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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1947



ENROLLED

SENATE BILL No. 162

(By Mr. Hardesty)



PASSED March 3, 1947

In Effect October 1, 1947 **Passage**



162

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Senate Bill No. 162

(By MR. HARDESTY)

[Passed March 3, 1947; in effect October 1, 1947.]

AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article designated article four-a, relative to the regulation of rates for fire insurance and allied lines, (except insurance against the perils of fire and lightning under the form of policy set forth in subsection (f) of section seven, article four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended), marine and inland marine insurance, and to rating organizations.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article to be designated article four-a, to read as follows:

**Article 4A. Fire, Marine and Inland Marine Insurance Rates
and Rating Organizations**

Section 1. *Purpose of Article.*—The purpose of this article is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this article. Nothing in this article is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This article shall be liberally interpreted to carry into effect the provisions of this section.

Sec. 2. *Scope of Article.*—This article applies to fire and allied lines, marine and inland marine insurance, on risks located in this state, and, excepting only farmers' mutuals, to all insurers, including stock and mutual insurers, reciprocal and inter-insurance exchanges, which under any provisions of the laws of this state write any of the

7 kinds of insurance to which this article applies. Inland
8 marine insurance shall be deemed to include insurance
9 now or hereafter defined by statute, or by interpretation
10 thereof, or if not so defined or interpreted, by ruling of
11 the commissioner of insurance, hereinafter referred to
12 as commissioner, or as established by general custom of
13 the business, as inland marine insurance.

14 This article shall not apply:

15 (a) To insurance against the perils of fire and light-
16 ning under the form of policy set forth in subsection (f)
17 of section seven, article four, chapter thirty-three, of the
18 code, as amended;

19 (b) To reinsurance, other than joint reinsurance to the
20 extent stated in section eleven;

21 (c) To insurance of vessels or craft, their cargoes, ma-
22 rine builders' risks, marine protection and indemnity, or
23 other risks commonly insured under marine, as distin-
24 guished from inland marine, insurance policies;

25 (d) To insurance of hulls of aircraft, including their
26 accessories and equipment, or against liability arising out
27 of the ownership, maintenance or use of aircraft;

28 (e) To motor vehicle insurance, nor to insurance
29 against liability arising out of the ownership, mainten-
30 ance or use of motor vehicles.

31 If any kind of insurance, subdivision or combination
32 thereof, or type of coverage, subject to this article is also
33 subject to regulation by another rate regulatory act of
34 this state, an insurer to which both acts are otherwise
35 applicable shall file with the commissioner, a designation
36 as to which rate regulatory act shall be applicable to it
37 with respect to such kind of insurance, subdivision or
38 combination thereof, or type of coverage.

Sec. 3. *Making of Rates.*—(a) Rates shall be made in
2 accordance with the following provisions:

3 1. Manual, minimum, class rates, rating schedules or
4 rating plans, shall be made and adopted, except in the
5 case of specific inland marine rates on risks specially
6 rated;

7 2. Rates shall not be excessive, inadequate or unfairly
8 discriminatory;

9 3. Due consideration shall be given to past and prospec-
10 tive loss experience within and outside this state, to the

11 conflagration and catastrophe hazards, to a reasonable
12 margin for underwriting profit and contingencies, to divi-
13 dends, savings or unabsorbed premium deposits allowed
14 or returned by insurers to their policyholders, members
15 or subscribers, to past and prospective expenses both
16 countrywide and those specially applicable to this state,
17 and to all other relevant factors within and outside this
18 state; and in the case of fire insurance rates shall be
19 given to the experience of the fire insurance business
20 during a period of not less than the most recent five-year
21 period for which such experience is available.

22 (b) Except to the extent necessary to meet the pro-
23 visions of subdivision two of subsection (a) of this sec-
24 tion, uniformity among insurers in any matters within
25 the scope of this section is neither required nor prohibited.

26 (c) Rates made in accordance with this section may be
27 used subject to the provisions of this article.

Sec. 4. *Rate Filings.* — (a) Every insurer shall file
2 with the commissioner, except as to inland marine risks
3 which by general custom of the business are not written
4 according to manual rates or rating plans, every manual,

5 minimum, class rate, rating schedule or rating plan and
6 every other rating rule, and every modification of any
7 of the foregoing which it proposes to use. Every such
8 filing shall state the proposed effective date thereof, and
9 shall indicate the character and extent of the coverage
10 contemplated. When a filing is not accompanied by the
11 information upon which the insurer supports such filing,
12 and the commissioner does not have sufficient informa-
13 tion to determine whether such filing meets the require-
14 ments of this article, he shall require such insurer to fur-
15 nish the information upon which it supports such filing
16 and in such event the waiting period shall commence
17 as of the date such information is furnished. The infor-
18 mation furnished in support of a filing may include (1)
19 the experience or judgment of the insurer or rating or-
20 ganization making the filing, (2) its interpretation of any
21 statistical data it relies upon, (3) the experience or other
22 insurers or rating organizations, or (4) any other rele-
23 vant factors. A filing and any supporting information
24 shall be open to public inspection after the filing becomes
25 effective. Specific inland marine rates on risks specially

26 rated, made by a rating organization, shall be filed with
27 the commissioner.

28 (b) An insurer may satisfy its obligation to make such
29 filings by becoming a member of, or a subscriber to, a
30 licensed rating organization which makes such filings, and
31 by authorizing the commissioner to accept such filings
32 on its behalf: *Provided*, That nothing contained in this
33 article shall be construed as requiring any insurer to be-
34 come a member of or a subscriber to any rating organ-
35 ization.

36 (c) The commissioner shall review filings as soon as
37 reasonably possible after they have been made in order
38 to determine whether they meet the requirements of this
39 article.

40 (d) Subject to the exception specified in subsection
41 (e) of this section, each filing shall be on file for a waiting
42 period of fifteen days before it becomes effective, which
43 period may be extended by the commissioner for an
44 additional period not to exceed fifteen days if he gives
45 written notice within such waiting period to the insurer
46 or rating organization which make the filing that he needs

47 such additional time for the consideration of such filing.
48 Upon written application by such insurer or rating organ-
49 ization, the commissioner may authorize a filing which
50 he has reviewed to become effective before the expira-
51 tion of the waiting period or any extension thereof. A
52 filing shall be deemed to meet the requirements of this
53 article unless disapproved by the commissioner within
54 the waiting period or any extension thereof.

55 (e) Specific inland marine rates on risks specially
56 rated by a rating organization shall become effective
57 when filed and shall be deemed to meet the requirements
58 of this article until such time as the commissioner re-
59 views the filing and so long thereafter as the filing re-
60 mains in effect.

61 (f) Under such rules and regulations as he shall adopt
62 the commissioner may, by written order, suspend or
63 modify the requirements of filing as to any kind of in-
64 surance, subdivision or combination thereof, or as to
65 classes of risks, the rates for which cannot practicably be
66 filed before they are used. Such orders, rules and regula-
67 tions shall be made known to insurers and rating organi-

68 rations affected thereby. The commissioner may make
69 such examination as he may deem advisable to ascertain
70 whether any rates affected by such order meet the stand-
71 ards set forth in subdivision two of subsection (a) of sec-
72 tion three.

73 (g) Upon the written application of the insured, stat-
74 ing his reasons therefor, filed with and approved by the
75 commissioner, a rate in excess of that provided by a filing
76 otherwise applicable may be used on any specific risk.

77 (h) Beginning ninety days after the effective date of
78 this article no insurer shall make or issue a contract or
79 policy except in accordance with the filings which are in
80 effect for said insurer as provided in this article or in
81 accordance with subsections (f) or (g) of this section.
82 This subsection shall not apply to contracts or policies for
83 inland marine risks as to which filings are not required.

Sec. 5. *Disapproval of Filings.*—(a) If within the wait-
2 ing period or any extension thereof as provided in sub-
3 section (d) of section four, the commissioner finds that
4 a filing does not meet the requirements of this article,
5 he shall send to the insurer or rating organization which

6 made such filing, written notice of disapproval of such
7 filing specifying therein in what respects he finds such
8 filing fails to meet the requirements of this article and
9 stating that such filing shall not become effective.

10 (b) If within thirty days after a specific inland marine
11 rate on a risk specially rated by a rating organization,
12 subject to subsection (e) of section four has become effec-
13 tive, the commissioner finds that such filing does not
14 meet the requirements of this article, he shall send to the
15 rating organization which made such filing written notice
16 of disapproval of such filing specifying therein in what
17 respects he finds that such filing fails to meet the require-
18 ments of this article and stating when, within a reason-
19 able period thereafter, such filing shall be deemed no
20 longer effective. Said disapproval shall not affect any
21 contract made or issued prior to the expiration of the
22 period set forth in said notice.

23 (c) If at any time subsequent to the applicable review
24 period provided for in subsection (a) or (b) of this sec-
25 tion, the commissioner finds that a filing does not meet
26 the requirements of this article, he shall, after a hearing

27 held upon not less than ten days' written notice, specify-
28 ing the matters to be considered at such hearing, to every
29 insurer and rating organization which made such filing,
30 issue an order specifying in what respects he finds that
31 such filing fails to meet the requirements of this article,
32 and stating when, within a reasonable period thereafter,
33 such filing shall be deemed no longer effective. Copies of
34 said order shall be sent to every such insurer and rating
35 organization. Said order shall not affect any contract or
36 policy made, or issued prior to the expiration of the pe-
37 riod set forth in said order.

38 (d) Any person or organization aggrieved with respect
39 to any filing which is in effect may make written appli-
40 cation to the commissioner for a hearing thereon: *Pro-*
41 *vided, however,* That the insurer or rating organization
42 that made the filing shall not be authorized to proceed
43 under this subsection. Such application shall specify the
44 grounds to be relied upon by the applicant. If the com-
45 missioner shall find that the application is made in good
46 faith, that the applicant would be so aggrieved if his
47 grounds are established, and that such grounds otherwise

48 justify holding such a hearing, he shall, within thirty days
49 after receipt of such application, hold a hearing upon not
50 less than ten days' written notice to the applicant and to
51 every insurer and rating organization which made such
52 filing.

53 If, after such hearing, the commissioner finds that the
54 filing does not meet the requirements of this article, he
55 shall issue an order specifying in what respects he finds
56 that such filing fails to meet the requirements of this arti-
57 cle, and stating when, within a reasonable period there-
58 after such filing shall be deemed no longer effective. Cop-
59 ies of said order shall be sent to the applicant and to every
60 such insurer and rating organization. Said order shall
61 not affect any contract or policy made or issued prior
62 to the expiration of the period set forth in said order.

63 (e) No manual, minimum, class rate, rating schedule,
64 rating plan, rating rule, or any modification of any of
65 the foregoing which has been filed pursuant to the re-
66 quirements of section four of this act shall be disapproved
67 if the rates thereby produced meet the requirements of
68 this article.

Sec. 6. *Rating Organizations.*—(a) A corporation, an
2 unincorporated association, a partnership or an individ-
3 ual, whether located within or outside this state, may
4 make application to the commissioner for license as a
5 rating organization for such kinds of insurance, or sub-
6 division or class of risk or a part or combination thereof
7 as are specified in its application and shall file therewith
8 (1) a copy of its constitution, its articles of agreement
9 or association or its certificate of incorporation, and of
10 its by-laws, rules and regulations governing the conduct
11 of its business, (2) a list of its members and subscribers,
12 (3) the name and address of a resident of this state upon
13 whom notices or orders of the commissioner or process
14 affecting such rating organization may be served and
15 (4) a statement of its qualifications as a rating organiza-
16 tion. If the commissioner finds that the applicant is
17 competent, trustworthy and otherwise qualified to act
18 as a rating organization and that its constitution, articles
19 of agreement or association or certificate of incorpora-
20 tion, and its by-laws, rules and regulations governing the
21 conduct of its business conform to the requirements of

22 law, he shall issue a license specifying the kinds of in-
23 surance, or subdivision or class of risk or part or com-
24 bination thereof for which the applicant is authorized
25 to act as a rating organization. Every such application
26 shall be granted or denied in whole or in part by the
27 commissioner within sixty days of the date of its filing
28 with him. Licenses issued pursuant to this section shall
29 remain in effect for three years unless sooner suspended
30 or revoked by the commissioner. The fee for said license
31 shall be twenty-five dollars. Licenses issued pursuant to
32 this section may be suspended or revoked by the com-
33 missioner, after hearing upon notice, in the event the
34 rating organization ceases to meet the requirements of
35 this subsection. Every rating organization shall notify
36 the commissioner promptly of every change in (1) its
37 constitution, its articles of agreement or association, or
38 its certificate of incorporation, and its by-laws, rules and
39 regulations governing the conduct of its business, (2) its
40 list of members and subscribers and (3) the name and
41 address of the resident of this state designated by it upon

42 whom notices or orders of the commissioner or process
43 affecting such rating organization may be served.

44 (b) Subject to rules and regulations which have been
45 approved by the commissioner as reasonable, each rating
46 organization shall permit any insurer, not a member, to
47 be a subscriber to its rating services for any kind of insur-
48 ance, subdivision, or class of risk or a part or combination
49 thereof for which it is authorized to act as a rating organi-
50 zation. Notice of proposed changes in such rules and regu-
51 lations shall be given to subscribers. Each rating organiza-
52 tion shall furnish its rating services without discrimina-
53 tion to its members and subscribers. The reasonableness of
54 any rule or regulation in its application to subscribers, or
55 the refusal of any rating organization to admit an insurer
56 as a subscriber, shall, at the request of any subscribers or
57 any such insurer, be reviewed by the commissioner at a
58 hearing held upon at least ten days' written notice to such
59 rating organization and to such subscriber or insurer. If
60 the commissioner finds that such rule or regulation is un-
61 reasonable in its application to subscribers, he shall order
62 that such rule or regulation shall not be applicable to sub-

63 subscribers. If the rating organization fails to grant or reject
64 an insurer's application for subscribership within thirty
65 days after it was made, the insurer may request a review
66 by the commissioner as if the application had been reject-
67 ed. If the commissioner finds that the insurer has been re-
68 fused admittance to the rating organization as a subscriber
69 without justification, he shall order the rating organiza-
70 tion to admit the insurer as a subscriber. If he finds that
71 the action of the rating organization was justified, he
72 shall make an order affirming its action.

73 (c) No rating organization shall adopt any rule the
74 effect of which would be to prohibit or regulate the pay-
75 ment of dividends, savings or unabsorbed premium de-
76 posits allowed or returned by insurers to their policy-
77 holders or subscribers.

78 (d) Cooperation among rating organizations or among
79 rating organizations and insurers in rate making or in
80 other matters within the scope of this article is hereby
81 authorized, provided the filings resulting from such co-
82 operation are subject to all the provisions of this article

83 which are applicable to filings generally. The commis-
84 sioner may review such cooperative activities and prac-
85 tices and if, after a hearing, he finds that any such activ-
86 ity or practice is unfair or unreasonable or otherwise
87 inconsistent with the provisions of this article, he may
88 issue a written order specifying in what respects such
89 activity or practice is unfair or unreasonable or other-
90 wise inconsistent with the provisions of this article, and
91 requiring the discontinuance of such activity or practice.

92 (e) Any rating organization may provide for the ex-
93 amination of policies, daily reports, binders, renewal
94 certificates, endorsements or other evidence of insur-
95 ance, or the cancellation thereof, and may make reason-
96 able rules governing their submission. Such rules shall
97 contain a provision that in the event any insurer does
98 not within sixty days furnish satisfactory evidence to
99 the rating organization of the correction of any error or
100 omission previously called to its attention by the rating
101 organization, it shall be the duty of the rating organiza-
102 tion to notify the commissioner thereof. All information
103 so submitted for examination shall be confidential.

104 (f) Any rating organization may subscribe for or
105 purchase actuarial, technical or other services, and such
106 services shall be available to all members and subscribers
107 without discrimination.

Sec. 7. *Deviations.*—Every member of or subscriber
2 to a rating organization shall adhere to the filings made
3 on its behalf by such organization except that any such
4 insurer may make written application to the commis-
5 sioner for permission to file a deviation from the class
6 rates, schedules, rating plans or rules respecting any
7 kind of insurance, or class of risk within a kind of in-
8 surance, or combination thereof. Such application shall
9 specify the basis for the modification and a copy thereof
10 shall also be sent simultaneously to such rating organ-
11 ization. The commissioner shall set a time and place for
12 a hearing at which the insurer and such rating organiza-
13 tion may be heard and shall give them not less than
14 ten days' written notice thereof. In the event the com-
15 missioner is advised by the rating organization that it
16 does not desire a hearing he may, upon the consent of
17 the applicant, waive such hearing. In considering the

18 application for permission to file such deviation the com-
19 missioner shall give consideration to the available sta-
20 tistics and the principles for rate making as provided
21 in section three of this article. The commissioner shall
22 issue an order permitting the deviation for such insurer
23 to be filed if he finds it to be justified and it shall there-
24 upon become effective. He shall issue an order denying
25 such application if he finds that the resulting premiums
26 would be excessive, inadequate or unfairly discrimina-
27 tory. Each deviation permitted to be filed shall be effec-
28 tive for a period of one year from the date of such per-
29 mission unless terminated sooner with the approval of
30 the commissioner.

Sec. 8. *Appeal by Minority.*—Any member of, or sub-
2 scribe to, a rating organization may appeal to the com-
3 missioner from the action or decision of such rating or-
4 ganization in approving or rejecting any proposed change
5 in or addition to the filings of such rating organization
6 and the commissioner shall, after a hearing held upon
7 not less than ten days' written notice to the appellant
8 and to such rating organization, issue an order approv-

9 ing the action or decision of such rating organization
10 or directing it to give further consideration to such pro-
11 posal, or, if such appeal is from the action or decision
12 of the rating organization in rejecting a proposed addi-
13 tion to its filings, he may, in the event he finds that such
14 action or decision was unreasonable, issue an order di-
15 recting the rating organization to make an addition to
16 its filings, on behalf of its members and subscribers, in
17 a manner consistent with his findings, within a reason-
18 able time after the issuance of such order.

Sec. 9. *Information to be Furnished Insureds; Hear-*
2 *ings and Appeals of Insureds.*—Every rating organization
3 and every insurer which makes its own rates shall, with-
4 in a reasonable time after receiving written request
5 therefor and upon payment of such reasonable charge
6 as it may make, furnish to any insured affected by a rate
7 made by it, or to the authorized representative of such
8 insured, all pertinent information as to such rate. Every
9 rating organization and every insurer which makes its
10 own rates shall provide within this state reasonable
11 means whereby any person aggrieved by the application

12 of its rating system may be heard, in person or by his
13 authorized representative, on his written request to re-
14 view the manner in which such rating system has been
15 applied in connection with the insurance afforded him.
16 If the rating organization or insurer fails to grant or
17 reject such request within thirty days after it is made,
18 the applicant may proceed in the same manner as if his
19 application had been rejected. Any party affected by the
20 action of such rating organization or such insurer on
21 such request may, within thirty days after written notice
22 of such action, appeal to the commissioner, who, after
23 a hearing held upon not less than ten days' written notice
24 to the appellant and to such rating organization or in-
25 surer, may affirm or reverse such action.

Sec. 10. *Advisory Organizations.*—(a) Every group,
2 association or other organization of insurers, whether
3 located within or outside this state, which assists in-
4 surers which make their own filings or rating organiza-
5 tions in rate making, by the collection and furnishing
6 of loss or expense statistics, or by the submission of rec-
7 ommendations, but which does not make filings under

8 this article, shall be known as an advisory organization.

9 (b) Every advisory organization shall file with the
10 commissioner (1) a copy of its constitution, its articles
11 of agreement or association or its certificate of incorpora-
12 tion and of its by-laws, rules and regulations governing
13 its activities, (2) a list of its members, (3) the name
14 and address of a resident of this state upon whom no-
15 tices or orders of the commissioner or process issued at
16 his direction may be served, and (4) an agreement that
17 the commissioner may examine such advisory organ-
18 ization in accordance with the provisions of section twelve
19 of this article.

20 (c) If, after a hearing, the commissioner finds that
21 the furnishing of such information or assistance involves
22 any act or practice which is unfair or unreasonable or
23 otherwise inconsistent with the provisions of this article,
24 he may issue a written order specifying in what respects
25 such act or practice is unfair or unreasonable or other-
26 wise inconsistent with the provisions of this article, and
27 requiring the discontinuance of such act or practice.

28 (d) No insurer which makes its own filings nor any

29 rating organization shall support its filings by statistics
30 or adopt rate making recommendations, furnished to it
31 by an advisory organization which has not complied with
32 this section or with an order of the commissioner in-
33 volving such statistics or recommendations issued under
34 subsection (c) of this section. If the commissioner finds
35 such insurer or rating organization to be in violation of
36 this subsection he may issue an order requiring the dis-
37 continuance of such violation.

Sec. 11. *Joint Underwriting or Joint Reinsurance.*—

2 (a) Every group, association or other organization of
3 insurers which engages in joint underwriting or joint
4 reinsurance, shall be subject to regulation with respect
5 thereto as herein provided, subject, however, with re-
6 spect to joint underwriting, to all other provisions of
7 this article and, with respect to joint reinsurance, to
8 sections twelve and fifteen to nineteen of this article.

9 (b) If, after a hearing, the commissioner finds that any
10 activity or practice of any such group, association or other
11 organization is unfair or unreasonable or otherwise in-
12 consistent with the provisions of this article, he may

13 issue a written order specifying in what respects such
14 activity or practice is unfair or unreasonable or other-
15 wise inconsistent with the provisions of this article, and
16 requiring the discontinuance of such activity or practice.

Sec. 12. *Examinations.*—The commissioner shall, at
2 least once in five years, make or cause to be made an
3 examination of each rating organization licensed in this
4 state as provided in section six and he may, as often as
5 he may deem it expedient, make or cause to be made
6 an examination of each advisory organization referred
7 to in section ten and of each group, association or other
8 organization referred to in section eleven. The reason-
9 able costs of any such examination shall be paid by the
10 rating organization, advisory organization, or group, as-
11 sociation or other organization examined upon presenta-
12 tion to it of a detailed account of costs. The officers, man-
13 agers, agents and employees of such rating organization,
14 advisory organization, or group, association or other or-
15 ganization may be examined at any time under oath and
16 shall exhibit all books, records, accounts, documents, or
17 agreements governing its method of operation. In lieu

18 of any such examination the commissioner may accept
19 the report of an examination made by the insurance
20 supervisory official of another state, pursuant to the laws
21 of such state. The commissioner shall furnish two copies
22 of the examination report to the organization, group or
23 association examined and shall notify such organization,
24 group or association that it may, within twenty days
25 thereafter, request a hearing on said report or on any
26 facts or recommendations therein. Before filing such re-
27 port for public inspection, the commissioner shall grant
28 a hearing to the organization, group or association ex-
29 amined. The report of such examination, when filed for
30 public inspection, shall be admissible in evidence in any
31 action or proceeding brought by the commissioner against
32 the organization, group or association examined, or its
33 officers or agents, and shall be prima facie evidence of
34 the facts stated therein. The commissioner may withhold
35 the report of any such examination from public inspec-
36 tion for such time as he may deem proper.

Sec. 13. *Rate Administration.*— (a) Recording and
2 Reporting of Loss and Expense Experience. The com-

3 missioner shall promulgate reasonable rules and statis-
4 tical plans, reasonably adapted to each of the rating sys-
5 tems on file with him, which may be modified from time
6 to time and which shall be used thereafter by each
7 insurer in the recording and reporting of its loss and
8 countrywide expense experience, in order that the ex-
9 perience of all insurers may be made available at least
10 annually in such form and detail as may be necessary
11 to aid him in determining whether rating systems com-
12 ply with the standards set forth in section three. Such
13 rules and plans may also provide for the recording and
14 reporting of expense experience items which are special-
15 ly applicable to this state and are not susceptible of
16 determination by a prorating of countrywide expense
17 experience. In promulgating such rules and plans, the
18 commissioner shall give due consideration to the rating
19 systems on file with him and, in order that such rules
20 and plans may be as uniform as is practicable among
21 the several states, to the rules and to the form of the
22 plans used for such rating systems in other states. No
23 insurer shall be required to record or report its loss

24 experience on a classification basis that is inconsistent
25 with the rating system filed by it. The commissioner
26 may designate one or more rating organizations or other
27 agencies to assist him in gathering such experience and
28 making compilations thereof, and such compilations shall
29 be made available, subject to reasonable rules promul-
30 gated by the commissioner, to insurers and rating organ-
31 izations.

32 (b) Reasonable rules and plans may be promulgated
33 by the commissioner for the interchange of data neces-
34 sary for the application of rating plans.

35 (c) In order to further uniform administration of
36 rate regulatory laws, the commissioner and every in-
37 surer and rating organization may exchange information
38 and experience data with insurance supervisory officials,
39 insurers and rating organizations in other states and may
40 consult with them with respect to rate making and the
41 application of rating systems.

42 (d) The commissioner may make reasonable rules
43 and regulations necessary to effect the purposes of this
44 article.

Sec. 14. *False or Misleading Information.*—No person
2 or organization shall wilfully withhold information from,
3 or knowingly give false or misleading information to,
4 the commissioner, any statistical agency designated by
5 the commissioner, any rating organization, or any in-
6 surer, which will affect the rates or premiums charge-
7 able under this article. A violation of this section shall
8 subject the one guilty of such violation to the penalties
9 in section fifteen of this article.

Sec. 15. *Penalties.*—The commissioner may, if he finds
2 that any person or organization has violated any pro-
3 vision of this article, impose a penalty of not more than
4 fifty dollars for each such violation, but if he finds such
5 violation to be wilfull he may impose a penalty of not
6 more than five hundred dollars for each such violation.
7 Such penalties may be in addition to any other penalty
8 provided by law.

9 The commissioner may suspend the license of any
10 rating organization or insurer which fails to comply with
11 an order of the commissioner within the time limited
12 by such order, or any extension thereof which the com-

13 missioner may grant. The commissioner shall not sus-
14 pend the license of any rating organization or insurer for
15 failure to comply with an order until the time prescribed
16 for an appeal therefrom has expired or if an appeal has
17 been taken, until such order has been affirmed. The
18 commissioner may determine when a suspension of li-
19 cense shall become effective and it shall remain in effect
20 for the period fixed by him, unless he modifies or re-
21 scinds such suspension, or until the order upon which
22 such suspension is based is modified, rescinded or re-
23 versed.

24 No penalty shall be imposed and no license shall be
25 suspended or revoked except upon a written order of the
26 commissioner, stating his findings, made after a hearing
27 held upon not less than ten days' written notice to such
28 person or organization specifying the alleged violation.

Sec. 16. *Rebates Prohibited.*—No broker, agent or so-
2 licitor shall knowingly charge, demand or receive a pre-
3 mium for any policy of insurance except in accordance
4 with the provisions of this article. No insurer or em-
5 ployee thereof, and no broker, agent or solicitor shall

6 pay, allow, or give, or offer to pay, allow, or give, directly
7 or indirectly as an inducement to insurance, or after in-
8 surance has been effected, any rebate, discount, abate-
9 ment, credit or reduction of the premium named in a
10 policy of insurance, or any special favor or advantage
11 in the dividends or other benefits to accrue thereon, or
12 any valuable consideration or inducement whatever, not
13 specified in the policy of insurance, except to the extent
14 provided for in an applicable filing. No insured named
15 in a policy of insurance, nor any employee of such in-
16 sured shall knowingly receive or accept, directly or in-
17 directly, any such rebate, discount, abatement, credit or
18 reduction of premium, or any such special favor or ad-
19 vantage or valuable consideration or inducement.

20 Nothing in this section shall be construed as prohibit-
21 ing the payment of commissions or other compensation
22 to duly licensed agents, brokers and solicitors, nor as pro-
23 hibiting any insurer from allowing or returning to its
24 participating policyholders, members or subscribers, divi-
25 dends, savings or unabsorbed premium deposits.

Sec. 17. *Hearing Procedure and Judicial Review.*—

2 (a) Any insurer or rating organization aggrieved by
3 any order or decision of the commissioner made with-
4 out a hearing, may, within thirty days after notice of
5 the order to the insurer or organization, make written
6 request to the commissioner for a hearing thereon. The
7 commissioner shall hear such party or parties within
8 twenty days after receipt of such request and shall give
9 not less than ten days' written notice of the time and
10 place of the hearing. Within fifteen days after such hear-
11 ing the commissioner shall affirm, reverse or modify his
12 previous action, specifying his reasons therefor. Pend-
13 ing such hearing and decision thereon the commissioner
14 may suspend or postpone the effective date of his pre-
15 vious action.

16 (b) Nothing contained in this article shall require the
17 observance at any hearing of formal rules of pleading
18 or evidence.

19 (c) In the event that any party in interest is dissatis-
20 fied with any decision or order of the commissioner he
21 or it may, within thirty days after the entry thereof,
22 file a petition in the circuit court of Kanawha county,

23 or with the judge thereof in vacation, for the review
24 of such order. Before presenting his or its petition to
25 the court or judge, the petitioner shall mail a copy there-
26 of to the insurance commissioner. Upon the receipt of
27 such copy, the insurance commissioner shall forthwith
28 transmit to the clerk of such court the record of the pro-
29 ceedings before him. The court or judge shall fix a time
30 for the review of said proceedings at his earliest conven-
31 ience. Notice in writing of the time and place of such
32 hearing shall be given to the insurance commissioner at
33 least ten days before the date set therefor. The court
34 or judge shall, without a jury, hear and determine the
35 case upon the record of the proceedings before the in-
36 surance commissioner. The court or judge may enter
37 an order revising or reversing the decision of the insur-
38 ance commissioner, if it appears that the decision is
39 clearly wrong, or may affirm such decision. The judg-
40 ment of the circuit court or judge may be reviewed upon
41 appeal in the supreme court of appeals. Pending such
42 review the order of the commissioner shall be in full
43 force and effect until final determination, unless the

44 court, or the judge thereof sitting in vacation, before
45 whom such review is pending, shall enter an order stay-
46 ing the effect of the order or decision of the commis-
47 sioner until final determination by the court. The court
48 may, in disposing of the issue before it, modify, affirm
49 or reverse the decision or order of the commissioner
50 in whole or in part.

Sec. 18. *Laws Repealed.*—All other laws or parts of
2 laws inconsistent with the provisions of this article are
3 hereby repealed.

Sec. 19. *Constitutionality.*—If any section, subsection,
2 subdivision, paragraph, sentence or clause of this article
3 is held invalid or unconstitutional, such decision shall
4 not affect the remaining portions of this article.

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

Forest L. McCreer
Chairman Senate Committee

R. Knauthers
Chairman House Committee

Originated in the Senate

Takes effect October 1, 1947 ~~passage.~~

Howard Myers
Clerk of the Senate

Jackie
Clerk of the House of Delegates

Donald M. Vickers
President of the Senate

John E. Amos
Speaker House of Delegates

The within _____ this the _____
day of _____, 1947.

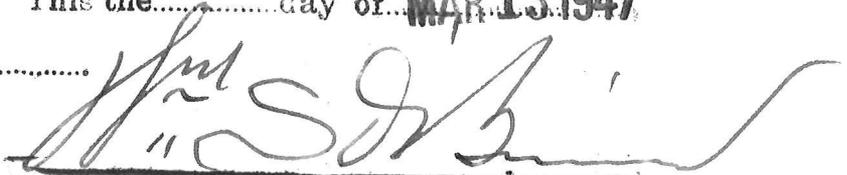
Governor.



I certify that the foregoing act, having been presented to the Governor for his approval, and not having been returned by him to the House of the Legislature in which it originated within the time prescribed by the constitution of the state, has become a law without his approval.

This the.....day of...**MAR. 13. 1947**

19.....



SECRETARY OF STATE