage

FILED

2006 MAR 31 P 2:44

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**E N R O L L E D**

COMMITTEE SUBSTITUTE

FOR

**H. B. 4513**

(BY DELEGATE H. WHITE)

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[Passed March 11, 2006; in effect from passage.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-2-22, relating to the Insurance Commissioner's authority; transferring authority of the former Workers' Compensation Commission to the Insurance Commissioner with respect to collection of amounts owed by employers; permitting Insurance Commissioner to accept a bond from defaulting employers; requiring circuit courts to issue injunction against operation of business by a defaulting employer; and permitting the Commissioner to waive penalties and interest on moneys due the old fund.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §33-2-22, to read as follows:

**ARTICLE 2. INSURANCE COMMISSIONER.**

**§33-2-22. Authority of Insurance Commissioner regarding employers in default to workers' compensation funds; injunctions against defaulting employers.**

1       (a) Upon termination of the Workers' Compensation  
2 Commission, all of the powers and authority previously  
3 conferred upon the Workers' Compensation Commission  
4 pursuant to article two, chapter twenty-three of this code,  
5 relating to employers in default to the Workers' Compensation  
6 Fund, are hereby transferred to the Insurance Commissioner  
7 and shall be applied by the Commissioner to those employers  
8 in default to the Old Fund or having liability to the uninsured  
9 employers' fund or who are in policy default or fail to maintain  
10 mandatory workers' compensation coverage, all as defined in  
11 article two-c, chapter twenty-three of this code.

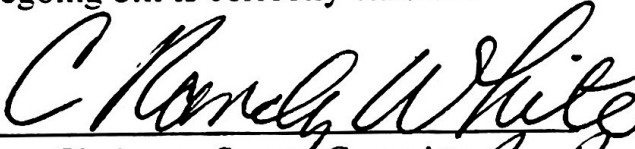
12       (b) In any case in which an employer is in default to the Old  
13 Fund or has liability to the uninsured employers fund or who is  
14 in default on a policy or otherwise fails to maintain mandatory  
15 workers' compensation coverage, all as defined in article two-c,  
16 chapter twenty-three of this code, the commission may bring an  
17 action in the circuit court of Kanawha County to enjoin the  
18 employer from continuing to operate the employer's business:  
19 *Provided*, That the commissioner may, in his or her sole  
20 discretion, and as an alternative to this action pursuant to this  
21 subsection, require the employer to file a bond, in the form  
22 prescribed by the Commissioner, with satisfactory surety in an  
23 amount not less than one hundred fifty percent of the total  
24 payments, interest and penalties due.

25       (c) In any action instituted pursuant to subsection (b) of this  
26 section, the circuit court shall issue an injunction prohibiting  
27 the employer from operating the employer's business, if the  
28 Insurance Commissioner proves by a preponderance of the  
29 evidence, that the employer is in default to the Old Fund or has  
30 liability to the uninsured fund or is in policy default or has

31 otherwise failed to maintain mandatory workers' compensation  
32 coverage.

33 (d) Notwithstanding any provision of this code to the  
34 contrary, the commissioner shall have the authority to waive  
35 penalty and interest accrued on moneys due the Old Fund. The  
36 enactment of the provisions of this subsection shall be applied  
37 retrospectively to the first day of January, two thousand six, and  
38 may not be construed to require the commissioner to adjust or  
39 otherwise modify any agreements reached with regard to the  
40 payment of penalty or interest since that date.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
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Chairman Senate Committee


  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect from passage.

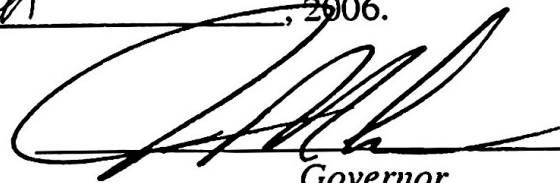
  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
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Speaker of the House of Delegates

The within is approved this the 31<sup>st</sup>  
day of March, 2006.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 29 2006

Time 4:10 pm