WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1951

ENROLLED

HOUSE BILL No. 240

(By Mr. Meadows)

PASSED March 10, 1951

In Effect from Passage
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House Bill No. 240
(By Mr. Meadows)

[Passed March 10, 1951: in effect from passage.]

AN ACT to amend article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto five new sections, designated sections forty-nine, fifty, fifty-one, fifty-two and fifty-three, prescribing the manner in which life insurance may be sold on a group basis.

Be it enacted by the Legislature of West Virginia:

That article three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto five new sections, designated sections forty-nine, fifty, fifty-one, fifty-two and fifty-three, to read as follows:

Section 49. Group Life Insurance; Eligible Groups;
2 Premium Payment Requirements.—No policy of group
3 life insurance shall be delivered in this state unless it
4 conforms to one of the following descriptions:
(a) A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate em-
ployer shall be eligible for insurance under the policy un-
less such person is otherwise eligible as a bona fide em-
ployee of the corporation by performing services other
than the usual duties of a director. No individual pro-
prietor or partner shall be eligible for insurance under the
policy unless he is actively engaged in and devotes a sub-
stantial part of his time to the conduct of the business of
the proprietor or partnership. A policy issued to trustees
may provide that the term "employees" shall include the
trustees or their employees, or both, if their duties are
principally connected with such trusteeship. A policy
issued to insure the employees of a public body may pro-
vide that the term "employees" shall include elected or
appointed officials.

(2) The premium for the policy shall be paid by the
policyholder, either wholly from the employer's funds or
funds contributed by him, or partly from such funds and
partly from funds contributed by the insured employees
except that the entire premium may be paid from funds
contributed by the insured employees if the amount of in-
surance does not exceed one thousand dollars on the life
of any employee. A policy on which any part of the
premium is to be derived from funds contributed by the
insured employees may be placed in force only if at least
seventy-five per cent of the then eligible employees, ex-
cluding any as to whom evidence of individual insurability
is not satisfactory to the insurer, elect to make the re-
quired contributions. A policy on which no part of the
premium is to be derived from funds contributed by the
insured employees must insure all eligible employees, or
all except any as to whom evidence of individual insur-
ability is not satisfactory to the insurer.

(3) The policy must cover at least twenty-five em-
ployees at date of issue.

(4) The amounts of insurance under the policy must
be based upon some plan precluding individual selection
either by the employees or by the employer or trustees.

No policy may be issued which provides term insurance
on any employee which together with any other term
insurance under any group life insurance policy or policies
issued to the employers or any of them or to the trustees
of a fund established in whole or in part by the employers
or any of them exceeds twenty thousand dollars.

(b) A policy issued to a creditor, who shall be deemed
the policyholder, to insure debtors of the creditor, subject
to the following requirements:

(1) The debtors eligible for insurance under the policy
shall be all of the debtors of the creditor whose indebted-
ness is repayable in installments, or all of any class or
classes thereof determined by conditions pertaining to the
indebtedness or to the purchase giving rise to the indebted-
ness. The policy may provide that the term “debtors”
shall include the debtors of one or more subsidiary cor-
porations, and the debtors of one or more affiliated cor-
porations, proprietors or partnerships if the business of
the policyholder and of such affiliated corporations, pro-
prietors or partnerships is under common control through
stock ownership, contract, or otherwise.

(2) The premium for the policy shall be paid by the
policyholder, either from the creditor's funds, or from
charges collected from the insured debtors, or from both.

A policy on which part or all of the premium is to be
derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five per cent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy may be insured only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five per cent of the new entrants become insured.

(4) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which
is repayable in installments to the creditor, or five thousand dollars whichever is less.

(5) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(c) A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

(1) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

(2) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance, except that the entire premium may be paid from funds contributed by the insured members specifically for their
insurance if the amount of insurance does not exceed one thousand dollars on the life of any member. A policy on which any part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy-five per cent of the eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at least twenty-five members at date of issue.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union. No policy may be issued which provides term insurance on any union member which together with any other term insurance under
any group life insurance policies issued to the union ex-
ceeds twenty thousand dollars.

(d) A policy issued to the trustees of a fund established
by two or more employers in the same industry or by one
or more labor unions, or by one or more employers and
one or more labor unions, which trustees shall be deemed
the policyholders, to insure employees of the employers
or members of the union for the benefit of persons other
than the employers or the unions, subject to the following
requirements:

(1) The persons eligible for insurance shall be all of the
employees of the employers or all of the members of the
unions, or all of any class or classes thereof determined
by conditions pertaining to their employment, or to mem-
bership in the unions, or to both. The policy may provide
that the term "employees" shall include retired employees,
and the individual proprietor or partner if an employer
is an individual proprietor or a partnership. No director
of a corporate employer shall be eligible for insurance
under the policy unless such person is otherwise eligible
as a bona fide employee of the corporation by performing
services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term “employees” shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(2) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both. No policy may be issued on which any part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance. The policy must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at date of issue at least one hundred persons and not less than an average of five persons per employer unit; and if the fund is established by the members of an association of employers the policy
may be issued only if (a) either (1) the participating employers constitute at date of issue at least sixty per cent of those employer members whose employees are not already covered for group life insurance or (2) the total number of persons covered at date of issue exceeds six hundred; and (b) the policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employees shall cease solely by reason of such discontinuance.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions. No policy may be issued which provides term insurance on any person which together with any other term insurance under any group life insurance policy or policies issued to the employers, or any of them, or to the trustees of a fund established in whole or in part by the employers, or any of them, exceeds twenty thousand dollars.

(e) The provisions of this act shall not invalidate or otherwise affect any policy or contract of group life in-
surance legally in effect on the effective date of this act.

All such policies may remain in full force and effect notwith-standing the fact that they do not comply with the provisions of this act.

Sec. 50. Group Life Insurance Policies and Certificates;

Standard Provisions.—No policy of group life insurance shall be delivered in this state unless it contains in substance the following provisions, or provisions which in the opinion of the commissioner are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder:

Provided, however, (a) That provisions (6) to (10), inclusive shall not apply to policies issued to a creditor to insure debtors of such creditor; (b) that the standard provisions required for individual life insurance policies shall not apply to group life insurance policies; and (c) that if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a non-forfeiture provision or provisions which in the opinion of the commissioner is or are equitable to the insured persons and to the policyholder, but nothing herein shall
be construed to require that group life insurance policies
contain the same nonforfeiture provisions as are re-
quired for individual life insurance policies:
(1) A provision that the policyholder is entitled to
a grace period of thirty-one days for the payment of any
premium due except the first, during which grace period
the death benefit coverage shall continue in force, unless
the policyholder shall have given the insurer written
notice of discontinuance in advance of the date of dis-
continuance and in accordance with the terms of the
policy. The policy may provide that the policyholder shall
be liable to the insurer for the payment of a pro rate
premium for the time the policy was in force during
such grace period.
(2) A provision that the validity of the policy shall
not be contested, except for nonpayment of premiums,
after it has been in force for two years from its date of
issue; and that no statement made by any person insured
under the policy relating to his insurability shall be used
in contesting the validity of the insurance with respect to
which such statement was made after such insurance has
been in force prior to the contest for a period of two
years during such person’s lifetime nor unless it is con-
tained in a written instrument signed by him.

(3) A provision that a copy of the application, if any,
of the policyholder shall be attached to the policy when
issued, that all statements made by the policyholder
or by the persons insured shall be deemed representa-
tions and not warranties, and that no statement made by
any person insured shall be used in any contest unless
a copy of the instrument containing the statement is or
has been furnished to such person or to his beneficiary.

(4) A provision setting forth the conditions, if any,
under which the insurer reserves the right to require a
person eligible for insurance to furnish evidence of in-
dividual insurability satisfactory to the insurer as a con-
dition to part or all of his coverage.

(5) A provision specifying an equitable adjustment of
premiums or of benefits or of both to be made in the
event the age of a person insured has been misstated, such
provision to contain a clear statement of the method of
adjustment to be used.
(6) A provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary as to all or any part of such sum owing at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding two hundred fifty dollars to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

(7) A provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in (8), (9) and (10) following.

(8) A provision that if the insurance, or any portion of it, on a person covered under the policy, other than the
child of an employee insured pursuant to section fifty-three of this article, ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one days after such termination: Provided further that

(a) the individual policy shall, at the option of such person, be on any one of the forms of insurance then customarily issued by the insurer, except term insurance, at the age and for the amount applied for, except that there shall be available to a person whose term insurance under the group policy ceases, as provided above, preliminary or interim term insurance for not more than one year from such termination;

(b) the individual policy shall be in an amount not in excess of the amount of life insurance which ceases
because of such termination, provided that any amount
of insurance which shall have matured on or before the
date of such termination as an endowment payable to the
person insured, whether in one sum or in installments
or in the form of an annuity, shall not, for the purposes
of this provision, be included in the amount which is
considered to cease because of such termination; and
(c) the premium on the individual policy shall be at
the insurer's then customary rate applicable to the form
and amount of the individual policy, to the class of risk
to which such person then belongs, and to his age attained
on the effective date of the individual policy.
(9) A provision that if the group policy terminates or
is amended so as to terminate the insurance of any class
of insured persons, every person insured thereunder at
the date of such termination, other than a child of an
employee insured pursuant to section fifty-three of this
article, whose insurance terminates and who has been
so insured for at least three years under a group policy
issued five years or more prior to such termination date,
shall be entitled to have issued to him by the insurer
Enr. H. B. No. 240] 18

123 an individual policy of life insurance, subject to the same
124 conditions and limitations as are provided by (8) above,
125 except that term insurance shall not be available and,
126 except that the group policy may provide that the
127 amount of such individual policy shall not exceed the
128 smaller of (a) the amount of the person's life insurance
129 protection ceasing because of the termination or amend-
130 ment of the group policy, less the amount of any life
131 insurance for which he is or becomes eligible under any
132 group policy issued or reinstated by the same or another
133 insurer within thirty-one days after such termination,
134 and (b) two thousand dollars.
135 (10) A provision that if a person insured under the
136 group policy dies during the period within which he
137 would have been entitled to have an individual policy
138 issued to him in accordance with (8) or (9) above and
139 before such an individual policy shall have become ef-
140 fective, the amount of life insurance which he would have
141 been entitled to have issued to him under such individ-
142 ual policy shall be payable as a claim under the group
143 policy, whether or not application for the individual pol-
icy or the payment of the first premium therefor has been made.

(11) In the case of a policy issued to a creditor to insure debtors of such creditor, a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a form which shall contain a statement that the life of the debtor is insured under the policy and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish the indebtedness.

Sec. 51. Notice of Conversion Rights.—If any individual insured under a group life insurance policy hereafter delivered in this state becomes entitled under the terms of such policy to have an individual policy of life insurance issued to him without evidence of insurability, subject to making of application and payment of the first premium within the period specified in such policy, and if such individual is not given notice of the existence of such right at least fifteen days prior to the expiration date of such period, then, in such event the individual shall have an additional period within which to exer-
cise such right, but nothing contained in this section shall be construed to continue any insurance beyond the period provided in such policy. Such additional period shall expire fifteen days next after the individual is given such notice but in no event shall such additional period extend beyond sixty days next after the expiration date of the period provided in such policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder shall constitute notice for the purpose of this section.

Sec. 52. Application of Dividends; Rate Reductions.—

Any policy dividends hereafter declared, or reduction in rate of premiums hereafter made or continued for the first or any subsequent year of insurance, under any policy of group life insurance heretofore or hereafter issued to any policyholder may be applied to reduce the policyholder’s part of the cost of such insurance, except that if the aggregate dividends or refunds or credits under such group life policy and any other group policy
or contract issued to the policyholder exceed the aggregate contributions of the policyholder toward the cost of the coverages, such excess shall be applied by the policyholder for the sole benefit of insured employees or members.

Sec. 53. Spouses and Children of Insured Persons.—Any policy issued pursuant to subsections (a), (c), (d) and (e) of section forty-nine of this article may be extended to insure the employees or members against loss due to the death of their spouses and minor children, or any class or classes thereof, subject to the following requirements:

(a) The premium for the insurance shall be paid by the policyholder, either from the employer’s or union’s funds or funds contributed by the employer or union, or from funds contributed by the insured employees or members, or from both. If any part of the premium is to be derived from funds contributed by the insured employees or members, the insurance with respect to spouses and children may be placed in force only if at least 75% of the then eligible employees or members, excluding any as to whose family members evidence of insurability is
not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees or members, all eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, must be insured with respect to their spouses and children.

(b) The amounts of insurance must be based upon some plan precluding individual selection either by the employees or members or by the policyholder, employer or union, and shall not exceed, with respect to any spouse or child, the amount shown in the following schedule:

<table>
<thead>
<tr>
<th>Age of Family Member at Death</th>
<th>Maximum Amount of Insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 6 months</td>
<td>$100.00</td>
</tr>
<tr>
<td>6 months and under 2 years</td>
<td>200.00</td>
</tr>
<tr>
<td>2 years and under 3 years</td>
<td>400.00</td>
</tr>
<tr>
<td>3 years and under 4 years</td>
<td>600.00</td>
</tr>
<tr>
<td>4 years and under 5 years</td>
<td>800.00</td>
</tr>
<tr>
<td>5 years and over</td>
<td>1,000.00</td>
</tr>
</tbody>
</table>
(c) Upon termination of the insurance with respect to the members of the family of any employee or member by reason of the employee's or member's termination of employment, termination of membership in the class or classes eligible for coverage under the policy, or death, the spouse shall be entitled to have issued by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, providing application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one days after such termination, subject to the requirements of subsections (a), (b) and (c) of provision (8) of section fifty of this article. If the group policy terminates or is amended so as to terminate the insurance of any class of employees or members and the employee or member is entitled to have issued an individual policy under provision (9) of section fifty of this article, the spouse shall also be entitled to have issued by the insurer an individual policy, subject to the conditions and limitations provided above. If the spouse dies within the period during which he would have been entitled to
have an individual policy issued in accordance with this
 provision, the amount of life insurance which he would
 have been entitled to have issued under such individual
 policy shall be payable as a claim under the group policy,
 whether or not application for the individual policy or
 the payment of the first premium therefor has been made.
 Notwithstanding provision seven of section fifty of this
 article, only one certificate need be issued for delivery to
 an insured person if a statement concerning any depen-
 dents' coverage is included in such certificate.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Robert C. Byrd
Chairman Senate Committee

James W. Loop
Chairman House Committee

Originated in the House of Delegates

Takes effect from passage.

Howard Stagner
Clerk of the Senate

J.R. Alfie
Clerk of the House of Delegates

W.E. Pickens
President of the Senate

Speaker House of Delegates

The within approved this the 16th

day of March, 1951.

Okey L. Patteson
Governor

[Signature]

of West Virginia

D. Pitt O'Brien,
Secretary of State