

SB 653

FILED

2008 MAR 27 AM 11: 24

OFFICE OF THE  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2008**

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**ENROLLED**

**Senate Bill No. 653**

(BY SENATORS MINARD AND WHITE)

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[Passed March 7, 2008; in effect ninety days from passage.]

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## Senate Bill No. 653

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[Passed March 7, 2008; in effect ninety days from passage.]

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AN ACT to amend and reenact §33-6-5a of the Code of West Virginia, 1931, as amended, relating to application requirements for life and accident and sickness insurance and permitting internet sales of and applications for life and accident and sickness insurance.

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

That §33-6-5a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 6. THE INSURANCE POLICY.**

**§33-6-5a. Application for life or accident and sickness**

**insurance; signatures required; exemptions;  
right of insured to return policy.**

1 (a) All applications for life or accident and sickness  
2 insurance, as defined in section ten, article one of this  
3 chapter, to be issued in this state shall:

4 (1) If application is made by the proposed insured,  
5 include the signature of both the proposed insured and  
6 the agent;

7 (2) If application is made by the proposed insured, be  
8 completed by a licensed and appointed agent in the  
9 presence of the proposed insured;

10 (3) If application is made by a spouse upon the other  
11 spouse, include the signature of the spouse procuring  
12 the insurance and the agent; or

13 (4) If application is made by any person having an  
14 insurable interest in the life of a minor, or any person  
15 upon whom a minor is dependent for support and  
16 maintenance, include the signature of the person  
17 procuring the insurance and the agent.

18 (b) Upon the hand delivery of a policy of life or  
19 accident and sickness insurance, a delivery receipt shall  
20 be signed and dated by the insured and returned to the  
21 insurer for filing.

22 If the delivery of a policy of life or accident and  
23 sickness insurance is by mail, it shall either: (1) Be sent  
24 by certified mail from the insurer, return receipt  
25 requested, and the date of receipt noted on the receipt is  
26 the date of receipt for the purposes of section eleven-b

27 of this article; or (2) the insurer shall prepare a  
28 certificate of mailing. For the purposes of this section,  
29 a certificate of mailing means a record prepared and  
30 retained in accordance with general business practices  
31 indicating the date that the policy was mailed to the  
32 insured and it is presumed that the policy was received  
33 by the insured twenty days from the date of mailing.

34 (c) Any amendments to the application after it is  
35 originally signed by the proposed insured shall be  
36 expressly disclosed in writing to the proposed insured  
37 and his or her signature is obtained to verify agreement  
38 with the changes: *Provided*, That the failure of the  
39 insurer to notify the insured of any change, or the  
40 failure of the insured to execute the signature, does not  
41 invalidate the existence of insurance coverage.

42 (d) The following shall be exempt from the  
43 requirements of subdivisions (1), (2), (3) and (4),  
44 subsection (a) of this section:

45 (1) Group life or group accident and sickness  
46 insurance applications if the insurer accepts all  
47 prospective principal insureds with no underwriting  
48 restrictions on the individual proposed insureds;

49 (2) Group life or group accident and sickness  
50 insurance applications if there is underwriting as to the  
51 individual proposed insureds and the applications are  
52 completed without a licensed and appointed agent  
53 present, but the insurer verifies the information on the  
54 application by telephone with the proposed insured;

55 (3) Applications for life or accident and sickness  
56 insurance if the insurance is solely mass marketed and

57 the only contact with the insured is by mail, mass media  
58 or telephone; and

59 (4) Applications for life or accident and sickness  
60 insurance if the insurer is an underwriter for  
61 supplemental retirement plans and additional  
62 retirement plans provided to eligible employees of the  
63 governing boards of state institutions of higher  
64 education pursuant to the provisions of section four-a,  
65 article twenty-three, chapter eighteen of this code.

66 (e) The taking of an application for life or accident and  
67 sickness insurance and otherwise completing a  
68 transaction electronically is exempt from the  
69 requirements of subdivision (2), subsection (a) of this  
70 section.

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

*Clayton White*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Darrell E. Holmes*  
.....  
Clerk of the Senate

*Gregg W. Sear*  
.....  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is appended* ..... this  
the *27th* Day of *May* ....., 2008.

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 21 2008

Time 9:45 AM