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# Insurance Laws of West Virginia.

(October, 1875.)

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## *Distinction between domestic and foreign companies.*

1. Every insurance, telegraph, or express company having its principal place of business in this state, and incorporated by any act of the general assembly of Virginia, passed before the twentieth day of June, eighteen hundred and sixty-three, or heretofore or hereafter incorporated under and pursuant to any act of the legislature of this state, shall be deemed a domestic company; and every other insurance or express company, a foreign company.—Code, Page 214.

## *What certificate required in order to take risks.*

2. It shall not be lawful for any officer or agent of any fire or marine insurance company, directly or indirectly, to take risks or issue policies of insurance within this state without first procuring from the auditor a certificate as hereinafter directed.

Before obtaining such certificate such company, its officers or agents, shall furnish the auditor with a statement, under oath of the president or secretary of the company for which he or they may act, which statement shall show:

- FIRST. The name and locality of the company;
- SECOND. The amount of its capital stock;
- THIRD. The amount of its capital stock paid up;
- FOURTH. The assets of the company, including, First, the amount of cash on hand and in the hands of agents or other persons; Second, the real estate unencumbered; Third, the bonds owned by the company and how

they are secured, with the rate of interest thereon; Fourth, debts to the company secured by mortgage or otherwise; Fifth, debts for premiums; Sixth, all other securities;

FIFTH. The amount of liabilities due or owing to banks or other creditors by the company;

SIXTH. Losses adjusted and due;

SEVENTH. Losses adjusted and not due;

EIGHTH. Losses unadjusted;

NINTH. Losses in suspense waiting for future proof;

TENTH. All other claims against the company;

ELEVENTH. The greatest amount insured in any one risk;

Which statement shall be filed in the office of the said auditor. And no foreign insurance company, or agent thereof, shall transact any business of insurance in this state, unless such company is possessed of at least one hundred thousand dollars of actual capital, invested in the stock or bonds of some one or more of the states of this Union whose bonds are at par; or of the bonds of the United States at the current market value thereof at the date of such statement; or in bonds secured by mortgage or deed of trust on real estate, worth double the amount for which the same is mortgaged, free from any prior incumbrance, and having undoubted title.

#### *Official Examinations.*

The auditor shall be authorized to examine into the condition and affairs of any foreign insurance company doing business in this state, or cause such examination to be made by some person or persons appointed by him having no interest in any insurance company. And whenever it shall appear to the satisfaction of said auditor that the affairs of any such company are in an unsound condition, he shall revoke the certificate granted in behalf of such company, and shall cause a notification thereof to be published in some newspaper of general circulation published at the capital of this state, and the agent or agents of such company are, on and after such notice, required to discontinue the issuing of any new policies, or the renewal of any previously issued.

#### *Reciprocal or Retaliatory Provisions.*

When, by the laws of any other state, any deposits of money or of securities, or other obligations or prohibitions, are imposed, or would be imposed on insurance companies of this state, doing, or that might seek to do business in such other state, or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions, of whatever kind, shall be imposed upon all insurance companies of such other state doing business within this state, or upon their agents here.—*Acts of 1872-3. Page 646, Ch. 221.*

#### *Taxes Payable to the Treasury.*

Every foreign insurance company doing business in this state, at the time of making the annual statement as required by law, shall pay into the state treasury, as taxes, three per cent. of the gross amount of premiums received in this state during the previous year, taking duplicate receipts therefor, one of which shall be filed with the auditor; and upon the filing of said receipts, and not till then, the said auditor shall issue the annual certificate as provided by law, and the said sum of three per cent. shall be in full of state taxes only: Provided that any foreign life stock insurance company which shall invest in this state the whole amount of its net receipts from its business therein, shall pay only one-third of the aforesaid rates.—*Ibid.*

*When Company or Agents Prohibited from Taking Risks.*

No officer or agent of a foreign insurance company shall make, renew or negotiate in this state any insurance, or contract for insurance on behalf of such company, or transact any business for such company, directly or indirectly, without first obtaining the auditor's certificate of authority as required by law; and this applies to all persons engaged in any manner in soliciting risks, insuring or obtaining the issue of policies, selling tickets of insurance, or otherwise doing the business of insurance, either by direct appointment from a company or as such agent.—*Ibid.* See also § 18.

Upon a compliance with the provisions of the preceding section, and upon satisfactory evidence of such investment and deposit as aforesaid, by such foreign company, it shall be the duty of said auditor to issue certificate thereof, with authority to the company so complying, its agent or agents, to transact the business of insurance. The said statements, instruments, and evidence shall be renewed annually in the month of January in each year; and the auditor, on being satisfied that the capital, securities, and investment remain secure as at first, shall furnish a renewal of the certificate as aforesaid, and the company, agent, or agents obtaining such certificate shall cause the same to be published in some newspaper of general circulation published in the state, and cause a copy of such publication to be filed in the office of the clerk of the circuit court in each county where said company, its agent or agents, does insurance business. Every such certificate shall recite the statement and evidence required by this and the preceding sections.—*Code, Ch. 34. Page 215.*

4. The auditor shall be entitled to ten dollars in each case for the examination of statements, and investigation of the evidences of investment, and five dollars for each certificate of authority issued under the provisions of this chapter.—*Ibid.* See also "*Reciprocal or Retaliatory Provisions.*"

5. The written or printed copies of all papers required by this chapter to be deposited with the auditor, certified under the hand of such auditor to be true and correct copies of such papers, shall be received as evidence in all courts and places in the same manner, and have the same force and effect as the original would have if produced.—*Code, Page 216.*

*Assessment of the property of domestic insurance, telegraph, and express companies for the purpose of taxation.*

6. The property of all domestic insurance, telegraph, and express companies shall be assessed for taxation as other property in this state. But the stock notes of such companies shall not be assessed.—*Ibid.*

*Returns to be made on behalf of foreign insurance, telegraph and express companies.*

7. Every foreign insurance, telegraph, and express company doing business in this state, or the agent or agents thereof, shall annually make returns to the auditor as follows: provided, that where there are several agents of any such company in this state, the returns may be made by any one of them on behalf of all.—*Ibid.*

8. If such returns be made on behalf of an insurance company, they shall show the amount of premiums on all insurances made, renewed, or negotiated within this state, or on any subject of insurance within this state, on behalf of such company, during the period to which the said returns relate, including as well premiums uncollected as those which are paid.—*Ibid.*

NOTE.—§§ 9 and 10, refer to Telegraph and Express Companies, and are therefore omitted here.

11 \* \* \* \* \* The amount only may be stated in the returns without the particulars, unless a more specific return be required by the auditor. The returns so made shall be verified by the affidavit of the officer or agent making the same.—*Ibid.*

12. It shall be the duty of the auditor to cause the provisions of this chapter to be carried into effect, and he may from time to time prescribe such forms and regulations as are proper for that purpose. And it shall be the duty of every assessor to transmit to the auditor, within the week preceding the first day of February and August, in every year, a list of all such companies or agents doing business within his assessment district as are required to make returns as aforesaid.—*Ibid.*\*

*Penalty for failure to make true returns, or to pay the tax.*

14. Every company or agent hereby required to make return or payment as aforesaid, who shall fail to do so, or knowingly make a false return, shall forfeit not less than one hundred nor more than one thousand dollars for every such offense.—*Code, Page 217.*

*Services of process and notices.*

15. Every foreign insurance, telegraph, and express company doing business in this state shall, by power of attorney duly acknowledged and authenticated, and filed by the company in the office of the auditor, appoint some person residing in this state to accept service of process and notices in this state for the said company; and by the same instrument shall declare its consent that service of any process or notice in this state on the said attorney, or his acceptance of service endorsed thereon, shall have the same effect as service thereof upon the company. And thereafter such acceptance by the said attorney, or service upon him, shall be equivalent for all purposes to service upon his principal.—*Ibid.*

16. As long as any liability of the company in this state remains unsatisfied, no revocation of any such power of attorney shall be of any effect until after a like power to some other person residing in this state has been filed by the said company in the office of the auditor. And when any such attorney dies or resigns, the company shall immediately make a new appointment and file the evidence thereof as aforesaid, until all its liabilities in this state are discharged.—*Ibid.*

17. A copy of any such power of attorney, certified by the auditor under his hand, shall be received in all courts and places as *prima facie* evidence of the execution and contents of such instrument. The auditor may demand for such copy from the person applying therefor, a fee at the rate of fifteen cents for every hundred words.—*Code, Page 218.*

18. No officer or agent of a foreign insurance company shall make, renew, or negotiate in this state any insurance or contract for insurance on behalf of such company, nor shall any agent of a foreign express company undertake, in this state, to forward or carry any money, goods, or merchandise on behalf of such express company, unless the said insurance or express company has complied with the fifteenth and sixteenth sections of this chapter. Any person violating this section shall forfeit not less than twenty nor more than two hundred dollars for every such offense; but the contract or undertaking shall nevertheless not be invalidated by any thing in this section contained.—*Ibid.*

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\* NOTE.—§ 13, Code, repealed by subsequent legislation.