

1 **H. B. 2745**

2
3 (By Delegates Perry, Hartman, Walters, Hall,
4 Ashley and Azinger)

5 (By Request of the Insurance Commissioner)

6 [Introduced January 21, 2011; referred to the
7 Committee on the Judiciary.]

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10 A BILL to amend and reenact §33-4-14 of the Code of West Virginia,
11 1931, as amended, relating to providing that certain
12 information provided by insurance companies to the Insurance
13 Commissioner is confidential and exempt from the freedom of
14 information disclosure requirements; providing that the
15 information is not subject to subpoena or discoverable in a
16 private civil action; and authorizing rulemaking.

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

18 That §33-4-14 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted to read as follows:

20 **ARTICLE 4. GENERAL PROVISIONS.**

21 **§33-4-14. Financial statement filings; annual and quarterly**
22 **statements; required format; foreign insurers; agents**
23 **of the commissioner.**

24 (a) Each licensed insurer shall annually on or before March
25 1, unless the time is extended by the commissioner for good cause
26 shown, file with the commissioner a true statement of its financial
27 condition, transactions and affairs as of the preceding December

1 31. Such statement shall be on the appropriate National
2 Association of Insurance Commissioners annual statement blank;
3 shall be prepared in accordance with the National Association of
4 Insurance Commissioners annual statement instructions handbook; and
5 shall follow the accounting practices and procedures prescribed by
6 the National Association of Insurance Commissioners accounting
7 practices and procedures manual as amended: *Provided*, That each
8 licensed insurer shall also file true statements of financial
9 condition on a more frequent basis if the commissioner so orders.
10 The commissioner shall establish the frequency, due date and form
11 acceptable to him or her for such filings: *Provided, however*, That
12 the statement of an alien insurer shall relate only to its
13 transactions and affairs in the United States unless the
14 commissioner requires otherwise.

15 (b) Each domestic insurer shall also file with the
16 commissioner a true quarterly statement of its financial condition,
17 transactions and affairs as of March 31, June 30, and September
18 30, of each year. Quarterly statements shall be due forty-five
19 days after the end of each quarter. All quarterly statements shall
20 be submitted on the appropriate National Association of Insurance
21 Commissioners quarterly statement blank; shall be prepared in
22 accordance with the National Association of Insurance Commissioners
23 quarterly statement instructions; and shall follow the accounting
24 practices and procedures prescribed by the National Association of
25 Insurance Commissioners accounting practices and procedures manual,
26 as amended. The commissioner may subject any licensed insurer to

1 the requirements of this section whenever the commissioner deems
2 it necessary.

3 (c) The commissioner may require that all or part of the
4 information contained in the annual statement blank and the
5 quarterly statement blanks be submitted ~~to the department~~ in a
6 computer-readable form compatible with the electronic data
7 processing system of the department.

8 (d) Each domestic, foreign and alien insurer, organization or
9 corporation ~~who~~ that is subject to the requirements of this section
10 shall annually, on or before March 1 each year, and forty-five days
11 after the end of the first, second and third calendar quarters,
12 file with the National Association of Insurance Commissioners a
13 copy of its annual statement convention blank and the quarterly
14 statement blanks, along with such additional filings as prescribed
15 by the commissioner and shall pay the fee established by the
16 National Association of Insurance Commissioners for filing, review
17 or processing of the information. The information filed with the
18 National Association of Insurance Commissioners shall be in the
19 same format and scope as that required by the commissioner and
20 shall include the signed jurat page and any other required
21 information. Any amendments and addenda to the annual statement
22 filing and quarterly statement filings subsequently filed with the
23 commissioner shall also be filed with the National Association of
24 Insurance Commissioners.

25 (e) Foreign insurers that are domiciled in a state which has
26 a law substantially similar to subsection (a) of this section shall

1 be deemed in compliance with this section.

2 (f) In the absence of actual malice, members of the National
3 Association of Insurance Commissioners, their duly authorized
4 committees, subcommittees and task forces, their delegates,
5 National Association of Insurance Commissioners employees and all
6 others charged with the responsibility of collecting, reviewing,
7 analyzing and disseminating the information developed from the
8 filing of the annual statement convention blanks and the quarterly
9 statement blanks shall be acting as agents of the commissioner
10 under the authority of this article and shall not be subject to
11 civil liability for libel, slander or any other cause of action by
12 virtue of their collection, review, and analysis or dissemination
13 of the data and information collected from the filings required
14 hereunder.

15 (g) All financial analysis ratios and examination synopses
16 concerning insurance companies that are submitted to the ~~department~~
17 commissioner by the National Association of Insurance Commissioners
18 insurance regulatory information system, ~~are confidential and may~~
19 ~~not be disclosed by the department~~ and all actuarial reports, work
20 papers and actuarial summaries submitted by insurers in conjunction
21 with their annual financial statements is confidential by law and
22 privileged. These documents are not subject to disclosure pursuant
23 to chapter twenty-nine-b of this code, are not subject to subpoena
24 and are not subject to discovery or admissible as evidence in any
25 private civil action.

26 (h) The commissioner may suspend, revoke or refuse to renew

1 the certificate of authority of any insurer failing to file its
2 annual statement or the quarterly statement blanks, or any other
3 statement of financial condition required by this section, when due
4 or within any extension of time which the commissioner, for good
5 cause, may have granted.

6 (i) Any variance to the requirements of this section shall
7 require the express authorization of the commissioner.

8 (j) The commissioner shall ~~promulgate legislative~~ propose
9 rules for legislative approval in accordance with ~~the provisions~~
10 ~~of article three~~, chapter twenty-nine-a of this code to effectuate
11 the requirements of this article.

NOTE: The bill provides that certain information submitted by insurance companies to the insurance commissioner is confidential and exempt from the freedom of information disclosure requirements. The bill provides those documents may not be subject to subpoena or discoverable in a private civil action. The bill also authorizes rulemaking.

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