
WEST VIRGINIA CODE CHAPTER 33
ARTICLE 29

WV Legislature

§33-29-1. Title.

This article may be cited as the Life and Accident and Sickness Insurance Policy Language Simplification Act.

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§33-29-2. Purpose.

The purpose of this article is to establish minimum standards for language used in policies, contracts and certificates of life insurance, accident and sickness insurance, credit life insurance and credit accident and sickness insurance delivered or issued for delivery in this state to facilitate ease of reading by insureds.

This article is not intended to increase the risk assumed by insurance companies or other entities subject to this article or to supersede their obligation to comply with the substance of other insurance legislation applicable to life, accident and sickness, credit life or credit accident and sickness insurance policies. This article is not intended to impede flexibility and innovation in the development of policy forms or content or to lead to the standardization of policy forms or content.

§33-29-3. Definitions.

(a) "Policy" or "policy form" means any policy, contract, plan or agreement of life or accident and sickness insurance, including credit life insurance and credit accident and sickness insurance, delivered or issued for delivery in this state by any company subject to this article; any certificate, contract or policy issued by a fraternal benefit society; and any certificate issued pursuant to a group insurance policy delivered or issued for delivery in this state.

(b) "Company" or "insurer" means any life or accident and sickness insurance company, fraternal benefit society, nonprofit health service corporation, nonprofit hospital service corporation, nonprofit medical service corporation, prepaid health plan, dental care plan, vision care plan, pharmaceutical plan, health maintenance organization, and all similar type organizations.

§33-29-4. Applicability and scope.

(a) This article shall apply to all policies delivered or issued for delivery in this state by any company on or after the date such forms must be approved under this article, but nothing in this article shall apply to:

(1) Any policy which is a security subject to federal jurisdiction;

(2) Any group policy covering a group of one thousand or more lives at date of issue, other than a group credit life insurance policy or a group credit accident and sickness insurance policy; however, this shall not exempt any certificate issued pursuant to a group policy delivered or issued for delivery in this state;

(3) Any group annuity contract which serves as a funding vehicle for pension, profit sharing, or deferred compensation plans;

(4) Any form used in connection with, as a conversion from, as an addition to, or in exchange pursuant to a contractual provision for, a policy delivered or issued for delivery on a form approved or permitted to be issued prior to the dates such forms must be approved under this article; or

(5) The renewal of a policy delivered or issued for delivery prior to the dates such forms must be approved under this article.

(b) No other statute of this state setting language simplification standards shall apply to any policy forms.

§33-29-5. Minimum policy language simplification standards.

(a) In addition to any other requirements of law, no policy forms, except as stated in section four of this article, shall be delivered or issued for delivery in this state on or after the dates such forms must be approved under this article unless:

- (1) The text achieves a minimum score of forty on the Flesch reading ease test or an equivalent score on any other comparable test as provided in subsection (c) of this section;
- (2) It is printed, except for specification pages, schedules and tables, in not less than ten point type, one point leaded;
- (3) The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text of the policy or to any endorsements or riders; and
- (4) It contains a table of contents or an index of the principal sections of the policy, if the policy has more than three thousand words printed on three or fewer pages of text, or if the policy has more than three pages regardless of the number of words.

(b) For the purposes of this section, a Flesch reading ease test score shall be measured by the following method:

- (1) For policy forms containing ten thousand words or less of text, the entire form shall be analyzed. For policy forms containing more than ten thousand words, the readability of two two-hundred word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least twenty printed lines;
- (2) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of one and fifteen one-thousandths;
- (3) The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of eighty-four and six-tenths;
- (4) The sum of the figures computed under subdivisions (2) and (3), subsection (b) of this section, subtracted from two hundred six and eight hundred thirty-five one-thousandths equals the Flesch reading ease score for the policy form;

(5) For purposes of subdivisions (2), (3) and (4), subsection (b) of this section, the following procedures shall be used:

- (A) A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word;
- (B) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and

(C) A syllable means a unit of spoken language consisting of one or more letters of a word as defined by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

(6) The term "text" as used in this section shall include all printed matter except the following:

(A) The name and address of the insurer; the name, number or title of the policy; the table of contents or index; captions and subcaptions; specification pages, schedules or tables; and

(B) Any policy language which is drafted to conform to the requirements of any federal law, regulation or agency interpretation; any policy language required by any collectively bargained agreement; any medical terminology; any words which are defined in the policy; and any policy language required by law or regulation: Provided, That the insurer identifies the language or terminology excepted by this paragraph and certifies, in writing, that the language or terminology is entitled to be excepted by this paragraph.

(c) Any other reading test may be approved by the commissioner for use as an alternative to the Flesch reading ease test if it is comparable in result to the Flesch reading ease test.

(d) Filings subject to this section shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score on the test used or stating that the score is lower than the minimum required but should be approved in accordance with section seven of this article. To confirm the accuracy of any certification, the commissioner may require the submission of further information to verify the certification in question.

(e) At the option of the insurer, riders, endorsements, applications, and other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used.

§33-29-6. Construction.

Nothing in this article shall be construed to negate any law of this state permitting the issuance of any policy form after it has been on file for the time period specified.

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§33-29-7. Powers of the commissioner.

The commissioner may authorize a lower score than the Flesch reading ease score required in subdivision (1), subsection (a), section five of this article whenever, in his sole discretion, he finds that a lower score: (a) Will provide a more accurate reflection of the readability of a policy form; (b) is warranted by the nature of a particular policy form or type or class of policy forms; or (c) is caused by certain policy language which is drafted to conform to the requirements of any state law, regulation or agency interpretation.

§33-29-8. Approval of forms.

A policy form meeting the requirements of subsection (a), section five of this article shall be approved notwithstanding the provisions of any other laws which specify the content of policies, if the policy form provides the policyholders and claimants protection not less favorable than they would be entitled to under such laws.

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§33-29-9. Effective dates.

(a) Except as provided in section four, this article applies to all policy forms filed on or after July 1, 1983. No policy form shall be delivered or issued for delivery in this state on or after July 1, 1986, unless approved by the commissioner or permitted to be issued under this article. Any policy form which has been approved or permitted to be issued prior to July 1, 1986, and which meets the standards set by this article need not be refiled for approval, but may continue to be lawfully delivered or issued for delivery in this state upon the filing with the commissioner of a list of such forms identified by form number and accompanied by a certificate as to each such form in the manner provided in subsection (d), section five of this article.

(b) The commissioner, may, at his discretion and after notice of hearing, extend the dates in subsection (a) of this section.