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
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.

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

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

(c) In any action instituted pursuant to subsection (b) of this section, the circuit court shall issue an injunction prohibiting the employer from operating the employer’s business, if the Insurance Commissioner proves by a preponderance of the evidence, that the employer is in default to the Old Fund or has liability to the uninsured fund or is in policy default or has
otherwise failed to maintain mandatory workers' compensation coverage.

(d) Notwithstanding any provision of this code to the contrary, the commissioner shall have the authority to waive penalty and interest accrued on moneys due the Old Fund. The enactment of the provisions of this subsection shall be applied retrospectively to the first day of January, two thousand six, and may not be construed to require the commissioner to adjust or otherwise modify any agreements reached with regard to the payment of penalty or interest since that date.
... That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

In effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 31st day of March, 2006.

[Signature]
Governor