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OFFICE OF THE GOVERNOR

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1983



ENROLLED

HOUSE BILL No. 1603

(By Mr. Doff.....)



Passed March 9,..... 1983

In Effect Ninety Days From..... Passage



710: 1603

ENROLLED

H. B. 1603

(By MR. GOFF)

[Passed March 9, 1983; in effect ninety days from passage.]

AN ACT to amend and reenact section twelve, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section eight-a; and to amend and reenact section two, article twenty-three of said chapter, all relating to the maximum rate of interest on life insurance policy loans; reinstatements; applicability of other provisions of chapter.

Be it enacted by the Legislature of West Virginia:

That section twelve, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section eight-a; and that section two, article twenty-three of said chapter be amended and reenacted, all to read as follows:

ARTICLE 13. LIFE INSURANCE.

§33-13-8a. Maximum rate of interest on policy loans.

- 1 (a) For purposes of this section the “published monthly
- 2 average” means:
- 3 (1) Moody’s corporate bond yield average—monthly aver-
- 4 age corporates as published by Moody’s Investors Service, Inc.,
- 5 or any successor thereto; or

6 (2) In the event that Moody's corporate bond yield average
7 —monthly average corporates is no longer published, a substan-
8 tially similar average, established by regulation issued by the
9 commissioner.

10 (b) Policies issued on or after the first day of June, one
11 thousand nine hundred eighty-three, shall provide for maxi-
12 mum policy loan interest rates as follows:

13 (1) A provision permitting a maximum interest rate of not
14 more than eight percent per annum; or

15 (2) A provision permitting an adjustable maximum interest
16 rate established from time to time by the life insurer as per-
17 mitted by law.

18 (c) The rate of interest charged on a policy loan made under
19 subdivision (2), subsection (b) of this section shall not exceed
20 the higher of the following:

21 (1) The published monthly average for the calendar month
22 ending two months before the date on which the rate is deter-
23 mined; or

24 (2) The rate used to compute the cash surrender values un-
25 der the policy during the applicable period plus one percent
26 per annum.

27 (d) If the maximum rate of interest is determined pursuant to
28 subdivision (2), subsection (b) of this section, the policy shall
29 contain a provision setting forth the frequency at which the
30 rate is to be determined for that policy.

31 (e) The maximum rate for each policy shall be determined
32 at regular intervals at least once every twelve months, but not
33 more frequently than once in any three-month period. At the
34 intervals specified in the policy:

35 (1) The rate being charged may be increased whenever such
36 increase as determined under subsection (c) of this section
37 would increase that rate by one-half percent or more per
38 annum; and

39 (2) The rate being charged shall be reduced whenever such
40 reduction as determined under subsection (c) of this section

41 would decrease that rate by one-half percent or more per
42 annum.

43 (f) The life insurer shall:

44 (1) Notify the policyholder at the time a cash loan is made
45 of the initial rate of interest on the loan;

46 (2) Notify the policyholder with respect to premium loans
47 of the initial rate of interest on the loan within forty-
48 five days after making the loan. Notice need not be given
49 to the policyholder when a further premium loan is added,
50 except as provided in subdivision (3) below;

51 (3) Send to policyholder with loans reasonable advance
52 notice of any increase in the rate; and

53 (4) Include in the notices required above the substance of
54 the pertinent provisions of subsections (b) and (d) of this
55 section.

56 (g) No policy shall terminate in a policy year as the sole
57 result of a change in the interest rate during that policy year,
58 and the life insurer shall maintain coverage during that policy
59 year until the time at which it would otherwise have terminated
60 if there had been no change during that policy year.

61 (h) The substance of the pertinent provisions of subsections
62 (b) and (d) shall be set forth in the policies to which they apply.

63 (i) For purposes of this section:

64 (1) The rate of interest on policy loans permitted under
65 this section includes the interest rate charged on reinstatement
66 of policy loans for the period during and after any lapse of a
67 policy;

68 (2) The term "policy loan" includes any premium loan made
69 under a policy to pay one or more premiums that were not
70 paid to the life insurer as they fell due;

71 (3) The term "policyholder" includes the owner of the policy
72 or the person designated to pay premiums as shown on the
73 records of the life insurer; and

74 (4) The term "policy" includes certificates issued by a
75 fraternal benefit society and annuity contracts which provide
76 for policy loans.

77 (j) No other provision of law shall apply to policy loan
78 interest rates unless made specifically applicable to such rates.

79 (k) The provisions of this section shall not apply to any
80 insurance contract issued before the first day of June, one
81 thousand nine hundred eighty-three, unless the policyholder
82 agrees in writing to the applicability of such provisions.

§33-13-12. Reinstatements.

1 There shall be a provision that unless the policy has been
2 surrendered for its cash surrender value or unless the paid-up
3 term insurance if any, has expired, the policy will be re-
4 instated at any time within three years from the date of
5 premium default upon written application therefor, the produc-
6 tion of evidence of insurability satisfactory to the insurer,
7 the payment of all premiums in arrears, and the payment or
8 reinstatement of any other indebtedness to the insurer upon
9 the policy, all with interest at a rate not exceeding six percent
10 per annum compounded annually. However, with respect to
11 policies issued on or after the first day of June, one thousand
12 nine hundred eighty-three, the rate of interest on the payment
13 or reinstatement of any other indebtedness to the insurer upon
14 the policy shall be as provided in section eight-a of this
15 article.

ARTICLE 23. FRATERNAL BENEFIT SOCIETIES.

§33-23-2. Other provisions of chapter applicable.

1 Every fraternal benefit society shall be governed and be
2 subject, to the same extent as other insurers transacting like
3 kinds of insurance, to the following articles of this chapter:
4 Article one (definitions), article two (insurance commissioner),
5 article four (general provisions), article ten (rehabilitation and
6 liquidation), article eleven (unfair trade practices) and article
7 thirteen (life insurance).

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within *is approved* this the *27* day of *March*, 1983.

[Signature]
Governor

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SECY. OF STATE