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WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1941



ENROLLED

SENATE BILL No. *29*

(By Mr. *Johnston*, by request)

PASSED *February 20,* 1941

In Effect *ninety days from* Passage

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.



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ENROLLED  
Senate Bill No. 29

(BY MR. JOHNSTON, BY REQUEST)

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[Passed February 22, 1941; in effect ninety days from passage.]

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AN ACT to amend and reenact section four, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as enacted by chapter seventy, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, relating to specified standard provisions of group and family expense accident and health insurance policies.

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

That section four, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-

one, as enacted by chapter seventy, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted so as to read as follows:

*Section 4. Standard Provisions of Group Policies.*

2 (1) No policy of group accident or group health or group  
3 accident and health insurance and no certificate there-  
4 under, shall be issued or delivered in this state unless  
5 the master policy contains in substance the provisions  
6 specified in paragraphs (a) to (o) following:

7 (a) A provision that no statement made by the appli-  
8 cant or applicants for insurance shall void the insurance  
9 or reduce benefits thereunder unless contained in the  
10 written application signed by the applicant; and a pro-  
11 vision that no agent has authority to change the policy  
12 or to waive any of its provisions and that no change in  
13 the policy shall be valid unless approved by an officer  
14 of the insurer and evidenced by endorsement on the  
15 policy;

16 (b) A provision that all statements contained in any  
17 such application shall, in the absence of fraud, be deemed  
18 representations and not warranties;

19 (c) A provision that all new employees of the em-  
20 ployer or all new members of the organization, as the  
21 case may be, in the groups or classes eligible for insur-  
22 ance must from time to time be added to such groups or  
23 classes eligible for insurance;

24 (d) A provision that the insurer will issue to the em-  
25 ployer or other person or organization in whose name  
26 such policy is issued, for delivery to each member of the  
27 insured group, an individual certificate setting forth in  
28 summary form a statement of the essential features of  
29 the insurance coverage of such employee or such mem-  
30 ber, to whom benefits thereunder are payable, and such  
31 additional information as the nature of the coverage  
32 justly requires;

33 (e) A provision to the effect that the insurability of  
34 any member of the insured group does not cease to exist  
35 or terminate, by reason of age alone, until such member  
36 has attained the age of sixty-five years;

37 (f) A provision stating the conditions under which  
38 the insurer may decline to renew the policy;

39 (g) A provision specifying the ages, if any there be,

40 to which the insurance provided therein shall be limited;  
41 the ages, if any there be, for which additional restric-  
42 tions are placed on benefits, and the additional restrictions  
43 placed on the benefits at such ages;

44 (h) A provision that written notice of sickness or of  
45 injury must be given to the insurer within twenty days  
46 after the date such sickness or injury occurred. Failure  
47 to give notice within such time shall not invalidate nor  
48 reduce any claim if it shall be shown not to have been  
49 reasonably possible to give such notice and that notice  
50 was given as soon as was reasonably possible;

51 (i) A provision that in the case of claim for loss of  
52 time from disability, written proof of such loss must be  
53 furnished to the insurer within thirty days after the com-  
54 mencement of the period for which the insurer is liable,  
55 and that subsequent written proofs of the continuance of  
56 such disability must be furnished to the insurer at such  
57 intervals as the insurer may reasonably require, and that  
58 in the case of claim for any other loss, written proof  
59 of such loss must be furnished to the insurer within  
60 ninety days after the date of such loss. Failure to furnish

61 such proof within such time shall not invalidate nor  
62 reduce any claim if it shall be shown not to have been  
63 reasonably possible to furnish such proof and that such  
64 proof was furnished as soon as was reasonably possible;  
65

66 (j) A provision that the insurer will furnish to the  
67 policyholder such forms as are usually furnished by it  
68 for filing proof of loss. If such forms are not furnished  
69 before the expiration of fifteen days after the insurer  
70 receives notice of any claim under the policy, the person  
71 making such claim shall be deemed to have complied with  
72 the requirements of the policy as to proof of loss upon  
73 submitting within the time fixed in the policy for filing  
74 proof of loss, written proof covering the occurrence,  
75 character and extent of the loss for which claim is  
76 made;

77 (k) A provision that the insurer shall have the right  
78 and opportunity to examine the person of the insured  
79 when and so often as it may reasonably require during  
80 the pendency of claim under the policy and also the

81 right and opportunity to make an autopsy in case of  
82 death where it is not prohibited by law;

83 (l) A provision that all benefits payable under the  
84 policy other than benefits for loss of time will be pay-  
85 able not more than sixty days after receipt of proof, and  
86 that, subject to due proof of loss, all accrued benefits  
87 payable under the policy for loss of time will be paid  
88 not later than at the expiration of each period of thirty  
89 days during the continuance of the period for which the  
90 insurer is liable, and that any balance remaining unpaid  
91 at the termination of such period will be paid immedi-  
91-a ately upon receipt of such proof;

92 (m) In any master policy providing benefits payable  
93 after death, a provision shall be contained in each certifi-  
94 cate issued thereunder that an employee or member in-  
95 sured may designate a beneficiary; and change his desig-  
96 nation of beneficiary by written request filed with the  
97 insurer; provided, however, that this requirement shall  
98 not apply to group volunteer fire department policies and  
99 other similar forms of group insurance where the premium

100 is payable annually in advance and such forms have been  
101 approved by the insurance commissioner;

102 (n) A provision that no action at law or in equity  
103 shall be brought to recover on the policy prior to the  
104 expiration of sixty days after proof of loss has been filed  
105 in accordance with the requirements of the policy and  
106 that no such action shall be brought at all unless brought  
107 within two years from the expiration of the time within  
108 which proof of loss is required by the policy;

109 (o) A provision that if any time limitation in the  
110 policy with respect to giving notice of claim or furnishing  
111 proof of loss or bringing action on the policy is less than  
112 that permitted by the laws governing the question of such  
113 limitation, such limitation is extended to agree with the  
114 minimum period permitted by such laws.

115 (2) No policy of group accident, or group health or  
116 group accident and health insurance and no certificate  
117 thereunder, shall be issued or delivered in this state, if  
118 such policy or certificate contains any provision incon-  
119 sistent with any of the provisions of this section, except

120 that the Commissioner may approve any provision in any  
121 such policy or certificate which in his opinion is more  
122 favorable to policyholders or certificateholders than the  
123 provision herein prescribed.

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

*E. H. McKeown*

Chairman Senate Committee

*Lean Rice*

Chairman House Committee

Originated in the Senate

Takes effect ninety days from passage

*A. Hale Watkins*

Clerk of the Senate

*J. R. Aliff*

Clerk of the House of Delegates

*Byron B. Randolph*

President of the Senate

*Malcolm R. Arnold*

Speaker House of Delegates

The within approved this the 14<sup>th</sup> day of March, 1941.

*Matthew M. Neely*  
Governor.

Filed in the office of the Secretary of State of West Virginia. MAR 17 1941

Wm. S. O'BRIEN,  
Secretary of State

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y \*\*\*\*\*

March 14, 1941

Dear Miss Huyett:

The Governor received Enrolled Senate Bill No. 29 on February 26, 1941.

In line six of the title of this bill, the word "provisions" was omitted in printing. The bill has been reprinted correctly, and we are sending four copies of same to you.

I am suggesting that if the original bill has been filed in the office of the Secretary of State and if it meets with the approval of the Governor, that he also approve this bill and place a notation on same to the effect that the corrected bill ~~is~~ has been received by him, and also file the corrected bill in the office of the Secretary of State.

In case the bill has not been filed in the Secretary of State's office, then we would like to withdraw the former copies and substitute the correct ones.

Sincerely yours,

Oshel C. Parsons