

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1945

ENROLLED

SENATE BILL No. 241

(By Mr. Hall of Raleigh)

PASSED March 9 1945

In Effect from Passage

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(BY MR. HALL, OF RALEIGH)

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AN ACT to amend sections three, five, eight and eighteen, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and by adding a new section designated section eighteen-a to said article, all relating to life insurance policies.

Be it enacted by the Legislature of West Virginia:

That sections three, five, eight and eighteen, article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and re-enacted, and that said article be further amended by the addi-

tion thereto of a new section designated section eighteen-a to read as follows:

Section 3. *Valuation of Life Policies.*—(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves.

All valuations made by him or by his authority shall be made upon the net premium basis.

In every case the standard of valuation employed shall be stated in his annual report.

In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves here- in required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the

20 insurance supervisory official of any state or other juris-
21 diction when such valuation complies with the minimum
22 standard herein provided and if the official of such state
23 or jurisdiction accepts as sufficient and valid for all
24 legal purposes the certificate of valuation of the commis-
25 sioner when such certificate states the valuation to have
26 been made in a specified manner according to which the
27 aggregate reserves would be at least as large as if they had
28 been computed in the manner prescribed by the law of
29 that state or jurisdiction.

30 Any such company which at any time shall have
31 adopted any standard of valuation producing greater ag-
32 gregate reserves than those calculated according to the
33 minimum standard herein provided may, with the ap-
34 proval of the commissioner, adopt any lower standard of
35 valuation, but not lower than the minimum herein pro-
36 vided.

37 (2) This subsection shall apply to only those policies
38 and contracts issued prior to the operative date of section
39 eighteen-a (the Standard Non-forfeiture Law). All valu-
40 ations shall be according to the standard of valuations

41 adopted by the company for the obligations to be valued.
42 Any company may adopt different standards for obliga-
43 tions of different dates or classes, but if the total value
44 determined by any such standard for the obligations for
45 which it has been adopted shall be less than that deter-
46 mined by the legal minimum standard hereinafter pre-
47 scribed, or if the company adopt no standard, said legal
48 minimum standard shall be used.

49 The legal minimum standard for contracts issued before
50 the first day of January, in the year one thousand nine
51 hundred one, shall be actuaries' or combined experience
52 table of mortality with interest at four per cent per annum,
53 and for contracts issued on or after said date shall be the
54 "American Experience Table" of mortality with interest
55 at three and one-half per cent per annum. Policies issued
56 by companies doing business in this state may provide
57 for not more than one year preliminary term insurance:
58 *Provided, however,* That if, the premium charged for
59 term insurance under a limited payment life preliminary
60 term policy providing for the payment of all premiums
61 thereof in less than twenty years from the date of the

62 policy, or under an endowment preliminary term policy,
63 exceeds that charged for like insurance under twenty
64 payment life preliminary term policies of the same com-
65 pany, the reserve thereon at the end of any year, includ-
66 ing the first, shall not be less than the reserve on a twenty
67 payment life preliminary term policy issued in the same
68 year and at the same age, together with an amount which
69 shall be equivalent to the accumulation of a net level
70 premium sufficient to provide for a pure endowment at
71 the end of the premium payment period, equal to the
72 difference between the value at the end of such period of
73 such a twenty payment life preliminary term policy and
74 a full reserve at such time of such a limited payment life
75 or endowment policy.

76 The commissioner may vary the standards of interest
77 and mortality in the case of corporations from foreign
78 countries and in particular cases of invalid lives and other
79 extra hazards.

80 Reserves for all such policies and contracts may be cal-
81 culated, at the option of the company, according to any
82 standards which produce greater aggregate reserves for

83 all such policies and contracts than the minimum reserves
84 required by this subsection.

85 (3) This subsection shall apply to only those policies
86 and contracts issued on or after the operative date of sec-
87 tion eighteen-a (the Standard Nonforfeiture Law).

88 (a) The minimum standard for the valuation of all such
89 policies and contracts shall be the commissioners reserve
90 valuation method defined in paragraph (b), three and
91 one-half per cent interest, and the following tables:

92 (i) For all ordinary policies of life insurance issued
93 on the standard basis, excluding any disability and
94 accidental death benefits in such policies,—the
95 Commissioners 1941 Standard Ordinary Mortality
96 Table.

97 (ii) For all industrial life insurance policies issued on
98 the standard basis, excluding any disability and
99 accidental death benefits in such policies,—the 1941
100 Standard Industrial Mortality Table.

101 (iii) For annuity and pure endowment contracts, ex-
102 cluding any disability and accidental death bene-

103 fits in such policies,—the 1937 Standard Annuity
104 Mortality Table.

105 (iv) For total and permanent disability benefits in or
106 supplementary to ordinary policies or contracts—
107 Class (3) Disability Table (1926) which, for active
108 lives, shall be combined with a mortality table per-
109 mitted for calculating the reserves for life insur-
110 ance policies.

111 (v) For accidental death benefits in or supplementary
112 to policies—the Inter-Company Double Indemnity
113 Mortality Table combined with a mortality table
114 permitted for calculating the reserves for life in-
115 surance policies.

116 (vi) For group life insurance, life insurance issued on
117 the substandard basis and other special benefits—
118 such tables as may be approved by the commis-
119 sioner.

120 (b) Reserves according to the commissioners reserve
121 valuation method, for the life insurance and endowment
122 benefits of policies providing for a uniform amount of in-
123 surance and requiring the payment of uniform premiums

124 shall be the excess, if any, of the present value, at the
125 date of valuation, of such future guaranteed benefits pro-
126 vided for by such policies, over the then present value of
127 any future modified net premiums therefor. The modi-
128 fied net premiums for any such policy shall be such uni-
129 form percentage of the respective contract premiums for
130 such benefits that the present value, at the date of issue
131 of the policy, of all such modified net premiums shall be
132 equal to the sum of the then present value of such benefits
133 provided for by the policy and the excess of (A) over (B),
134 as follows:

135 (A) A net level annual premium equal to the present
136 value, at the date of issue, of such benefits pro-
137 vided for after the first policy year, divided by the
138 present value, at the date of issue, of an annuity
139 of one per annum payable on the first and each
140 subsequent anniversary of such policy on which a
141 premium falls due: *Provided, however,* That such
142 net level annual premium shall not exceed the
143 net level annual premium on the nineteen year
144 premium whole life plan for insurance of the same

145 amount at an age one year higher than the age at
146 issue of such policy.

147 (B) A net one year term premium for such benefits
148 provided for in the first policy year.

149 Reserves according to the commissioners reserve valu-
150 ation method for (i) life insurance policies providing for
151 a varying amount of insurance or requiring the payment
152 of varying premiums, (ii) annuity and pure endowment
153 contracts, (iii) disability and accidental death benefits
154 in all policies and contracts, and (iv) all other benefits,
155 except life insurance and endowment benefits in life in-
156 surance policies, shall be calculated by a method con-
157 sistent with the principles of this paragraph (b).

158 (c) In no event shall a company's aggregate reserves
159 for all life insurance policies, excluding disability and
160 accidental death benefits, be less than the aggregate
161 reserves calculated in accordance with the method set
162 forth in paragraph (b) and the mortality table or tables
163 and rate or rates of interest used in calculating non-
164 forfeiture benefits for such policies.

165 (d) Reserves for any category of policies, contracts or
166 benefits as established by the commissioner may be cal-
167 culated, at the option of the company, according to any
168 standards which produce greater aggregate reserves for
169 such category than those calculated according to the
170 minimum standard herein provided, but the rate or rates
171 of interest used shall not be higher than the correspond-
172 ing rate or rates of interest used in calculating any non-
173 forfeiture benefits provided for therein: *Provided, how-*
174 *ever,* That reserves for participating life insurance policies
175 may, with the consent of the commissioner, be calculated
176 according to a rate of interest lower than the rate of in-
177 terest used in calculating the non-forfeiture benefits in
178 such policies, with the further proviso that if such lower
179 rate differs from the rate used in the calculation of the
180 non-forfeiture benefits by more than one-half per cent
181 the company issuing such policies shall file with the
182 commissioner a plan providing for such equitable in-
183 creases, if any, in the cash surrender values and non-
184 forfeiture benefits in such policies as the commissioner
185 shall approve.

186 (e) If the gross premium charged by any life insurance
187 company on any policy or contract is less than the net
188 premium for the policy or contract according to the mor-
189 tality table, rate of interest and method used in calculat-
190 ing the reserve thereon, there shall be maintained on
191 such policy or contract a deficiency reserve in addition
192 to all other reserves required by law. For each such
193 policy or contract the deficiency reserve shall be the
194 present value, according to such standard, of an annuity
195 of the difference between such net premium and the pre-
196 mium charged for such policy or contract, running for
197 the remainder of the premium-paying period.

Sec. 5. *Payment of Dividends.*—Except where it is
2 otherwise specially provided in this chapter, payments in
3 the form of dividends or otherwise shall not be made to
4 its stockholders by any life insurance company organized
5 under the laws of this state, unless its assets exceed by
6 the amount of such payment the amount of its paid up
7 capital stock and all of its liabilities, including its re-
8 insurance reserve computed in accordance with the mini-
9 mum basis prescribed in section three of this article; and

10 no payment shall be made to the policyholders of any
11 such company except for matured claims and in the pur-
12 chase of surrendered policies, unless the assets of such
13 company exceed by the amount of such payments its lia-
14 bilities, including its reinsurance reserve, computed as
15 above provided in this section; but for all other purposes
16 the reinsurance reserve of every such company shall be
17 computed as provided in section three of this article.

Sec. 8. *Reports by Insurance Companies of Other*
2 *States; Valuation of Policies.*—Every life insurance com-
3 pany organized under the laws of any other state or coun-
4 try, before being admitted to do business in this state,
5 in addition to conforming to requirements of article two
6 of this chapter, shall annually, on or before the first day
7 of March, furnish to the insurance commissioner, on
8 blanks to be furnished by him for that purpose, a full re-
9 port of its condition on the preceding thirty-first day of
10 December, duly sworn to by its president and secretary
11 or other proper officers, together with a certificate, by the
12 proper officers of the government by whose authority it
13 is organized, and that it has complied with the laws of

14 such state or country and is authorized to transact busi-
15 ness therein. No license, or certificate of authority, to do
16 business in this state shall be issued to such company,
17 unless such certificate is furnished and the insurance
18 commissioner is satisfied with such certificate, nor unless
19 such other state or country shall license life insurance
20 companies incorporated by this state to transact business
21 within its jurisdiction upon a similar certificate from the
22 insurance commissioner, until such company makes the
23 report required by companies incorporated by this state.

Sec. 18. *Rights of Insured After Default in Payment of*
2 *Premium in Policies Issued Prior to Operative Date of*
3 *Section Eighteen-a.*—In event of default in payment of
4 any premium due on any policy issued prior to the oper-
5 ative date of section eighteen-a, (the Standard Non-for-
6 feiture Law), provided not less than three full years'
7 premiums shall have been paid, there shall be secured to
8 the insured, without action on his part, insurance either
9 paid up or extended, or extended as specified in the policy,
10 the net value of which shall be at least equal to the entire

11 net reserve held by the company on such policy, less two
12 and one-half per cent of the amount insured by the
13 policy and dividend additions, if any, and less any out-
14 standing indebtedness to the company on the policy at
15 the time of default. There shall be secured to the insured
16 the right to surrender such policy to the company at its
17 home office within one month after the date of default
18 for the cash value otherwise available for the purchase
19 of the paid up or extended insurance as aforesaid.

Sec. 18-a. *Standard Non-forfeiture Law.*—(1) In the
2 case of policies issued on or after the operative date of this
3 section, as defined in subsection (7), no policy of life
4 insurance, except as stated in subsection (6), shall be
5 issued or delivered in this state unless it shall contain
6 in substance the following provisions, or corresponding
7 provisions which in the opinion of the commissioner are
8 at least as favorable to the defaulting or surrendering
9 policyholder:

10 (a) That, in the event of default in any premium pay-
11 ment, the company will grant, upon proper request
12 not later than sixty days after the due date of the

13 premium in default, a paid-up non-forfeiture bene-
14 fit on a plan stipulated in the policy, effective as of
15 such due date, of such value as may be hereinafter
16 specified;

17 (b) That, upon surrender of the policy within sixty
18 days after the due date of any premium payment in
19 default after premiums have been paid for at least
20 three full years the company will pay, in lieu of
21 any paid-up non-forfeiture benefit, a cash surrender
22 value of such amount as may be hereinafter speci-
23 fied;

24 (c) That a specified paid-up non-forfeiture benefit shall
25 become effective as specified in the policy unless
26 the person entitled to make such election elects
27 another available option not later than sixty days
28 after the due date of the premium in default;

29 (d) That, if the policy shall have become paid up by
30 completion of all premium payments or if it is con-
31 tinued under any paid-up non-forfeiture benefit
32 which became effective on or after the third policy
33 anniversary the company will pay, upon surrender

34 of the policy within thirty days after any policy
35 anniversary, a cash surrender value of such amount
36 as may be hereinafter specified;

37 (e) A statement of the mortality table and interest rate
38 used in calculating the cash surrender values and
39 the paid-up non-forfeiture benefits available under
40 the policy, together with a table showing the cash
41 surrender value, if any, and paid-up non-forfeiture
42 benefits, if any, available under the policy on each
43 policy anniversary either during the first twenty
44 policy years or during the term of the policy, which-
45 ever is shorter, such values and benefits to be cal-
46 culated upon the assumption that there are no divi-
47 dends or paid-up additions credited to the policy
48 and that there is no indebtedness to the company
49 on the policy;

50 (f) A statement of the method to be used in calculating
51 the cash surrender value and the paid-up non-for-
52 feiture benefit available under the policy on any pol-
53 icy anniversary with an explanation of the manner
54 in which the cash surrender values and the paid-up

55 non-forfeiture benefits are altered by the existence
56 of any paid-up additions credited to the policy or
57 any indebtedness to the company on the policy.

58 Any of the foregoing provisions or portions thereof not
59 applicable by reason of the plan of insurance may, to the
60 extent inapplicable, be omitted from the policy.

61 (2) Any cash surrender value available under the pol-
62 icy in the event of default in a premium payment due on
63 any policy anniversary, whether or not required by sub-
64 section (1), shall be an amount not less than the excess,
65 if any, of the present value, on such anniversary, of the
66 future guaranteed benefits which would have been pro-
67 vided for by the policy, including any existing paid-up
68 additions, if there had been no default, over the sum of
69 (i) the then present value of the adjusted premiums as
70 defined in subsection (4), corresponding to premiums
71 which would have fallen due on and after such anni-
72 versary, and (ii) the amount of any indebtedness to the
73 company on the policy. Any cash surrender value avail-
74 able within thirty days after any policy anniversary under
75 any policy paid up by completion of all premium pay-

76 ments or any policy continued under any paid-up non-
77 forfeiture benefit, whether or not required by subsection
78 (1), shall be an amount not less than the present value,
79 on such anniversary, of the future guaranteed benefits
80 provided for by the policy, including any existing paid-up
81 additions, decreased by any indebtedness to the company
82 on the policy.

83 (3) Any paid-up non-forfeiture benefit available under
84 the policy in the event of default in a premium payment
85 due on any policy anniversary shall be such that its
86 present value as of such anniversary shall be at least
87 equal to the cash surrender value then provided for by
88 the policy or, if none is provided for, that cash surrender
89 value which would have been required by this section in
90 the absence of the condition that premiums shall have
91 been paid for at least a specified period.

92 (4) The adjusted premiums for any policy shall be
93 calculated on an annual basis and shall be such uniform
94 percentage of the respective premiums specified in the
95 policy for each policy year that the present value, at the
96 date of issue of the policy, of all such adjusted premiums

97 shall be equal to the sum of (i) the then present value
98 of the future guaranteed benefits provided for by the
99 policy; (ii) two per cent of the amount of insurance, if
100 the insurance be uniform in amount, or of the equivalent
101 uniform amount, as hereinafter defined, if the amount of
102 insurance varies with duration of the policy; (iii) forty
103 per cent of the adjusted premium for the first policy
104 year; (iv) twenty-five per cent of either the adjusted
105 premium for the first policy year or the adjusted premium
106 for a whole life policy of the same uniform or equivalent
107 uniform amount with uniform premiums for the whole
108 of life issued at the same age for the same amount of
109 insurance, whichever is less: *Provided, however,* That in
110 applying the percentages specified in (iii) and (iv) above,
111 no adjusted premium shall be deemed to exceed four per
112 cent of the amount of insurance or level amount equiva-
113 lent thereto. The date of issue of a policy for the purpose
114 of this subsection shall be the date as of which the rated
115 age of the insured is determined.

116 In the case of a policy providing an amount of insur-
117 ance varying with duration of the policy, the equivalent

118 level amount thereof for the purpose of this subsection
119 shall be deemed to be the level amount of insurance pro-
120 vided by an otherwise similar policy, containing the
121 same endowment benefit or benefits, if any, issued at the
122 same age and for the same term, the amount of which
123 does not vary with duration and the benefits under which
124 have the same present value at the inception of the insur-
125 ance as the benefits under the policy.

126 All adjusted premiums and present values referred to
127 in this section shall be calculated on the basis of the
128 Commissioners 1941 Standard Ordinary Mortality Table
129 for ordinary insurance and the 1941 Standard Industrial
130 Mortality Table for industrial insurance and the rate of
131 interest, not exceeding three and one-half per cent per
132 annum, specified in the policy for calculating cash sur-
133 render values and paid-up non-forfeiture benefits: *Pro-*
134 *vided, however,* That in calculating the present value of
135 any paid-up term insurance with accompanying pure
136 endowment, if any, offered as a non-forfeiture benefit,
137 the rates of mortality assumed may be not more than one
138 hundred and thirty per cent of the rates of mortality

139 according to such applicable table: *Provided, further, That*
140 for insurance issued on a sub-standard basis, the calcula-
141 tion of any such adjusted premiums and present values
142 may be based on such other table of mortality as may
143 be specified by the company and approved by the com-
144 missioner.

145 (5) Any cash surrender value and any paid-up non-
146 forfeiture benefit, available under the policy in the event
147 of default in a premium payment due at any time other
148 than on the policy anniversary, shall be calculated with
149 allowance for the lapse of time and the payment of frac-
150 tional premiums beyond the last preceding policy anni-
151 versary. All values referred to in subsections (2), (3)
152 and (4) may be calculated upon the assumption that any
153 death benefit is payable at the end of the policy year of
154 death. The net value of any paid-up additions, other than
155 paid-up term additions, shall be not less than the divi-
156 dends used to provide such additions. Notwithstanding
157 the provisions of subsection (2), additional benefits pay-
158 able (a) in the event of death or dismemberment by
159 accident or accidental means, (b) in the event of total

160 and permanent disability, (c) as reversionary annuity
161 or deferred reversionary annuity benefits, (d) as de-
162 creasing term insurance benefits provided by a rider
163 or supplemental policy provision to which, if issued as a
164 separate policy, this section would not apply, and (e) as
165 other policy benefits additional to life insurance and
166 endowment benefits, and premiums for all such addi-
167 tional benefits, shall be disregarded in ascertaining cash
168 surrender values and non-forfeiture benefits required by
169 this section, and no such additional benefits shall be
170 required to be included in any paid-up non-forfeiture
171 benefits.

172 (6) This section shall not apply to any reinsurance,
173 group insurance, pure endowment, annuity or reversion-
174 ary annuity contract, nor to any term policy of uniform
175 amount, or renewal thereof, of fifteen years or less expir-
176 ing before age sixty-six, for which uniform premiums are
177 payable during the entire term of the policy, nor to any
178 term policy of decreasing amount on which each adjusted
179 premium, calculated as specified in subsection (4), is less
180 than the adjusted premium so calculated, on such fifteen

181 year term policy issued at the same age and for the same
182 initial amount of insurance, nor to any policy which shall
183 be delivered outside this state through an agent or other
184 representative of the company issuing the policy.

185 (7) After the effective date of this act, any company
186 may file with the commissioner a written notice of its
187 election to comply with the provisions of this section after
188 a specified date before January first, nineteen hundred
189 forty-eight. After the filing of such notice, then upon
190 such specified date (which shall be the operative date
191 for such company), this section shall become opera-
192 tive with respect to the policies thereafter issued by
193 such company. If a company makes no such election, the
194 operative date of this section for such company shall be
195 January first, nineteen hundred forty-eight.

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

Charles C Morris

Chairman Senate Committee

J. Adkins
Chairman House Committee

Originated in the Senate

Takes effect From passage

Herman Hayes
Clerk of the Senate

Phillip
Clerk of the House of Delegates

Ronald M. Sickers
President of the Senate

John E. Amos
Speaker House of Delegates

The within Approved this the 15th
day of March, 1945.

Robert M. ...
Governor.

Filed in the office of the Secretary of State
of West Virginia **MAR 16 1945**

Wm. S. O'BRIEN,
Secretary of State