

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1951



# ENROLLED

HOUSE BILL No. 240

(By Mr. Meadows)



PASSED March 10. 1951

In Effect from Passage



240

**ENROLLED**  
**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:

5     (a) A policy issued to an employer, or to the trustees  
6     of a fund established by an employer, which employer or  
7     trustees shall be deemed the policyholder, to insure em-  
8     ployees of the employer for the benefit of persons other  
9     than the employer, subject to the following requirements:

10    (1) The employees eligible for insurance under the  
11    policy shall be all of the employees of the employer, or  
12    all of any class or classes thereof determined by condi-  
13    tions pertaining to their employment. The policy may  
14    provide that the term "employees" shall include the em-  
15    ployees of one or more subsidiary corporations, and the  
16    employees, individual proprietors, and partners of one or  
17    more affiliated corporations, proprietors or partnerships if  
18    the business of the employer and of such affiliated cor-  
19    porations, proprietors or partnerships is under common  
20    control through stock ownership, contract or otherwise.  
21    The policy may provide that the term "employees" shall  
22    include the individual proprietor or partners if the em-  
23    ployer is an individual proprietor or a partnership. The  
24    policy may provide that the term "employees" shall in-  
25    clude retired employees. No director of a corporate em-

26 ployer shall be eligible for insurance under the policy un-  
27 less such person is otherwise eligible as a bona fide em-  
28 ployee of the corporation by performing services other  
29 than the usual duties of a director. No individual pro-  
30 prietor or partner shall be eligible for insurance under the  
31 policy unless he is actively engaged in and devotes a sub-  
32 stantial part of his time to the conduct of the business of  
33 the proprietor or partnership. A policy issued to trustees  
34 may provide that the term "employees" shall include the  
35 trustees or their employees, or both, if their duties are  
36 principally connected with such trusteeship. A policy  
37 issued to insure the employees of a public body may pro-  
38 vide that the term "employees" shall include elected or  
39 appointed officials.

40 (2) The premium for the policy shall be paid by the  
41 policyholder, either wholly from the employer's funds or  
42 funds contributed by him, or partly from such funds and  
43 partly from funds contributed by the insured employees  
44 except that the entire premium may be paid from funds  
45 contributed by the insured employees if the amount of in-  
46 surance does not exceed one thousand dollars on the life

47 of any employee. A policy on which any part of the  
48 premium is to be derived from funds contributed by the  
49 insured employees may be placed in force only if at least  
50 seventy-five per cent of the then eligible employees, ex-  
51 cluding any as to whom evidence of individual insurability  
52 is not satisfactory to the insurer, elect to make the re-  
53 quired contributions. A policy on which no part of the  
54 premium is to be derived from funds contributed by the  
55 insured employees must insure all eligible employees, or  
56 all except any as to whom evidence of individual insur-  
57 ability is not satisfactory to the insurer.

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

60 (4) The amounts of insurance under the policy must  
61 be based upon some plan precluding individual selection  
62 either by the employees or by the employer or trustees.  
63 No policy may be issued which provides term insurance  
64 on any employee which together with any other term  
65 insurance under any group life insurance policy or policies  
66 issued to the employers or any of them or to the trustees

67 of a fund established in whole or in part by the employers  
68 or any of them exceeds twenty thousand dollars.

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

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

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

87 A policy on which part or all of the premium is to be

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

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

107 (4) The amount of insurance on the life of any debtor  
108 shall at no time exceed the amount owed by him which

109 is repayable in installments to the creditor, or five thou-  
110 sand dollars whichever is less.

111 (5) The insurance shall be payable to the policyholder.  
112 Such payment shall reduce or extinguish the unpaid in-  
113 debtedness of the debtor to the extent of such payment.

114 (c) A policy issued to a labor union, which shall be  
115 deemed the policyholder, to insure members of such union  
116 for the benefit of persons other than the union or any  
117 of its officials, representatives or agents, subject to the fol-  
118 lowing requirements:

119 (1) The members eligible for insurance under the policy  
120 shall be all of the members of the union, or all of any  
121 class or classes thereof determined by conditions pertain-  
122 ing to their employment, or to membership in the union,  
123 or both.

124 (2) The premium for the policy shall be paid by the  
125 policyholder, either wholly from the union's funds, or  
126 partly from such funds and partly from funds contributed  
127 by the insured members specifically for their insurance,  
128 except that the entire premium may be paid from funds  
129 contributed by the insured members specifically for their



130 insurance if the amount of insurance does not exceed one  
131 thousand dollars on the life of any member. A policy  
132 on which any part of the premium is to be derived from  
133 funds contributed by the insured members specifically  
134 for their insurance may be placed in force only if at least  
135 seventy-five per cent of the eligible members, excluding  
136 any as to whom evidence of individual insurability is  
137 not satisfactory to the insurer, elect to make the required  
138 contributions. A policy on which no part of the premium  
139 is to be derived from funds contributed by the insured  
140 members specifically for their insurance must insure all  
141 eligible members, or all except any as to whom evidence  
142 of individual insurability is not satisfactory to the in-  
143 surer.

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

146 (4) The amounts of insurance under the policy must  
147 be based upon some plan precluding individual selection  
148 either by the members or by the union. No policy may be  
149 issued which provides term insurance on any union mem-  
150 ber which together with any other term insurance under

151 any group life insurance policies issued to the union ex-  
152 ceeds twenty thousand dollars.

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

161 (1) The persons eligible for insurance shall be all of the  
162 employees of the employers or all of the members of the  
163 unions, or all of any class or classes thereof determined  
164 by conditions pertaining to their employment, or to mem-  
165 bership in the unions, or to both. The policy may provide  
166 that the term "employees" shall include retired employees,  
167 and the individual proprietor or partner if an employer  
168 is an individual proprietor or a partnership. No director  
169 of a corporate employer shall be eligible for insurance  
170 under the policy unless such person is otherwise eligible  
171 as a bona fide employee of the corporation by performing

172 services other than the usual duties of a director. No  
173 individual proprietor or partner shall be eligible for in-  
174 surance under the policy unless he is actively engaged in  
175 and devotes a substantial part of his time to the conduct  
176 of the business of the proprietor or partnership. The  
177 policy may provide that the term "employees" shall in-  
178 clude the trustees or their employees, or both, if their  
179 duties are principally connected with such trusteeship.

180 (2) The premium for the policy shall be paid by the  
181 trustees wholly from funds contributed by the employer  
182 or employers of the insured persons, or by the union or  
183 unions, or by both. No policy may be issued on which  
184 any part of the premium is to be derived from funds con-  
185 tributed by the insured persons specifically for their  
186 insurance. The policy must insure all eligible persons,  
187 or all except any as to whom evidence of individual in-  
188 surability is not satisfactory to the insurer.

189 (3) The policy must cover at date of issue at least one  
190 hundred persons and not less than an average of five  
191 persons per employer unit; and if the fund is established  
192 by the members of an association of employers the policy

193 may be issued only if (a) either (1) the participating  
194 employers constitute at date of issue at least sixty per  
195 cent of those employer members whose employees are  
196 not already covered for group life insurance or (2) the  
197 total number of persons covered at date of issue exceeds  
198 six hundred; and (b) the policy shall not require that, if  
199 a participating employer discontinues membership in the  
200 association, the insurance of his employees shall cease  
201 solely by reason of such discontinuance.

202 (4) The amounts of insurance under the policy must  
203 be based upon some plan precluding individual selection  
204 either by the insured persons or by the policyholder, em-  
205 ployers, or unions. No policy may be issued which pro-  
206 vides term insurance on any person which together with  
207 any other term insurance under any group life insurance  
208 policy or policies issued to the employers, or any of them,  
209 or to the trustees of a fund established in whole or in  
210 part by the employers, or any of them, exceeds twenty  
211 thousand dollars.

212 (e) The provisions of this act shall not invalidate or  
213 otherwise affect any policy or contract of group life in-

214 surance legally in effect on the effective date of this act.  
215 All such policies may remain in full force and effect not-  
216 withstanding the fact that they do not comply with the  
217 provisions of this act.

Sec. 50. *Group Life Insurance Policies and Certificates;*

2 *Standard Provisions.*—No policy of group life insurance  
3 shall be delivered in this state unless it contains in sub-  
4 stance the following provisions, or provisions which in  
5 the opinion of the commissioner are more favorable to  
6 the persons insured, or at least as favorable to the per-  
7 sons insured and more favorable to the policyholder:  
8 *Provided, however,* (a) That provisions (6) to (10), in-  
9 clusive shall not apply to policies issued to a creditor to  
10 insure debtors of such creditor; (b) that the standard  
11 provisions required for individual life insurance policies  
12 shall not apply to group life insurance policies; and (c)  
13 that if the group life insurance policy is on a plan of in-  
14 surance other than the term plan, it shall contain a non-  
15 forfeiture provision or provisions which in the opinion  
16 of the commissioner is or are equitable to the insured  
17 persons and to the policyholder, but nothing herein shall

18 be construed to require that group life insurance policies  
19 contain the same nonforfeiture provisions as are re-  
20 quired for individual life insurance policies:

21 (1) A provision that the policyholder is entitled to  
22 a grace period of thirty-one days for the payment of any  
23 premium due except the first, during which grace period  
24 the death benefit coverage shall continue in force, unless  
25 the policyholder shall have given the insurer written  
26 notice of discontinuance in advance of the date of dis-  
27 continuance and in accordance with the terms of the  
28 policy. The policy may provide that the policyholder shall  
29 be liable to the insurer for the payment of a pro rate  
30 premium for the time the policy was in force during  
31 such grace period.

32 (2) A provision that the validity of the policy shall  
33 not be contested, except for nonpayment of premiums,  
34 after it has been in force for two years from its date of  
35 issue; and that no statement made by any person insured  
36 under the policy relating to his insurability shall be used  
37 in contesting the validity of the insurance with respect to  
38 which such statement was made after such insurance has

39 been in force prior to the contest for a period of two  
40 years during such person's lifetime nor unless it is con-  
41 tained in a written instrument signed by him.

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

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

55 (5) A provision specifying an equitable adjustment of  
56 premiums or of benefits or of both to be made in the  
57 event the age of a person insured has been misstated, such  
58 provision to contain a clear statement of the method of  
59 adjustment to be used.

60     (6) A provision that any sum becoming due by reason  
61     of the death of the person insured shall be payable to the  
62     beneficiary designated by the person insured, subject to  
63     the provisions of the policy in the event there is no  
64     designated beneficiary as to all or any part of such sum  
65     owing at the death of the person insured, and subject to  
66     any right reserved by the insurer in the policy and set  
67     forth in the certificate to pay at its option a part of such  
68     sum not exceeding two hundred fifty dollars to any per-  
69     son appearing to the insurer to be equitably entitled  
70     thereto by reason of having incurred funeral or other  
71     expenses incident to the last illness or death of the person  
72     insured.

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

79     (8) A provision that if the insurance, or any portion of  
80     it, on a person covered under the policy, other than the



81 child of an employee insured pursuant to section fifty-  
82 three of this article, ceases because of termination of em-  
83 ployment or of membership in the class or classes eligible  
84 for coverage under the policy, such person shall be en-  
85 titled to have issued to him by the insurer, without evi-  
86 dence of insurability, an individual policy of life insur-  
87 ance without disability or other supplementary benefits,  
88 provided application for the individual policy shall be  
89 made, and the first premium paid to the insurer, within  
90 thirty-one days after such termination: *Provided fur-*  
91 *ther That*

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

100 (b) the individual policy shall be in an amount not  
101 in excess of the amount of life insurance which ceases

102 because of such termination, provided that any amount  
103 of insurance which shall have matured on or before the  
104 date of such termination as an endowment payable to the  
105 person insured, whether in one sum or in installments  
106 or in the form of an annuity, shall not, for the purposes  
107 of this provision, be included in the amount which is  
108 considered to cease because of such termination; and

109 (c) the premium on the individual policy shall be at  
110 the insurer's then customary rate applicable to the form  
111 and amount of the individual policy, to the class of risk  
112 to which such person then belongs, and to his age attained  
113 on the effective date of the individual policy.

114 (9) A provision that if the group policy terminates or  
115 is amended so as to terminate the insurance of any class  
116 of insured persons, every person insured thereunder at  
117 the date of such termination, other than a child of an  
118 employee insured pursuant to section fifty-three of this  
119 article, whose insurance terminates and who has been  
120 so insured for at least three years under a group policy  
121 issued five years or more prior to such termination date,  
122 shall be entitled to have issued to him by the insurer

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-

144 icy or the payment of the first premium therefor has  
145 been made.

146 (11) In the case of a policy issued to a creditor to insure  
147 debtors of such creditor, a provision that the insurer  
148 will furnish to the policyholder for delivery to each  
149 debtor insured under the policy a form which shall con-  
150 tain a statement that the life of the debtor is insured un-  
151 der the policy and that any death benefit paid there-  
152 under by reason of his death shall be applied to reduce  
153 or extinguish the indebtedness.

Sec. 51. *Notice of Conversion Rights.*—If any individual  
2 insured under a group life insurance policy hereafter  
3 delivered in this state becomes entitled under the terms  
4 of such policy to have an individual policy of life insur-  
5 ance issued to him without evidence of insurability, sub-  
6 ject to making of application and payment of the first  
7 premium within the period specified in such policy, and  
8 if such individual is not given notice of the existence of  
9 such right at least fifteen days prior to the expiration  
10 date of such period, then, in such event the individual  
11 shall have an additional period within which to exer-

12 cise such right, but nothing contained in this section shall  
13 be construed to continue any insurance beyond the per-  
14 iod provided in such policy. Such additional period shall  
15 expire fifteen days next after the individual is given  
16 such notice but in no event shall such additional period  
17 extend beyond sixty days next after the expiration date  
18 of the period provided in such policy. Written notice pre-  
19 sented to the individual or mailed by the policyholder  
20 to the last known address of the individual or mailed by  
21 the insurer to the last known address of the individual  
22 as furnished by the policyholder shall constitute notice  
23 for the purpose of this section.

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

2 Any policy dividends hereafter declared, or reduction in  
3 rate of premiums hereafter made or continued for the  
4 first or any subsequent year of insurance, under any  
5 policy of group life insurance heretofore or hereafter  
6 issued to any policyholder may be applied to reduce the  
7 policyholder's part of the cost of such insurance, except  
8 that if the aggregate dividends or refunds or credits un-  
9 der such group life policy and any other group policy

10 or contract issued to the policyholder exceed the aggregate  
11 contributions of the policyholder toward the cost of  
12 the coverages, such excess shall be applied by the policyholder  
13 for the sole benefit of insured employees or members.  
14

Sec. 53. *Spouses and Children of Insured Persons.*—Any

2 policy issued pursuant to subsections (a), (c), (d) and  
3 (e) of section forty-nine of this article may be extended  
4 to insure the employees or members against loss due to  
5 the death of their spouses and minor children, or any class  
6 or classes thereof, subject to the following requirements:  
7 (a) The premium for the insurance shall be paid by the  
8 policyholder, either from the employer's or union's funds  
9 or funds contributed by the employer or union, or from  
10 funds contributed by the insured employees or members,  
11 or from both. If any part of the premium is to be derived  
12 from funds contributed by the insured employees or  
13 members, the insurance with respect to spouses and  
14 children may be placed in force only if at least 75% of  
15 the then eligible employees or members, excluding any  
16 as to whose family members evidence of insurability is

17 not satisfactory to the insurer, elect to make the required  
18 contribution. If no part of the premium is to be derived  
19 from funds contributed by the employees or members, all  
20 eligible employees or members, excluding any as to whose  
21 family members evidence of insurability is not satisfac-  
22 tory to the insurer, must be insured with respect to their  
23 spouses and children.

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

Age of Family Member	Maximum
at Death	Amount of
	Insurance
29 Under 6 months	\$ 100.00
30 6 months and under 2 years	200.00
31 2 years and under 3 years	400.00
32 3 years and under 4 years	600.00
33 4 years and under 5 years	800.00
34 5 years and over	1,000.00

35 (c) Upon termination of the insurance with respect to  
36 the members of the family of any employee or member  
37 by reason of the employee's or member's termination of  
38 employment, termination of membership in the class or  
39 classes eligible for coverage under the policy, or death,  
40 the spouse shall be entitled to have issued by the insurer,  
41 without evidence of insurability, an individual policy of  
42 life insurance without disability or other supplementary  
43 benefits, providing application for the individual policy  
44 shall be made, and the first premium paid to the insurer,  
45 within thirty-one days after such termination, subject to  
46 the requirements of subsections (a), (b) and (c) of pro-  
47 vision (8) of section fifty of this article. If the group  
48 policy terminates or is amended so as to terminate the  
49 insurance of any class of employees or members and the  
50 employee or member is entitled to have issued an indi-  
51 vidual policy under provision (9) of section fifty of this  
52 article, the spouse shall also be entitled to have issued by  
53 the insurer an individual policy, subject to the conditions  
54 and limitations provided above. If the spouse dies within  
55 the period during which he would have been entitled to



56 have an individual policy issued in accordance with this  
57 provision, the amount of life insurance which he would  
58 have been entitled to have issued under such individual  
59 policy shall be payable as a claim under the group policy,  
60 whether or not application for the individual policy or  
61 the payment of the first premium therefor has been made.

62 Notwithstanding provision seven of section fifty of this  
63 article, only one certificate need be issued for delivery to  
64 an insured person if a statement concerning any depen-  
65 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 Meyer*  
Clerk of the Senate

*J.R. Aliff*  
Clerk of the House of Delegates

*Langley Hughes*  
President of the Senate

*W.E. Han*  
Speaker House of Delegates

The within *approved* this the *16<sup>th</sup>*  
day of *March*, 1951.

*Okuy L. Patton*  
Governor



of West Virginia

MAR 18 1951

D. PITT O'BRIEN,

SECRETARY OF STATE