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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 1993

— ● —

ENROLLED

Com. Sub. For
HOUSE BILL No. *2440*

(By Delegates *Phillips, Harris, Louiss,*
L. White and Bean)

— ● —

Passed *April 8,* 1993

In Effect *Ninety Days From* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

H. B. 2440

(By DELEGATES PHILLIPS, FARRIS, LOUISOS, L. WHITE AND BEANE)

[Passed April 8, 1993; in effect ninety days from passage.]

AN ACT to amend article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty; and to amend article twelve-b of said chapter by adding thereto a new section, designated section fourteen, all relating to the requirement of agents, solicitors, excess line brokers, service representatives and adjusters to keep current addresses on file with the insurance commissioner so that proper notices of hearing can be served; requiring procedures for serving notice of hearing; permitting hearings to proceed if individual fails to appear; requiring evidence at hearings; setting an appeal period for reconsideration and judicial review.

Be it enacted by the Legislature of West Virginia:

That article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty; and that article twelve-b of said chapter be amended by adding thereto a new section, designated section fourteen, all to read as follows:

**ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS
LINE.**

§33-12-30. Notice of hearing before the commissioner; failure to appear; entry of orders; appeal.

1 (a) When conducting any hearing authorized by
2 section thirteen, article two of this chapter which
3 concerns any agent, solicitor, excess line broker or
4 service representative, the commissioner shall give
5 notice of such hearing and the matters to be determined
6 therein to such agent, solicitor, excess line broker or
7 service representative by certified mail, return receipt
8 requested, sent to the last address filed by such person
9 or entity pursuant to section twenty-nine of this article.

10 (b) If an agent, solicitor, excess line broker or service
11 representative fails to appear at such hearing, the
12 hearing may proceed, at which time the commissioner
13 shall establish that notice was sent to such person
14 pursuant to this section prior to the entry of any orders
15 adverse to the interests of such agent, solicitor, excess
16 line broker or service representative based upon the
17 allegations against such person which were set forth in
18 the notice of hearing. Certified copies of all orders
19 entered by the commissioner shall be sent to the person
20 affected therein by certified mail, return receipt
21 requested, at the last address filed by such person with
22 the division.

23 (c) An agent, solicitor, excess line broker or service
24 representative who fails to appear at a hearing of which
25 notice has been provided pursuant to this section, and
26 who has had an adverse order entered by the commis-
27 sioner against them as a result of their failure to so
28 appear may, within thirty calendar days of the entry of
29 such adverse order, file with the commissioner a written
30 verified appeal with any relevant documents attached
31 thereto, which demonstrates good and reasonable cause
32 for such person's failure to appear, and may request
33 reconsideration of the matter and a new hearing. The
34 commissioner in his discretion, and upon a finding that
35 the agent, solicitor, excess line broker or service
36 representative has shown good and reasonable cause for
37 his failure to appear, shall issue an order that the
38 previous order be rescinded, that the matter be recon-
39 sidered, and that a new hearing be set.

40 (d) Orders entered pursuant to this section are subject
41 to the judicial review provisions of section fourteen,
42 article two of this chapter.

ARTICLE 12B. ADJUSTERS.

**§33-12B-14. Current address of adjusters to be filed;
effective notice of appearance at hearing
before commissioner.**

1 (a) Each adjuster shall file with the commissioner the
2 complete address of his principal place of business and
3 the complete address of his residence including the
4 name and number of the street, or if the street where
5 the business is located is not numbered, the number of
6 the post office box. Within thirty days of a change of
7 business or residence address by an adjuster the
8 adjuster must file with the commissioner notice of such
9 change of address.

10 (b) When conducting any hearing authorized by
11 section thirteen, article two of this chapter which
12 concerns any adjuster, the commissioner shall give
13 notice of such hearing and the matters to be determined
14 therein to such adjuster by certified mail, return receipt
15 requested, sent to the last address filed by such person
16 or entity pursuant to this section.

17 (c) If an adjuster fails to appear at such hearing, the
18 hearing may proceed, at which time the commissioner
19 shall establish that notice was sent to such person
20 pursuant to this section prior to the entry of any orders
21 adverse to the interests of such adjuster based upon the
22 allegations against such person which were set forth in
23 the notice of hearing. Certified copies of all orders
24 entered by the commissioner shall be sent to the person
25 affected therein by certified mail, return receipt
26 requested, at the last address filed by such person with
27 the division.

28 (d) An adjuster who fails to appear at a hearing of
29 which notice has been provided pursuant to this section,
30 and who has had an adverse order entered by the
31 commissioner against them as a result of their failure
32 to so appear may, within thirty calendar days of the

33 entry of such adverse order, file with the commissioner
34 a written verified appeal with any relevant documents
35 attached thereto, which demonstrates good and reason-
36 able cause for the adjuster's failure to appear, and may
37 request reconsideration of the matter and a new
38 hearing. The commissioner in his discretion, and upon
39 a finding that the adjuster has shown good and reason-
40 able cause for his failure to appear shall issue an order
41 that the previous order be rescinded, that the matter be
42 reconsidered, and that a new hearing be set.

43 (e) Orders entered pursuant to this section are subject
44 to the judicial review provisions of section fourteen,
45 article two of this chapter.

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

[Handwritten Signature]
.....
Chairman Senate Committee

[Handwritten Signature: Ernest E. Moore]
.....
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Handwritten Signature]
.....
Clerk of the Senate

[Handwritten Signature]
.....
Clerk of the House of Delegates

[Handwritten Signature]
.....
President of the Senate

[Handwritten Signature]
.....
Speaker of the House of Delegates

The within *is approved* this the *30th*
day of *April* 1993.

[Handwritten Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/22/23

Time 11:46am