1   **H. B. 2441**

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3   (By Delegate Hunt)

4   [Introduced February 14, 2013; referred to the

5   Committee on Banking and Insurance then the Judiciary.]

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10 A BILL to amend the Code of West Virginia, 1931, as amended, by

11   adding thereto a new section, designated §33-11-11, relating

12   to unfair trading practices by insurance companies; providing

13   a third-party claimant may collect damages from an insurance

14   company that has intentionally engaged in an unfair trade

15   practice; and setting forth the requirements that must be met

16   before damages may be awarded.

17 *Be it enacted by the Legislature of West Virginia:*

18   That the Code of West Virginia, 1931, as amended, be amended

19 by adding thereto a new section, designated §33-11-11, to read as

20 follows:

21 **ARTICLE 11.   UNFAIR TRADE PRACTICES.**

22 **§33-11-11.   Willful or intentional violations; cause of action;**

23   **elements; damages; procedure.**

1   Notwithstanding any provision of this chapter to the contrary,

2 a third-party claimant who sustains damages as a consequence of the

3 willful or intentional violation of this article, may bring an

4 action against the person or entity committing the willful or

5 intentional violation and may recover all damages and pursue all

6 legal and equitable remedies available under the law. The

7 individual or entity must bring the action in a court of competent

8 jurisdiction and shall be required, in order to recover any of the

9 damages and remedies provided by this section, to establish by

10 competent proof by clear and convincing evidence: (1) That the

11 violation did in fact occur; (2) the violation was willful or

12 intentional; and (3) that damages resulted from the violation.

     NOTE: The purpose of this bill is to permit a third-party
claimant to collect damages from an insurance company that has
intentionally engaged in an unfair trade practice. The bill sets
forth the requirements that must be met in order that damages may
be awarded.

     This section is new; therefore, it has been completely
underscored.