WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1949

ENROLLED

HOUSE BILL No. 175

(By Mr. Trent)

PASSED March 12, 1949

In Effect April 1, 1949
ENROLLED
House Bill No. 175
(By Mr. Trent, by request)

Passed March 12, 1949; in effect April 1, 1949.

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 to be designated article fifteen, relative to the regulation of rates for certain casualty insurance including fidelity, surety and guaranty bonds and all other forms of motor vehicle 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 fifteen, to read as follows:

Article 15. Casualty Insurance Rates and Rating Organizations.

Section 1. Purpose of Article.—The purpose of this article is to promote the public welfare by regulating certain
insurance rates to the end that they shall not be excessive,
inadequate or unfairly discriminatory, and to authorize
and regulate co-operative action among insurers in rate
making and in other matters within the scope of this arti-
CLE. Nothing in this article is intended (1) to prohibit
or discourage competition, or (2) to prohibit, or encour-
age except to the extent necessary to accomplish the afore-
mentioned purpose hereof, 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 cas-
ualty insurance including fidelity, surety and guaranty
bonds, and to all other forms of motor vehicle insurance,
on risks or operations in this state, except:
(a) Reinsurance, other than joint reinsurance to the
extent stated in section twelve;
(b) Accident and health insurance;
(c) Insurance against loss of or damage to aircraft
or against liability, other than employers' liability, aris-
ing out of the ownership, maintenance or use of aircraft;

and

(d) Title insurance.

This article applies 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 kinds of insurance to which this article ap-
plies.

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

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

1. Due consideration shall be given to past and pros-
ppective loss experience within and outside this state, to
catastrophe hazards, if any, to a reasonable margin for
derwriting profit and contingencies, to dividends, sav-
ings or unabsorbed premium deposits allowed or returned
by insurers to their policyholders, members or subscrib-
ers, to past and prospective expenses both countrywide
and those specially applicable to this state, to such
factors as expense, management, individual experience,
derwriting judgment, degree or nature of hazard or
any other reasonable considerations, provided such fac-
tors apply to all risks under the same or substantially
the same circumstances or conditions, and to all other
relevant factors within and outside this state;

2. The system of expense provisions included in the
rates for use by any insurer or group of insurers may
differ from those of other insurers or groups of insurers
to reflect the requirements of the operating methods of
any such insurer or group with respect to any kind of
insurance, or with respect to any subdivision or com-
bination thereof for which subdivision or combination
separate expense provisions are applicable;

3. Risk may be grouped by classifications for the es-
establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

4. Rates shall not be excessive, inadequate or unfairly discriminatory.

(b) Except to the extent necessary to meet the provisions of subdivision four of sub-section (a) of this section, uniformity among insurers in any matter within the scope of this section is neither required nor prohibited.

Sec. 4. Rate Filings.—(a) Every insurer shall file with the commissioner every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the
coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of this article he may require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing shall include (1) the experience or judgment of the insurer or rating organization making the filing, (2) its interpretation of any statistical data it relies upon, (3) the experience of other insurers or rating organizations, or (4) any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

(b) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf: Provided, That nothing contained in
this article shall be construed as requiring any insurer
to become a member of or a subscriber to any rating or-
ganization.

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

(d) Subject to the exception specified in this and in
sub-section, (e) of this section, each filing shall be on file
for a waiting period of fifteen days before it become ef-
fective, which period may be extended by the commis-
sioner for one additional period not to exceed fifteen days
if he gives written notice within such waiting period to
the insurer or rating organization which made the filing
that he needs such additional time for the consideration
of such filing. Upon written application by such insurer
or rating organization, the commissioner may authorize
a filing which he has reviewed to become effective be-
fore the expiration of the waiting period or any extension
thereof. A filing shall be deemed to meet the require-
ments of this article unless disapproved by the commis-
(e) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this article until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(f) Under such rules and regulations as he shall adopt the commissioner may, by written order, suspend or modify the requirement of filings as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the stand-
69 ards set forth in subdivision four of sub-section (a) of section three.
70
71 (g) Upon the written application of the insured, stating his reasons therefor, an insurer may use, subject to such rules and regulations as the commissioner may adopt, a rate in excess of that provided by any filing otherwise applicable on any specific risk.
72
73 (h) Beginning ninety days after the effective date of this article no insurer shall make or issue a contract or policy except in accordance with filings which are in effect for said insurer as provided in this article or in accordance with sub-sections (f) or (g) of this section.
74
Sec. 5. Disapproval of Filings.—(a) If within the waiting period or an extension thereof as provided in subsection (d) of section four, the commissioner finds that a filing does not meet the requirements of this article, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds such filing fails to meet the requirements of this article and stating that such filing shall not become effective.
(b) If within thirty days after a special surety or guaranty filing subject to sub-section (e) of section four has become effective, the commissioner finds that such filing does not meet the requirements of this article, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing, specifying therein in what respects he finds that such filing fails to meet the requirements of this article and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

(c) If at any time subsequent to the applicable review provided for in sub-section (a) or (b) of this section, the commissioner finds that a filing does not meet the requirements of this article, he shall, after a hearing held upon not less than ten days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that
such filing fails to meet the requirements of this article, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(d) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon: Provided, however, That the insurer or rating organization that made the filing shall not be authorized to proceed under this sub-section. Such application shall specify the grounds to be relied upon by the applicant. If the commissioner shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the appli-
cant and to every insurer and rating organization which made such filing.

If, after such hearing, the commissioner finds that the filing does not meet the requirements of this article, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this article, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to the applicant and to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(e) No manual of classifications, rules, rating plan or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to the requirements of section four of this article shall be disapproved if the rates thereby produced meet the requirements of this article.

Sec. 6. Alternative Filing Section.—(a) In lieu of the filing and review procedure provided in sections four and
five, such filings, other than special surety or guaranty
bond filings referred to in subsection (e) of section four,
may be made under this section and the rates shall become
effective immediately upon filing or at such future time
as the insurer or rating organization making them may
specify and shall thereafter remain in effect unless and
until changed by the insurer or rating organization mak-
ing them, or adjusted by order of the commissioner as in
this section provided.
(b) Whenever the commissioner upon his own informa-
tion, or upon complaint of any member of the public
alleged to be aggrieved thereby, shall have reason to be-
lieve that any of the rates filed under this section are not
in accordance with the provisions of this act, he shall have
the power and authority to investigate to the extent he
shall see fit the necessity for an adjournment of any or
all of such rates.
(c) After such investigation, the commissioner shall,
before ordering any appropriate adjustment thereof, hold
a hearing upon not less than ten days' written notice
specifying the matter to be considered at such hearing,
to every insurer and rating organization which files such
rates under inquiry, but no hearing shall be held if every
insurer and rating organization affected shall advise the
commissioner that they do not desire such hearing. If
after such hearing, the commissioner determines that any
or all of such rates are excessive, inadequate or unfairly
discriminatory, as between individual risks or classes of
risks of an insurer he shall order appropriate adjustment
thereof. Pending such investigation and order of the com-
missioner, rates shall be deemed to have been made in
accordance with the terms of this act. No order of adjust-
ment shall affect any contract or policy made or issued
prior to the effective date of his order unless (a) the ad-
justment to be effected is substantial and exceeds the cost
to the company of making the adjustment; and (b) the
order is made after the prescribed investigation and hear-
ing and within sixty days after the filing of rates affected.
If in event of a rate adjustment requiring an increased
rate, the policyholder does not accept such increase, can-
cellation shall be made on a pro rata basis. Each policy
issued pursuant to filing under this section which may be
subject to rate or premium adjustment, shall so provide in language to be approved by the commissioner.

(d) The commissioner after such sixty days may re-
view any such rates in the manner and subject to the conditions provided in sub-section (c) of section five.

(e) In determining the necessity for an adjustment of rates, the commissioner shall observe the provisions of section three and sub-division (e) of section five and shall give consideration to the type of information which may be furnished in support of a filing as set forth in sub-
section (a) of section four.

Sec. 7. Rating Organizations.—(a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization for such kinds of insurance or sub-divisions thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business, (2) a list of its members and
Enr. H. B. No. 175] 16

11 subscribers, (3) the name and address of a resident of
12 this state upon whom notices or orders of the commis-
13 sioner or process affecting such rating organization may
14 be served and (4) a statement of its qualifications as a
15 rating organization. If the commissioner finds that the
16 applicant is competent, truthworthy and otherwise
17 qualified to act as a rating organization and that its con-
18 stitution, articles of agreement or association or certificate
19 of incorporation, and its by-laws, rules and regulations
20 governing the conduct of its business conform to the re-
21 quirements of law, he shall issue a license specifying the
22 kinds of insurance or subdivision thereof for which the
23 applicant is authorized to act as a rating organization.
24 Every such application shall be granted or denied in
25 whole or in part by the commissioner within sixty days
26 of the date of its filing with him. Licenses issued pur-
27 suant to this section shall remain in effect for three years
28 unless sooner suspended or revoked by the commissioner.
29 The fee for said license shall be twenty-five dollars. Said
30 license fee shall be in lieu of all other fees, licenses or
31 taxes to which said rating organization may otherwise be
subject. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this sub-section. Every rating organization shall notify the commissioner promptly of every change in (1) its constitution, its articles of agreement or association or its certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business, (2) its list of members and subscribers and (3) the name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

(b) Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any kind of insurance or subdivision thereof for which it is authorized to act as rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services
without discrimination to its members and subscribers.

The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the commissioner at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.
(c) No rating organization shall adopt any rules the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(d) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this article is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this article which are applicable to filings generally. The commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respect such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, and requiring the discontinuance of such activity or practice.

Sec. 8. Deviations.—Every member of or subscriber to a rating organization shall adhere to the filings made on
its behalf by such organization except that any such in-
surer may make written application to the commissioner
for permission to file a uniform percentage decrease or
increase to be applied to the premiums produced by the
rating system so filed for a kind of insurance, or for a
class of insurance which is found by the commissioner to
be a proper rating unit for the application of such uniform
percentage decrease or increase, or for a sub-division of a
kind of insurance (1) comprised of a group of manual
classifications which is treated as a separate unit for rate
making purposes, or (2) for which separate expense pro-
visions are included in the filings of the rating organiza-
tion. Such application shall specify the basis for the modi-
fication and shall be accompanied by the data upon which
the applicant relies. A copy of the application and data
shall be sent simultaneously to such rating organization.
The commissioner shall set a time and place for a hearing
at which the insurer and such rating organization may be
heard and shall give them not less than ten days' written
notice thereof. In the event the commissioner is advised
by the rating organization that it does not desire a hearing
he may, upon the consent of the applicant, waive such hearing. The commissioner shall issue an order permitting the modification for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the modification is not justified or that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the commissioner.

Sec. 9. Appeal by Minority.—Any member of or subscriber to a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if
such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs in accordance with the right granted in sub-division two of subsection (a) of section three, from the system of expense provisions included in a filing made by the rating organization, the commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the commissioner shall apply the standards set forth in section three.

Sec. 10. Information to be Furnished Insureds; Hearings and Appeals of Insureds.—Every rating organization
and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the
appellant and to such rating organization or insurer, may
affirm or reverse such action.

Sec. 11. Advisory Organizations.—(a) Every group, as-
sociation or other organization of insurers, whether located
within or outside this state, which assists insurers which
make their own filings or rating organizations in rate
making, by the collection and furnishing of loss or expense
statistics, or by the submission of recommendations, but
which does not make filings under this article, shall be
known as an advisory organization.

(b) Every advisory organization shall file with the com-
missioner (1) a copy of its constitution, its articles of
agreement or association or its certificate of incorporation
and of its by-laws, rules and regulations governing its ac-
tivities, (2) a list of its members, (3) the name and
address of a resident of this state upon whom notices or
orders of the commissioner or process issued at his direc-
tion may be served, and (4) an agreement that the com-
missioner may examine such advisory organization in ac-
cordance with the provisions of section twelve of this
article.
(c) If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under subsection (c) of this section. If the commissioner finds such insurer or rating organization to be in violation of this sub-section he may issue an order requiring the discontinuance of such violation.

Sec. 12. Joint Underwriting or Joint Reinsurance.—

(a) Every group, association or other organization of insurers which engages in joint underwriting or joint re-
insurance, shall be subject to regulation with respect
thereto as herein provided, subject however, with respect
to joint underwriting, to all other provisions of this article
and with respect to joint reinsurance, to sections thirteen
and seventeen to twenty-one of this article.

(b) If, after a hearing, the commissioner finds that any
activity or practice of any such group, association or other
organization is unfair or unreasonable or otherwise in-
consistent with the provisions of this article, he may issue
a written order specifying in what respect such activity
or practice is unfair or unreasonable or otherwise incon-
sistent with the provisions of this article, and requiring
the discontinuance of such activity or practice.

Sec. 13. Examinations.—The commissioner shall, at least
once in five years, make or cause to be made an examina-
tion of each rating organization licensed in this state as
provided in section seven and he may, as often as he
may deem it expedient, make or cause to be made an
examination of each advisory organization referred to in
section eleven and of each group, association or other
organization referred to in section twelve. The reasonable
costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officer, manager, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. The commissioner shall furnish two copies of the examination report to the organization, group or association examined and shall notify such organization, group or association that it may, within twenty days thereafter, request a hearing on said report or on any facts or recommendations therein. Before filing such report for public inspection, the commissioner shall grant a hearing to the organization, group or association examined. The report of any such examination, when filed for public inspection, shall be admissible in evidence in any action or proceeding brought by the commissioner against the organization, group or association examined, or its officers or agents, and shall be prima
facie evidence of the facts stated therein. The commissioner may withhold the report of any such examination from public inspection for such time as he may deem proper. In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

Sec. 14. *Rate Administration.*—(a) The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section three. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and which are not susceptible of determination by a pro-
rating of countrywide expense experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating system on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. Each insurer shall record and report its loss experience on a classification basis consistent with the rating system filed by it. Any insurer may report such experience direct to the commissioner or may satisfy its obligation to report such experience by becoming a member of, or a subscriber to, a licensed rating or qualified advisory organization which gathers, compiles and reports to the commissioner the experience required by this section and by authorizing the commissioner to accept such reports on its behalf. No insurer shall be required to report such experience to any licensed rating or qualified advisory organization of which it is not a member or subscriber. The experience of individual insurers thus reported to the commissioner shall not be revealed by him, except by court order, but the commissioner shall make a
36 compilation of all such experience to the extent he may
deem practicable and he shall, to the extent he may deem
practicable, make a consolidation of all compilations filed
with him and those made by him. All such compilations
and consolidations shall be available to licensed insurers
and licensed rating and qualified advisory organizations
and shall also be open to public inspection, subject to
reasonable rules promulgated by the commissioner.

(b) Reasonable rules and plans may be promulgated by
the commissioner for the interchange of data necessary
for the application of rating plans.

(c) In order to further uniform administration of rate
regulatory laws, the commissioner and every insurer and
rating organization may exchange information and expe-
rience data with insurance supervisory officials, insurers
and rating organizations in other states and may consult
with them with respect to rate making and the application
or rating systems.

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

Sec. 15. False or Misleading Information.—No person
or organization shall wilfully withhold information from,
or knowingly give false or misleading information to, the
commissioner, any statistical agency designated by the
commissioner, any rating organization, or any insurer,
which will affect the rates or premiums chargeable under
this article. A violation of this section shall subject the
one guilty of such violation to the penalties provided in
section eighteen of this article.

Sec. 16. *Assigned Risks.*—Agreements may be made
among insurers with respect to the equitable apportion-
ment among them of insurance which may be afforded
applicants who are in good faith entitled to but who are
unable to procure such insurance through ordinary meth-
ods and such insurers may agree among themselves on
the use of reasonable rate modifications for such insur-
ance, such agreements and rate modifications to be subject
to the approval of the commissioner.

Sec. 17. *Rebates Prohibited.*—No broker, agent or
solicitor shall knowingly charge, demand or receive a
premium for any policy of insurance except in accord-
ance with the provisions of this article. No insurer or em-
ployee thereof, and no broker, agent or solicitor shall pay, or give, or offer to pay, allow, or give, directly or indirectly as an inducement to insurance, or after insurance has been effected, any rebate, discount abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in an applicable filing. No insured named in a policy of insurance, nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, brokers and solicitors, nor as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits. As used in this section
the word "insurance" includes suretyship and the word "policy" includes bond.

Sections eighteen, nineteen and twenty, inclusive, of article two of this chapter shall not apply to any kind of insurance subject to the provisions of this article.

Sec. 18. **Penalties.**—Any person or organization violating any provision of this article shall, upon conviction, be subject to a penalty of not more than fifty dollars for each such violation, but if such violation is found to be willful, the penalty may be not more than five hundred dollars for each such violation. Such penalties may be in addition to any other penalty provided by law.

The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed.
17 The commissioner may determine when a suspension of
18 license shall become effective and it shall remain in ef-
19 fect for the period fixed by him, unless he modifies or
20 rescinds such suspension, or until the order upon which
21 such suspension is based is modified, rescinded or reversed.
22 No license shall be suspended or revoked except upon
23 a written order of the commissioner, stating his findings,
24 made after a hearing held upon not less than ten days’
25 written notice to such person or organization specifying
26 the alleged violation.

Sec. 19. Hearing Procedure and Judicial Review.—(a)
2 Any insurer or rating organization aggrieved by any
3 order or decision of the commissioner made without a
4 hearing may, within thirty days after notice of the order
5 to the insurer or organization, make written request to
6 the commissioner for a hearing thereon. The commis-
7 sioner shall hear such party or parties within twenty
8 days after receipt of such request and shall give not less
9 than ten days written notice of the time and place of
10 the hearing. Within fifteen days after such hearing the
11 commissioner shall affirm, reverse or modify his previous
action, specifying his reasons therefor. Pending such
hearing and decision thereon the commissioner may sus-
pend or postpone the effective date of his previous ac-
tion.

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

(c) In the event that any party in interest is dissatis-
fied with any decision or order of the commissioner he
or it may, within thirty days after the entry thereof,
file a petition to the circuit court of Kanawha county,
or to the judge thereof in vacation, for the review of
such order. Before presenting his or its petition to the
court or judge, the petitioner shall mail a copy thereof
to the insurance commissioner. Upon the receipt of such
copy, the insurance commissioner shall forthwith trans-
mit to the clerk of such court the record of the proceed-
ings before him. The court or judge shall fix a time for
the review of said proceedings at his earliest convenience.

Notice in writing of the time and place of such hearing
shall be given to the insurance commissioner at least ten
33 days before the date set therefor. The court or judge
34 shall, without a jury, hear and determine the case upon
35 the record of the proceedings before the insurance com-
36 missioner. The court or judge may enter an order re-
37 vising or reversing the decision of the insurance com-
38 missioner, if it appears that the decision is clearly wrong,
39 or may affirm such decision. The judgment of the circuit
40 court or judge may be reviewed upon appeal in the su-
41 preme court of appeals. Pending such review the order
42 of the commissioner shall be in full force and effect until
43 final determination, unless the court, or the judge thereof
44 sitting in vacation, before whom such review is pending,
45 shall enter an order staying the effect of the order or
46 decision of the commissioner until final determination
47 by the court. The court may, in disposing of the issue
48 before it, modify, affirm or reverse the decision or order
49 of the commissioner in whole or in part.

Sec. 20. Laws Repealed.—All other laws or parts of
2 laws inconsistent with the provisions of this article are
3 hereby repealed.

Sec. 21. Constitutionality.—If any section, sub-section,
2 subdivision, paragraph, sentence or clause of this article
3 is held invalid or unconstitutional, such decision shall not
4 affect the remaining portions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman, Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect [April 1, 1949]

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 18th day of March, 1949.

[Signature]
Governor

Filed in the Office of the Secretary of State of West Virginia MAR 18 1949
D. Pitt O'Brien, Secretary of State