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Supplementary Brief Submitted to the Joint Insurance Committee of the Senate and Assembly of the State of New York

American Association of Public Accountants. Joint Committee on Insurance

New York State Society of Certified Public Accountants. Joint Committee on Insurance

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THE AMERICAN ASSOCIATION OF PUBLIC ACCOUNTANTS,

54 William Street, New York,

and

THE NEW YORK STATE SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS,

277 Broadway, New York.

JOINT COMMITTEE ON INSURANCE.

Supplementary Brief Submitted to the Joint Insurance Committee^e of the
Senate and Assembly of the State of New York

NEW YORK, March 17, 1906.

HON. WILLIAM W. ARMSTRONG,
Chairman,
Albany, N.Y.

Sir:--In pursuance of your statement to me that your Committee would not amend Section 44 of the Insurance Law, because it applied alike to fire and casualty, as well as life insurance companies, I have redrafted the amendment proposed thereto, and have put the Joint Committee's recommendations in regard to the form of balance sheet, and income and expenditure account, into a new section, which would be added to the bill introduced by the Special Committee on Insurance. It is transmitted herewith and marked "No. 1."

I also send for your consideration, proposed amendment to Sections 2 and 39 of the Insurance Law, marked "Proposed Amendment No. 2," and also an amendment providing for additional section, marked "Proposed Amendment No. 3."

Amendment No. 1 is designed to cure defects in the present form of the balance sheet and of the income and disbursement account.

ASSETS NOT ADMITTED.

The Associations of Accountants believe that a classification of certain specific assets under such generic names as "assets not admitted" is wrong in principle.

Every asset necessary for carrying on the business has some value, and such value should be admitted. The Insurance Companies should be allowed credit for all assets at their fair valuations to a similar going concern, and such valuations should be shown in the balance sheet and furnished to the Insurance Department, which Department will

either accept, reduce, or reject them on their merits, and not on a mere arbitrary ruling that certain whole classes of assets are inadmissible.

NON-LEDGER ASSETS AND LIABILITIES.

Under the present State forms, if any company desires to properly record in its ledger some or all of its "non-ledger assets" or its "non-ledger liabilities," the form of annual report required by the State cannot be prepared correctly so as to be in accord with the Company's books.

CLASSIFIED ACCOUNTS

If the policy holders and officials are to obtain any real idea of expenses, it is necessary that the cost of the business be shown by Departments, as suggested in the forms submitted. In this way alone can comparisons be instituted between companies and periods.

It has been suggested that the recommendations of the Joint Committee of the American Association of Public Accountants and the New York State Society of Certified Public Accountants have not been disinterested. This is a fair criticism as to part of their recommendations to your honorable body, but it is not a correct criticism as to the most important recommendation made by them. The first amendment proposed by the Accountants Associations is that a proper balance sheet be prepared annually by the companies, and that they also furnish a proper income and expenditure account to the Superintendent of Insurance. Certainly in neither of these propositions has either of the Accountants Associations any interest other than that of every good citizen of the State. Indeed, the very perfection of balance sheets and of income and expenditure accounts proposed by them might make less work for accountants than the present cumbersome forms. But insurance officials, trustees, agents, policy holders, and every class of citizen that has appeared before your Honorable Committee, has been an interested class, and the fact that certain amendments suggested by these Associations of Accountants add to the dignity and importance of their profession should not debar them from recommending that salutary changes suggested by their own experience be put into the Insurance Law. The considerations presented to your Honorable Committee are not the hastily formed conclusions of men untrained in the accounts of insurance companies, but they represent the deliberate convictions of the best accountants in America, some of whom have but recently examined the three big insurance companies. These accountants were selected to present the question of proper insurance accounts to your Committee, because the two Societies (one of them, the New York State Society, composed entirely of certified public accountants under the law of the State of New York) were convinced that the ability as well as the recent valuable experience of these members of the Joint Committee, entitle their opinions to careful consideration by you.

The second amendment proposed is that a public accountant of three years' active practice shall be annually elected by the policy holders, who shall certify that the balance sheet, form of which they furnish herewith, shall be correct.

The third amendment they propose is that the Insurance Commissioner and one of his deputies and one of his examiners shall be a public accountant who has been in active practice for three years.

These are not idle recommendations, and are not made solely for the benefit of accountants, but they are made in the interest of the policy holder, stockholder, and the investing and insuring public as well, and they are entitled to be received with greater respect than if made by men unfamiliar with the subject, and with even greater care than if made by professional accountants who have not had the good fortune to gain the experience they recently enjoyed in auditing the accounts of the three big companies referred to.

The provision requiring men in these positions to be public accountants is not unknown to the law of New York, because in the Greater New York Charter it is provided that one of the Commissioners of Accountants of the City of New York shall be a (certified) public accountant. We do not ask for the appointment of certified public accountants.

As was pointed out to your Honorable Committee by Mr. Harvey S. Chase, Massachusetts already requires the election of an auditor or accountant by policyholders or stockholders at every annual meeting of corporations with a capital of over one hundred thousand dollars. The amendments proposed by the Accountants' Committee follow the same line, and they are strengthened by the additional recommendation that if the policyholders fail to elect such accountant, the State Commissioner of Insurance shall appoint one.

I am instructed by the Joint Committee of Accountants to say to you that their services in the preparation of proper balance sheets, and income and expenditure accounts, are entirely at the service of your Committee. I am,

Very respectfully yours,

WILLIAM HARMAN BLACK,
Counsel for the Joint Committee
of the American Association of
Public Accountants, and the
New York State Society of Certified
Public Accountants.

PROPOSED AMENDMENT NO. 1, WHICH PROVIDES FOR ANOTHER SECTION
IN ADDITION TO THE BILL INTRODUCED BY THE SPECIAL
COMMITTEE ON INSURANCE.

STATE OF NEW YORK.

G. O. No.	No.	Int.
	In Senate.	
		March , 1906.

Introduced by

AN ACT to amend the Laws of 1892, entitled "An Act in relation to Insurance corporations, constituting chapter 38 of the General Laws." The people of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Chapter 690 of the Laws of 1892, entitled "An Act in relation to Insurance corporations, constituting chapter 38 of the General Laws," is hereby amended by adding thereto a new section to be known as Section No. , and to read as follows:

SECTION . FORM OF BALANCE SHEET AND INCOME AND EXPENDITURE ACCOUNTS.

The Superintendent of Insurance shall furnish to every corporation required to report to him under the provision of this act, the forms of balance sheet and income and expenditure account hereto attached, * and he may make such changes from time to time in the form of the same, not inconsistent therewith, as shall seem to him best adapted to elicit from such corporations a true exhibit of their condition in respect to the several matters upon which they are to report, or in respect to any other matters which he may deem material.

And such corporations so receiving said forms shall fill them out and file them in the office of the Superintendent of Insurance, verified by the oath of at least two of the principal officers of such corporation as provided in Section 44, and certified by one or more Public Accountants, who have been in active practice on their own account for at least three years prior to the date of such certificate, and who shall have been appointed by the policy holders to make, and who shall have made an audit of the accounts of such corporation for the period covered by the report.

SECTION 2. This act shall take effect immediately.

*The forms were printed with the original brief submitted March 16, 1906, and are not reprinted here. 1

PROPOSED AMENDMENT NO. 2 TO SENATE BILL NO. 528, AMENDING
THE INSURANCE LAW BY ADDING A NEW SECTION.

STATE OF NEW YORK

G. O. NO.

NO.

INT.

IN SENATE.

MARCH , 1906

INTRODUCED BY

AN ACT to amend chapter 690 of the laws of 1892 entitled "An act in relation to Insurance Corporations, constituting chapter 38 of the General Laws."

The People of the State of New York represented in Senate and Assembly do enact as follows:--

SECTION 1. Chapter 690 of the laws of 1892 entitled "An act in relation to Insurance Corporations constituting chapter 38 of the General Laws" is hereby amended by adding thereto a new section to be known as Section to read as follows:

SECTION . ANNUAL AUDIT OF ACCOUNTS ON BEHALF OF POLICYHOLDERS.
At every annual meeting of policyholders there shall be elected to audit the accounts of the company for the year ending on December 31st, next ensuing, one or more Public Accountants, who have been in active practice for not less than three years immediately prior to the date of such election. Such Public Accountants shall have full and free access at all times to the books and accounts, documents and vouchers of the Company, and shall be entitled to require from the directors, officers, stockholders and policyholders of the company, such information and explanation as may be necessary for the performance of their duties as such. Such accountants shall make a report thereon, in which they shall state whether or not all the requirements of this act have been complied with, and whether in their opinion the statement of Assets and Liabilities is properly drawn up so as to show the true financial condition of the company. A complete copy of such report shall be forwarded to every policy holder of the company within thirty days of its date.

SECTION 2. In case such annual meeting shall fail to elect such public accountant, the Superintendent of Insurance shall appoint to audit the accounts of said Company in the manner provided in Section 1 of this act, one or more Public Accountants who have been in active practice for not less than three years immediately prior to the date of such appointment. Said accountant shall have full and free access at all times to the books and accounts, documents and vouchers of the company, and shall be entitled to require from the directors, officers and policyholders of the company such information and explanation as may

be necessary for the performance of their duties, and said Accountant so appointed shall make the same report required by Section 1 of this act.

SECTION 3. This act shall take effect immediately.

PROPOSED AMENDMENT NO. 3, TO SECTIONS 2 and 10 OF SENATE BILL
NO. 528, AMENDING SECTIONS 2 AND 39 OF THE INSURANCE
LAW.

STATE OF NEW YORK

G. O. NO.

NO.

INT.

IN SENATE

MARCH , 1906

INTRODUCED BY

AN ACT to amend sections two and thirty-nine, of chapter 690 of the laws of 1892 entitled "An act in relation to Insurance Corporations, constituting chapter 38 of the General Laws."

The people of the State of New York represented in Senate and Assembly, do enact as follows:

Section two of the Insurance Law being chapter six hundred and ninety of the laws of eighteen hundred and ninety-two, entitled "An act in relation to insurance corporations, constituting chapter thirty-eight of the General Laws," is hereby amended to read as follows:

Section 2. The Superintendent of Insurance shall continue to be a separate and distinct department charged with the execution of the laws relating to insurance, to be known as the insurance department, the chief officer of which shall be the Superintendent of Insurance, who, after the termination of the term of office of the present superintendent, or whenever a vacancy shall occur in the office, shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall hold his office for the term of three years. He shall be a Public Accountant who has been in active practice as such on his own account, for not less than three years preceding such appointment. He shall receive an annual salary of seven thousand dollars, which shall be in full of all services performed by him in any capacity.

There shall be one or more Deputy Superintendents, at least one of whom shall be a Public Accountant who has been in active practice as such on his own account for at least three years next preceding his appointment.

The Superintendent and his Deputies shall take and subscribe and file in the office of the Secretary of State the constitutional oath of office within fifteen days from the time of notice of their appointments respectively. The Superintendent shall within the same time give an official undertaking in the sum of twenty-five thousand dollars, with two good sureties to be approved by the comptroller. Neither the Superintendent nor any Deputy nor employee shall be directly or indirectly interested in any insurance corporation except as an ordinary policy holder. All books, papers, documents, securities,

stocks, bonds and mortgages and all other papers whatever in the office of the Comptroller and in the office of the Secretary of the State at the time of the passage of chapters three hundred and sixty-six of the laws of 1859 relating to the business of insurance shall on demand be delivered and transferred to the Superintendent, and be and remain in his charge and custody.

Section thirty-nine of the insurance law is hereby amended to read as follows:

SECTION 39. Examiners and examinations. (The Superintendent of Insurance shall as often as he deems it expedient appoint one or more competent persons not officers of or connected with or interested in any insurance corporations doing business in this State other than as a policyholder, as Examiners to examine into the affairs of any such corporation. Such examiners may examine under oath the officers and agents of any such corporation and its books with reference to its business.) The Superintendent of Insurance shall at least once in three years examine into the affairs of every insurance corporation as often as he may deem it expedient. For such purpose he may appoint as Examiners, one or more competent persons not officers of or connected with or interested in any insurance corporation other than as policy holders. One at least of such examiners shall be a Public Accountant who has been in active practice on his own account for at least three years next preceding the date of his examination, and upon such examination he, his deputy, or any Examiner authorized by him may examine under oath the officers and agents of such corporation and all persons deemed to have material information regarding the company's property or business. Every such corporation, its officers and agents shall produce its books and all papers in its or their possession relating to its business or affairs, and any other person may be required to produce any book or paper in his custody deemed to be relevant to the examination for the inspection (and examination of such) of the Superintendent, his Deputy or Examiners whenever required; and the officers and agents of such corporation shall facilitate such examination and aid the examiners in making the same so far as it is in their power to do so. Every such examiner shall make a full and true report of every examination made by him, verified by his oath, which report so verified shall be presumptive evidence in any action or proceeding in the name of the people against the corporation, its officers or agents, of the facts stated therein. The Superintendent shall grant a hearing to the corporation examined before filing any such report, and may withhold any such report from public inspection for such time as he may deem proper, and may, if he deems it for the interest of the public to do so, publish any such report or the result of any such examination as contained therein in one or more newspapers of the State, provided that the Superintendent of Insurance may at his discretion accept in lieu of the examination prescribed in this section the reports of Public Accountants who have been in active practice on their own account for not less than three years preceding the date of such reports, and who have been duly appointed by the policyholders to make such examinations.

SECTION 2. This act shall take effect immediately.