WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2009

ENROLLED

Senate Bill No. 494
(BY SENATOR MINARD)

[Passed April 10, 2009; in effect ninety days from passage.]
AN ACT to amend and reenact §33-2-11 of the Code of West Virginia, 1931, as amended, relating to authorizing the Insurance Commissioner to order restitution in certain cases.

Be it enacted by the Legislature of West Virginia:

That §33-2-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-11. Enforcement of orders; revocation of licenses; court action.

1 In addition to examinations and investigations expressly authorized by this chapter, the commissioner may conduct examinations and investigation of insurance matters he or she considers proper to determine whether any person has violated any provision of this chapter or to secure information useful in the lawful administration of his or her duties. If the commissioner determines, after notice and
hearing, that any person is transacting insurance in an illegal, improper or unjust manner or is failing to pay losses and obligations when they become due, excepting claims to which there is a substantial defense, he or she may order the person to discontinue the illegal, improper or unjust manner of transacting insurance, to adjust and pay his or her obligations as they become due: Provided, That in any order issued pursuant to subsection (j), section nine of this article or entered as a result of a regulatory enforcement action initiated and prosecuted by the commissioner pursuant to this section or section eleven, article three of this chapter, the commissioner may, in addition to or in lieu of any other penalties or remedies provided therein, order an insurer to pay restitution to affected persons. If a person fails or refuses within twenty days after notice to obey the order, the commissioner may revoke any license issued by the commissioner and held by the person. In addition, the commissioner may apply to the circuit court, or the judge in vacation, having jurisdiction for an injunction or the appointment of a receiver, or for both. The court or judge may enforce the order of the commissioner by injunction or by appointment of a receiver to take charge of the affairs and property of the person, or both, and may make further orders as may be necessary and proper to effectuate the injunction or receivership.
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 approval this the Day of , 2009.

Governor