

FILED

2003 MAR 27 P 4: 06

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

Regular Session, 2003

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**ENROLLED**

SENATE BILL NO. 486

(By Senator Minard, et al )

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PASSED March 8, 2003

In Effect ~~ninety~~ days from Passage

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SECRETARY OF STATE

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**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.**

**§33-33-9. Notification of adverse financial condition.**

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

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

29 (c) If the accountant, subsequent to the date of the  
30 audited financial report filed pursuant to this article,  
31 becomes aware of facts which might have affected the  
32 report, the commissioner notes the obligation of the  
33 accountant to take action as prescribed in volume 1,  
34 section AU 561 of the professional standards of the  
35 American institute of certified public accountants.

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

*Greg Miller*  
.....  
Chairman Senate Committee

*Greg Butcher*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Darrell Holman*  
.....  
Clerk of the Senate

*Greg W. Bell*  
.....  
Clerk of the House of Delegates

*Carl Roy Tomblin*  
.....  
President of the Senate

*John*  
.....  
Speaker House of Delegates

The within *is approved* this the *27<sup>th</sup>*  
Day of *March*, 2003.  
*Bob Wise*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/20/03

Time 9:40am