

H. B. 2637

(By Delegates Westfall, Pasdon, B. White, Frich, O'Neal,
Ashley and E. Nelson)

[Introduced February 6, 2015; referred to the
Committee on Banking and Insurance then the Judiciary.]

A BILL to amend and reenact §33-11-2 and §33-11-3 of the Code of West Virginia, 1931, as amended, all relating to clarifying that insurance adjusters are not considered insurers for the purposes of the unfair trade practices act.

Be it enacted by the Legislature of West Virginia:

That §33-11-2 and §33-11-3 the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 11. UNFAIR TRADE PRACTICES.

§33-11-2. Definitions.

As used in this article:

(a) "~~Person~~ Insurer" ~~includes any individual,~~ means a company, insurer, association, organization, society, reciprocal, business trust, corporation, or any other legal entity, including agents and brokers. It does not mean "adjusters" who are employees of the insurer. "~~Person~~" For the purposes of this article, "insurer" also includes hospital service corporations, medical service corporations and dental service corporations as defined in article twenty-four of this chapter, and

1 health care corporations as defined in article twenty-five of this chapter ~~For purposes of this article~~
2 ~~hospital service corporations, medical service corporations, dental service corporations, and health~~
3 ~~care corporations~~ and shall be deemed to be in the business of insurance.

4 (b) "Commissioner" means the Insurance Commissioner of West Virginia.

5 (c) "Insurance policy" or "insurance contract" means the contract effecting insurance, or the
6 certificate thereof, by whatever name called, and includes all clauses, riders, endorsements and
7 papers attached thereto and a part thereof.

8 **§33-11-3. Unfair methods of competition and unfair or deceptive acts or practices prohibited.**

9 No ~~person~~ insurer ~~shall~~ may engage in this state in any trade practice which is defined in this
10 article as, or determined pursuant to section seven of this article to be, an unfair method of
competition or an unfair or deceptive act or practice in the business of insurance.

NOTE: The purpose of this bill is to eliminate personal liability of insurance adjusters working within the scope of their employment, who are frequently named in lawsuits to defeat federal diversity jurisdiction.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.