WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1943

ENROLLED

SENATE BILL No. 14

(By Mr. 

PASSED March 15, 1943

In Effect Ninety days from Passage

JARRETT PRINTING COMPANY, CHARLESTON, W. VA.
ENROLLED

Senate Bill No. 142
(By Mr. Hardesty)

[Passed March 12, 1943; in effect ninety days from passage.]

AN ACT to amend and reenact article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter seventy, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, defining and regulating policies of group accident and health insurance.

Be it enacted by the Legislature of West Virginia:

That article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended by chapter seventy, acts of the Legislature, regular session, one thousand nine hundred thirty-nine, be amended and reenacted to read as follows:
Article 13. Group Accident and Health Insurance.

Section 1. Companies Which May Write Group Accident and Health Insurance; Policy Classifications; Definitions. Any insurer authorized to do the business of accident and health insurance in this state may issue group policies insuring against bodily injury or death caused by accident or accidental means, or against sickness, or both, coming within any of the following classifications:

(a) A policy issued to an employer, who shall be deemed the policyholder, insuring at least twenty-five employees of such employer, for the benefit of persons other than the employer, and conforming to the following requirements:

(i) If the premium is paid by the employer the group shall comprise all employees or all of any class or classes thereof determined by conditions pertaining to the employment, or

(ii) If the premium is paid by the employer and employees jointly, or by the employees, the group shall comprise not less than seventy-five per cent of all employees of the employer or not less than seventy-five per cent
of all employees of any class or classes thereof determined
by conditions pertaining to the employment;
(b) A policy issued to an association which has a con-
stitution and by-laws and which has been organized and
is maintained in good faith for purposes other than that
of obtaining insurance, insuring at least twenty-five mem-
ers of the association for the benefit of persons other
than the association or its officers or trustees, as such;
(c) A policy issued to a college, school or other in-
stitution of learning or to the head or principal thereof,
insuring students, or students and employees, of such in-
stitution;
(d) A policy issued to or in the name of any volunteer
fire department, insuring all of the members of such de-
partment or all of any class or classes thereof against any
one or more of the hazards to which they are exposed by
reason of such membership.
The term “employees” as used herein shall be deemed
to include the officers, managers, and employees of the
employer, the partners, if the employer is a partnership,
the officers, managers, and employees of subsidiary or af-
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filiated corporations of a corporation employer, and the indi-
vidual proprietors, partners and employees of indi-
viduals and firms, the business of which is controlled by
the insured employer through stock ownership, contract,
or otherwise. The term "employer" as used herein may
be deemed to include any municipal or governmental cor-
poration, unit, agency or department thereof and the
proper officers, as such, of any unincorporated munici-
pality or department thereof, as well as private individ-
uals, partnerships and corporations.

Sec. 2. Policy Forms to Be Approved by Insurance Com-
missoner. No such policy shall hereafter be issued for
delivery in this state until a copy of the form thereof
shall have been filed with the insurance commissioner;
nor shall it be so issued for delivery until the expiration
of thirty days after it has been so filed unless the com-
missioner shall sooner give his written approval thereof.
If the commissioner shall notify in writing the insurer
which has filed such form that it does not comply with the
requirements of law, specifying the reasons for his opin-
ion, it shall be unlawful thereafter for any such insurer
to issue any policy for delivery in this state in such form.

The action of the commissioner in this regard shall be subject to review by any court of competent jurisdiction.

Sec. 3. Required Policy Provisions. Each such policy hereafter issued for delivery in this state shall contain in substance the following provisions:

(a) A provision that the policy, the application of the policyholder, a copy of which shall be attached to such policy, and the individual applications, if any, submitted in connection with such policy by the employees or members, shall constitute the entire contract between the parties, and that all statements made by any applicant or applicants shall be deemed representations and not warranties, and that no such statement shall void the insurance or reduce benefits thereunder unless contained in a written application.

(b) In the case of a policy coming within the classification of subsection (a) or (b) of section one of this article, a provision that the insurer will furnish to the policyholder, for delivery to each employee or member of the insured group, an individual certificate setting
forth in substance the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit.

(c) A provision that all new employees or members, as the case may be, in the groups or classes eligible for insurance, shall from time to time be added to such groups or classes eligible to obtain such insurance in accordance with the terms of the policy.

Sec. 4. Policy Provision as to Proof of Loss and Time for Suit Prescribed; Size of Type Prescribed. No such policy hereafter issued for delivery in this state shall contain any provision relative to notice or proof of loss or the time for paying benefits or the time within which suit may be brought upon the policy which is less favorable to the insured than would be permitted by the provisions set forth in article eleven of this chapter. Every printed portion of every such policy shall be plainly printed in type of which the face shall be not smaller than ten point, and the exceptions in any such policy shall be printed
with the same prominence as the benefits to which they
apply.

Sec. 5. Policies to Provide Expense Reimbursement
Permitted; Provision as to Proof of Loss and Time for
Suit Prescribed. Any policy coming within the classifica-
tion of subsection (a) or (b) of section one of this article
may provide, in addition to such other indemnities, if
any, as are provided in the policy on account of sickness or
bodily injury or death of insured employees or members
by accident, for the payment of benefits or reimburse-
ment for expenses with respect to any one or more of
the following contingencies: Hospitalization, nursing
care, medical or surgical examination or treatment, or
ambulance transportation of insured employees or mem-
bers, or of their spouses or children, or of dependents
living with them: Provided, That no such policy hereafter
issued for delivery in this state shall contain any pro-
vision relative to notice or proof of loss or the time for
paying benefits or the time within which suit may be
brought upon the policy which is less favorable to the in-
Sec. 6. **Riders Transforming Individual into Group Policy Forbidden; Unauthorized Insurance Forbidden.**

No endorsement or rider shall hereafter be used in this state to transform an individual policy issued under authority of article eleven of this chapter into a group policy. Except as provided in this article, no policy of accident or health insurance or of accident and health insurance insuring a group of persons shall be issued for delivery in this state.

Sec. 7. **Scope of Article Defined.** (a) Nothing in this article shall apply to or affect any policy of liability or workmen's compensation insurance, or any policy of insurance issued in accordance with article eleven of this chapter, or any policy issued by a fraternal benefit society.

(b) Nothing in this article shall apply to or in any way affect life insurance, endowment or annuity contracts or contracts supplemental thereto which contain no provisions relating to accident or health insurance except
(a) such as provide additional benefits in case of death by accidental means and except (b) such as operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled as defined by the contract or supplemental contract.

Notwithstanding anything in this act to the contrary, all policy form, riders or endorsements providing for accident insurance, health insurance or accident and health insurance heretofore approved by the insurance commissioner may continue to be issued for delivery in this state until October first, one thousand nine hundred forty-three, but no such policy form, rider or endorsement may thereafter be issued for delivery in this state unless, subsequent to the effective date of this act, it has been filed with the insurance commissioner in accordance with section nine, article eleven or section two, article thirteen as amended, whichever is applicable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate

Takes effect thirty days from passage

Clerk of the Senate

Clerk of the House of Delegates

The within approved this the 19th day of March, 1943.

Governor

Filed in the office of the Secretary of State of West Virginia MAR 19 1943

Wm. S. O'Brien, Secretary of State