WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1957

ENROLLED

HOUSE BILL No. 126

(By Mr. E. A. Whaley)

PASSED March 6, 1957

In Effect Jan. 1, 1958

Passage
AN ACT to repeal article five and article thirteen of chapter thirty-one, and to amend and reenact chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to insurance and prescribing penalties for the violation thereof.

Be it enacted by the Legislature of West Virginia:

That article five and article thirteen of chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

CHAPTER 33. INSURANCE

Article 1. Definitions

Section 1. Insurance.—Insurance is a contract whereby one undertakes to indemnify another or to pay a specified amount upon determinable contingencies.

Sec. 2. Insurer.—Insurer is every person engaged in the business of making contracts of insurance.

Sec. 3. Person.—Person includes an individual, company, insurer, association, organization, society, reciprocal, partnership, syndicate, business trust, corporation or any other legal entity.

Sec. 4. Transacting Insurance.—Transacting insurance includes solicitation and inducement, preliminary negotiations, effecting a contract of insurance and transaction of matters subsequent to effecting the contract and arising out of it.
Sec. 5. Commissioner.—Commissioner means the insurance commissioner of West Virginia.

Sec. 6. Domestic Insurer.—A domestic insurer is an insurer formed under the laws of West Virginia.

Sec. 7. Foreign Insurer.—A foreign insurer is an insurer formed under the laws of the United States or of another state of the United States.

Sec. 8. Alien Insurer.—An alien insurer is an insurer formed under the laws of a country other than the United States.

Sec. 9. State; United States.—State means any state, commonwealth, territory, or district of the United States. United States includes the states, territories, districts and commonwealths thereof.

Sec. 10. Kinds of Insurance—Life; Accident and Sickness; Fire; Marine; Casualty; Surety.—The following definitions of kinds of insurance are not mutually exclusive and, if reasonably adaptable thereto, a particular coverage may be included under one or more of such definitions:

(a) Life Insurance—Life insurance is insurance on human lives including endowment benefits, additional benefits in the event of death or dismemberment by accident or accidental means, additional benefits for disability, and annuities.

(b) Accident and Sickness—Accident and sickness insurance is insurance against bodily injury, disability or death by accident or accidental means, or the expense thereof, or against disability or expense resulting from sickness, and insurance relating thereto.

(c) Fire—Fire insurance is insurance on real or personal property of every kind and interest therein, against loss or damage from any or all hazard or cause, and against loss consequential upon such loss or damage, other than noncontractual liability for any such loss or damage. Fire insurance shall also include miscellaneous insurance as defined in paragraph (e) (11) of this section.

(d) Marine—Marine insurance is insurance:
(1) against any and all kinds of loss or damage to vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freight, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land (above or below ground), or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment incident thereto, including marine builders' risks and all personal property floater risks;

(2) against any and all kinds of loss or damage to person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance or use of the subject matter of such insurance (but not including life insurance or surety bonds nor insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance or use of automobiles);

(3) against any and all kinds of loss or damage to precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise;

(4) against any and all kinds of loss or damage to bridges, tunnels and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage) unless fire, windstorm, sprinkler leakage, hail, explosion, earthquake, riot or civil commotion or any or all of them are the only hazards to be covered;

(5) against any and all kinds of loss or damage to piers, wharves, docks and slips, excluding the risks of
fire, windstorm, sprinkler leakage, hail, explosion, earth-
quake, riot and civil commotion and each of them;
(6) against any and all kinds of loss or damage to other
aids to navigation and transportation, including dry docks
and marine railways, dams and appurtenant facilities for
control of waterways;
(7) marine protection and indemnity insurance, which
is insurance against, or against legal liability of the in-
sured for, loss, damage or expense arising out of, or inci-
dent to, the ownership, operation, chartering, mainte-
nance, use, repair or construction of any vessel, craft or
instrumentality in use in ocean or inland waterways, in-
cluding liability of the insured for personal injury, illness
or death or for loss of or damage to the property of an-
other person.
(e) Casualty—Casualty insurance includes:
(1) Vehicle insurance, which is insurance against loss
of or damage to any land vehicle or aircraft or any draft
or riding animal or to property while contained therein
or thereon or being loaded therein or therefrom, from
any hazard or cause, and against any loss, liability
or expense resulting from or incident to ownership, main-
tenance or use of any such vehicle, aircraft or animal;
together with insurance against accidental death or acci-
dental injury to individuals, including the named insured,
while in, entering, alighting from, adjusting, repairing or
cranking, or caused by being struck by any vehicle, air-
craft or draft or riding animal, if such insurance is issued
as a part of insurance on the vehicle, aircraft or draft or
riding animal.
(2) Liability insurance, which is insurance against
legal liability for the death, injury, or disability of any
human being, or for damage to property; and provision
for medical, hospital, surgical, disability benefits to in-
jured persons and funeral and death benefits to depend-
ents, beneficiaries or personal representatives of persons
killed, irrespective of legal liability of the insured, when
issued as an incidental coverage with or supplemental to
liability insurance.
(3) Burglary and theft insurance, which is insurance
against loss or damage by burglary, theft, larceny, rob-
bery, forgery, fraud, vandalism, malicious mischief, con-
fiscation, or wrongful conversion, disposal, or concealment,
or from any attempt at any of the foregoing, including
supplemental coverages for medical, hospital, surgical, and
funeral benefits sustained by the named insured or other
person as a result of bodily injury during the commission
of a burglary, robbery, or theft by another; also insurance
against loss of or damage to moneys, coins, bullion, secu-
rities, notes, drafts, acceptances, or any other valuable
papers and documents, resulting from any cause.
(4) Personal property floater insurance, which is insur-
ance upon personal effects against loss or damage from
any cause.
(5) Glass insurance, which is insurance against loss
or damage to glass, including its lettering, ornamentation,
and fittings.
(6) Boiler and machinery insurance, which is insur-
ance against any liability and loss or damage to property
or interest resulting from accidents to or explosion of
boilers, pipes, pressure containers, machinery, or appa-
ratus, and to make inspection of and issue certificates of
inspection upon boilers, machinery, and apparatus of any
kind, whether or not insured.
(7) Leakage and fire extinguishing equipment insur-
ance, which is insurance against loss or damage to any
property or interest caused by the breakage or leakage
of sprinklers, hoses, pumps, and other fire extinguishing
equipment or apparatus, water mains, pipes and contain-
ers, or by water entering through leaks or openings in
buildings, and insurance against loss or damage to such
sprinklers, hoses, pumps and other fire extinguishing
equipment or apparatus.
(8) Credit insurance, which is insurance against loss
or damage resulting from failure of debtors to pay their
obligations to the insured.
(9) Malpractice insurance, which is insurance against
legal liability of the insured, and against loss, damage, or
expense incidental to a claim of such liability, and includ-
ing medical, hospital, surgical, and funeral benefits to
injured persons, irrespective of legal liability of the in-
sured, arising out of the death, injury, or disablement of
any person, or arising out of damage to the economic in-
terest of any person, as the result of negligence in render-
ing expert, fiduciary, or professional service.

(10) Entertainment insurance, which is insurance in-
demnifying the producer of any motion picture, television, 
radio, theatrical, sport, spectacle, entertainment, or sim-
ilar production, event, or exhibition against loss from 
interruption, postponement, or cancellation thereof due 
to death, accidental injury, or sickness of performers, par-
ticipants, directors, or other principals.

(11) Miscellaneous insurance, which is insurance 
against any other kind of loss, damage, or liability prop-
erly a subject of insurance and not within any other kind 
of insurance as defined in this chapter, if such insurance 
is not disapproved by the commissioner as being contrary 
to law or public policy.

(f) Surety—Surety insurance includes:

(1) Fidelity insurance, which is insurance guaranteeing 
the fidelity of persons holding positions of public or pri-

tate trust.

(2) Insurance guaranteeing the performance of con-
tracts, other than insurance policies, and guaranteeing and 
executing bonds, undertakings, and contracts of surety-
ship.

(3) Insurance indemnifying banks, bankers, brokers, 
financial or monied corporations or associations against 
loss, resulting from any cause, of bills of exchange, notes, 
bonds, securities, evidences of debt, deeds, mortgages, 
warehouse receipts or other valuable papers, documents, 
money, precious metals and articles made therefrom, 
jewelry, watches, necklaces, bracelets, gems, precious and 
semi-precious stones, including any loss while they are 
being transported in armored motor vehicles, or by mes-
senger, but not including any other risks of transportation 
or navigation, and also insurance against loss or damage 
to such an insured's premises or to his furnishings, fix-
tures, equipment, safes and vaults therein, caused by 
burglary, robbery, theft, vandalism or malicious mischief, 
or any attempt to commit such crimes.

(4) Title insurance, which is insurance of owners of 
property or others having an interest therein, or liens or
Sec. 11. Reinsurance.—Reinsurance is a contract of indemnity against liability by which an insurer procures another insurer to insure it against loss or liability by reason of the original insurance.

Sec. 12. Agent.—An insurance agent is an individual appointed by an insurer to solicit, negotiate, effect or countersign insurance contracts in its behalf.

Sec. 13. Solicitor.—An insurance solicitor is an individual appointed and authorized by an agent to solicit and receive applications for insurance as a representative of such agent.

Sec. 14. Broker.—A broker is an individual who for compensation in any manner solicits, negotiates or procures insurance or the renewal or continuance thereof on behalf of insureds or prospective insureds.

Sec. 15. Reciprocal Insurance.—Reciprocal insurance is insurance resulting from an inter-exchange among persons known as subscribers of reciprocal agreements of indemnity, the inter-exchange being effected through an attorney-in-fact common to all such persons, and the group of such subscribers being a reciprocal insurer.

Sec. 16. Policy.—Policy means the contract effecting insurance, or the certificate thereof, by whatever name called, and includes all clauses, riders, endorsements and papers attached thereto and a part thereof.

Sec. 17. Premium.—Premium is the consideration for insurance, by whatever name called.

Sec. 18. Stock Insurer.—Stock insurer is an incorporated insurer with capital divided into shares and owned by its shareholders.

Sec. 19. Mutual Insurer.—Mutual Insurer is an incorporated insurer without permanent capital stock and the governing body of which is elected by the policyholders.

Article 2. Insurance Commissioner

Section 1. Office of Insurance Commissioner; Appointment, Qualification and Term.—There is hereby continued
in effect the state agency heretofore created and known as
the "Insurance Commissioner of West Virginia" which
agency shall consist of an insurance commissioner and
such employees as may be authorized by law. The term
of the present commissioner shall continue until July first,
one thousand nine hundred fifty-nine. All appointments
to said office made thereafter shall be for a period of six
years, except that in case of a vacancy the appointment
shall be made to fill the unexpired term. The commissioner
shall be a citizen and resident of this State and shall be
appointed by the governor, by and with the advice and
consent of the senate. Before taking the oath of office
the commissioner shall sever all connections either direct
or indirect with any and all insurers subject to his super-
vision and with any person representing any such insurer,
except as a policyholder or claimant.

Sec. 2. Commissioner's Compensation, Expenses and
Assistants.—The commissioner shall receive an annual
salary of at least nine thousand dollars and actual
expenses incurred in the performance of official business,
which compensation shall be in full for all services. The
office of the commissioner shall be maintained in the
capitol or other suitable place in Charleston. The com-
missoner may employ such persons and incur such exp-
enses as may be necessary in the discharge of his duties
and shall fix the compensation of such employees, but
such compensation shall not exceed the appropriation
therefor. All compensation for salaries and expenses of the
commissioner and his employees shall be paid monthly
out of the state treasury by requisition upon the auditor,
properly certified by the commissioner.

Sec. 3. General Duties of Commissioner.—The commis-
sioner shall enforce the provisions of this chapter and per-
form the duties required of him thereunder; shall affix his
official seal to all documents and papers required to be
filed in other states by domestic insurers and to other
papers when an official seal is required; and shall on or
before the tenth day of each month pay into the state
treasury all fees and monies which he has received during
the preceding calendar month.
Sec. 4. Authority to Subpoena Witnesses and Records.

The commissioner, or any person conducting a hearing or investigation by his authority, shall have power to take depositions, subpoena witnesses and compel their attendance, administer oaths, examine any person under oath, compel any person to subscribe to his testimony after it has been correctly reduced to writing and require the production of any books, papers, records, correspondence or other documents which he deems relevant to the inquiry.

Sec. 5. Witness Fees.—No person shall be excused from attending and testifying in obedience to a subpoena issued hereunder on the ground of failure of tender or payment of a witness fee or mileage fee unless the witness makes demand for such payment as a condition precedent to the giving of testimony or the production of documents required by the subpoena, and unless such payment is not thereupon made. No insurer, agent, broker, solicitor or other person subject to the provisions of this chapter whose conduct, condition or practices are being investigated, and no officer, director or employee of any such person, shall be entitled to witness or mileage fees. In the event that witness or mileage fees are demanded and paid, the amount of same shall be determined as ten dollars for each day of attendance and ten cents per mile for each mile necessarily traveled to the place of attendance, and the same for returning. The sum to which a witness is entitled shall be paid out of the treasury in any case in which the attendance is for the commissioner. In all other cases, it shall be paid by the person at whose instance the summons is issued.

Sec. 6. Service of Subpoena; Compelling Compliance.—The subpoena shall be served in the manner as if issued from a circuit court unless otherwise provided. In case a person refuses to obey any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the commissioner or his representative may invoke the aid of any circuit court in order that the testimony or evidence be produced. Upon proper showing, such court shall issue a subpoena or order
requiring such person to appear before the commissioner
or his representative and produce all evidence and give all
testimony touching the matter in question. A person fail-
ing to obey such order may be punished by such court
as for contempt.

Sec. 7. Immunity of Witness.—If any person shall ask to
be excused from attending and testifying or from pro-
ducing any books, papers, records, correspondence or other
documents at any hearing conducted pursuant to this
chapter or in any cause or proceeding instituted by the
commissioner pursuant to this chapter on the ground that
the testimony or evidence required of him may tend to
incriminate him or subject him to a penalty or forfeiture,
and shall notwithstanding be directed by the commissioner
to give such testimony or produce such evidence, he must
none the less comply with such direction, but he shall not
thereafter be prosecuted or subjected to any penalty or
forfeiture for or on account of any matter or thing concern-
ing which he may testify or produce evidence, pursuant
thereto, and no testimony so given or evidence produced
shall be received against him upon any criminal action,
investigation or proceeding: Provided, however, That no
such individual so testifying shall be exempt from prosecu-
tion or punishment for any perjury or false swearing, com-
mitted by him while so testifying and the testimony or
evidence so given or produced shall be admissible against
him upon any criminal action, investigation or proceeding
concerning such perjury or false swearing, nor shall he be
exempt from the refusal, revocation or suspension of any
license, permission or authority conferred, or to be con-
ferred, pursuant to this chapter. Any such individual may
execute, acknowledge and file in the office of the com-
mmissioner a statement expressly waiving such immunity or
privilege in respect to any transaction, matter or thing
specified in such statement and thereupon the testimony
of such person or such evidence in relation to such trans-
action, matter or thing may be received or produced before
any judge or justice, court, tribunal, grand jury or other-
wise, and if so received or produced such individual shall
not be entitled to any immunity or privilege on account of any testimony he may so give or evidence so produced.

Sec. 8. Records of Insureds.—Upon request of the commissioner any person in West Virginia who is the insured under any policy issued by an insurer upon a subject of insurance resident, located or to be performed in West Virginia, shall produce for examination all policies and other documents evidencing and relating to such insurance, and shall disclose the amount of the gross premiums paid or agreed to be paid for the insurance, all persons through whom such insurance was procured or who participated in the transaction in any manner, and such other information relative to the placing of such insurance as may reasonably be required.

Sec. 9. Examination of Insurers and Others.—(a) The commissioner or his accredited examiners shall, at least once each three years, visit each domestic insurer and thoroughly examine its financial condition and methods of doing business and ascertain whether it has complied with all the laws and regulations of this State; all expenses of such examination to be borne by such insurer. The commissioner at such times as he deems necessary may cause an examination to be conducted of any foreign or alien insurer licensed to transact insurance in this State; all expenses of such examination to be borne by such insurer. The commissioner shall make a full written report of each such examination of an insurer, certified to by the commissioner or the examiner in charge of such examination. The commissioner shall furnish a copy of the report to the insurer examined not less than ten days prior to filing the same in his office. If such insurer so requests in writing, within such ten-day period, the commissioner shall consider the objections of such insurer to the report as proposed, and shall not so file the report until after such modifications, if any, have been made therein as the commissioner deems proper. The report, when filed, shall be admissible in evidence in any action or proceeding brought by the commissioner against the insurer examined, or its officers or agents, and shall be prima facie evidence of the facts stated therein. The commissioner
(a) The commissioner may revoke the license of any such insurer, agent, broker or solicitor who refuses to submit to such examination.

(e) The commissioner may withhold from public inspection any examination or investigation report for so long as he deems prudent.

Sec. 10. Rules and Regulations.—The commissioner is authorized to promulgate and adopt such rules and regulations relating to insurance as are necessary to discharge his duties and exercise his powers and to effectuate the provisions of this chapter and to protect and safeguard the interests of policyholders and the public of this State.

Sec. 11. Enforcement of Orders; Revocation; Court Action.—In addition to examinations and investigations expressly authorized by this chapter, the commissioner may conduct such examinations and investigation of insurance matters as he may deem proper to determine
whether any person has violated any provision of this chapter or to secure information useful in the lawful administration of his duties. If the commissioner determines, after notice and hearing, that any person is transacting insurance in an illegal, improper or unjust manner or is failing to pay losses and obligations when they become due, excepting claims to which there is a substantial defense, he may order such person to discontinue such illegal, improper or unjust manner of transacting insurance or may order such person to adjust and pay his obligations as they become due. If any person shall fail or refuse within twenty days after notice to obey such order, the commissioner may revoke any license issued by him and held by such person and in addition may apply to the circuit court, or the judge thereof in vacation, having jurisdiction for an injunction or the appointment of a receiver, or for both, and such court or judge may enforce such order of the commissioner by injunction or by appointment of a receiver to take charge of the affairs and property of such person, or both, and may make such further orders as may be necessary and proper to effectuate such injunction or receivership.

Sec. 12. Notice.—Whenever under the provisions of this chapter the commissioner is required to give notice to any person the service of such notice shall be deemed proper and effective with regard to any licensee of the commissioner (including insurers, agents, brokers and solicitors) or any employee of such licensee when such notice directed to such person to be notified shall have been deposited in the United States mails, postage prepaid, addressed to the principal place of business or residence of such licensee as last of record in the commissioner's office. The verified return of the person depositing such notice in the mails as to the fact of such mailing shall be proof of service. Notice to a person other than a licensee or employee of a licensee shall be served in the manner provided by law for service of process in civil actions and such manner of service may also be used and shall constitute effective notice to a licensee or employee of a licensee.

Sec. 13. Hearings.—The commissioner may call and hold
2 hearings for any purpose deemed necessary by him for the
3 performance of his duties. He shall hold hearings when
4 required by the provisions of this chapter or upon a written
5 demand therefor by a person aggrieved by any act or
6 failure to act by the commissioner or by any rule, regu-
7 lation or order of the commissioner. Such demand shall
8 specify the grounds to be relied upon as a basis for the
9 relief to be requested at such hearing and such hearing
10 shall be held within forty-five days of receipt by the com-
11 missioner of written demand therefor, unless postponed
12 to a later date by mutual agreement. The commissioner
13 may in his discretion stay the effect of any order, rule or
14 regulation pending hearing. The commissioner shall give
15 at least fifteen days notice of the time, place and matters
16 to be considered at a hearing to all persons directly affect-
17 ed by such hearing. The commissioner shall allow any
18 person directly affected by the hearing to appear in person
19 and by counsel, to be present during the giving of all
20 evidence, to have a reasonable opportunity to inspect all
21 documentary evidence, to examine witnesses and present
22 relevant evidence, and to have subpoenas issued by the
23 commissioner to compel attendance of witnesses and pro-
24 duction of evidence in his behalf. Formal rules of pleading
25 or evidence need not be observed at any hearing. Upon
26 written request seasonably made by a person directly
27 affected by a hearing, and at such person's expense, or
28 upon his own motion and expense, the commissioner shall
29 cause a full stenographic record of the hearing to be made
30 by a competent reporter. If further requested in writing
31 by a person directly affected by such hearing, the com-
32 missioner shall cause such record to be transcribed and
33 made a part of the official record of the hearing, at the
34 expense of such person or may do so at his own motion
35 and expense, and shall furnish a copy thereof to any
36 party directly affected by such hearing at the request and
37 expense of such party. Within forty-five days after com-
38 pletion of a hearing, unless the time be extended by
39 mutual consent, the commissioner shall enter an order
40 containing his findings of fact and conclusions upon the
41 subject matter of such hearing. Such order may affirm,
42 modify or nullify action theretofore taken or may pre-
scribe new action within the scope of the notice of hearing, and a copy thereof shall be mailed to all persons directly affected by such hearing. In the discretion of the commissioner a rehearing may be granted to any party to a hearing upon written request filed with the commissioner within thirty days of the mailing of such order. Costs of any hearing or rehearing for the attendance of witnesses, service of subpoenas, and stenographic record and transcript may be taxed by the commissioner to any party or parties against whom he shall find and may be recovered in a civil action.

Sec. 14. Judicial Review.—An appeal from the commissioner shall be taken only from an order entered after hearing or an order refusing a hearing. Any person aggrieved by any such order may, within thirty days after the order has been mailed or delivered to the persons entitled to receive the same, or within thirty days after an order denying rehearing has been so mailed or delivered, appeal to the circuit court of Kanawha County, or the judge thereof in vacation, by presenting a written petition to such court or judge and mailing a copy thereof to the commissioner. Upon the receipt of such copy the commissioner shall forthwith transmit to the clerk of such court the record of the proceedings before him. The court or judge shall fix a time for hearing upon said petition at his earliest convenience. Notice in writing of the time and place of said hearing shall be given by petitioner to the commissioner at least fifteen days prior thereto. The court or judge shall, without a jury, hear and determine the matter upon the record of proceedings before the commissioner, except that for good cause shown the court may permit the introduction of additional evidence, and may enter an order revising or reversing the order of the commissioner, or may affirm such order, or remand the action to the commissioner for further proceedings. Pending such appeal the order of the commissioner shall be in full force and effect until final determination, unless the commissioner shall in his discretion have stayed the effect of his order pending final determination of the appeal or unless the court or judge thereof before whom the appeal
30 is pending shall enter an order staying the commissioner's
31 order until final determination. The judgment of the
32 circuit court may be reviewed upon appeal by the supreme
33 court of appeals in the same manner as other civil cases
34 to which the State is a party.

Sec. 15. Report by Commissioner.—The commissioner
2 shall annually, on or before the first day of November,
3 submit to the governor a report for the previous calendar
4 year of his official acts, and of the condition of insurers
5 doing business in this State, with a condensed statement
6 of their reports to him, abstracts of all accounts rendered
7 to any court by receivers of insolvent insurers, abstracts
8 of reports to the commissioner by such receivers, together
9 with a statement of all fees and taxes received from
10 insurers and other licensees and paid by him into the state
11 treasury.

Article 3. Licensing, Fees and Taxation of Insurers

Section 1. License Required.—(a) No person shall act
2 as an insurer and no insurer shall transact insurance in
3 West Virginia except as authorized by a valid license
4 issued by the commissioner, except as to such transactions
5 as are expressly otherwise provided for in this chapter.
6 (b) No such license shall be required for an insurer,
7 formerly holding a valid license, to enable it to investigate
8 and settle losses under its policies lawfully written in
9 West Virginia while such license was in effect, or to liqui-
10 date such assets and liabilities of the insurer (other than
11 the collection of new premiums) as may have resulted
12 from its former authorized operations in West Virginia.
13 (c) An insurer not transacting new insurance busi-
14 ness in West Virginia but continuing collection of prem-
15 iums on and servicing of policies remaining in force as to
16 residents of or risks located in West Virginia, is trans-
17 acting insurance in West Virginia for the purpose of
18 premium and annuity tax requirements but is not required
19 to have a license therefor.

Sec. 2. General Qualifications for License.—(a) To
2 qualify for a license to transact insurance in West Vir-
3 ginia an insurer must be otherwise in compliance with
the provisions of this chapter and with its charter, and
must be an incorporated stock insurer, or an incorporated
mutual insurer or a reciprocal insurer.
(b) No license to transact insurance in this State shall
be issued, renewed or continued in effect to any domestic,
foreign or alien insurer which is owned, or financially
controlled, in whole or in part, by any state, or by a
foreign government, or any political subdivision, instru-
mentality or agency of either, or which is an agency of
any such state, government or subdivision, unless such
insurer was so owned, controlled or constituted prior to
the first day of January, one thousand nine hundred fifty-
five and licensed to transact insurance in this State prior
to the first day of January, one thousand nine hundred
fifty-five.

Sec. 3. Charter for Domestic Insurer.—The secretary of
state of this State shall not issue a certificate of incorpora-
tion to any insurer until the commissioner shall have
examined the charter of such insurer and approved same
in writing upon being satisfied that such insurer is in a
position to comply with the provisions of this chapter
and that the incorporation and licensing of such insurer
is in the public interest, and unless such charter shall
provide that such insurer shall maintain its principal
place of business in this State.

Sec. 4. Charter and Statement to be Filed.—Every in-
surer applying for an initial license shall file with the
commissioner accompanying its application:
(a) a certified copy of its charter with all amendments;
(b) a certified copy of its bylaws with all amendments;
(c) a copy of its annual statement as of December
thirty-first last preceding;
(d) a copy of report of last examination, if any, made
of the insurer, certified by the insurance supervisory
official of the state of domicile of a foreign insurer or
the state of entry into the United States of an alien in-
surer;
(e) if a foreign or alien insurer, a certificate of the
public official having supervision of insurance in the state
or country of domicile of such insurer showing that it is
authorized to transact the kinds of insurance proposed to
be transacted in West Virginia;
(f) if an alien insurer, a copy of the appointment and
authority of its United States manager;
(g) certificate of deposit where deposits are required
by this chapter;
(h) such other information and documents as the com-
missioner deems necessary for the protection of policy-
holders or to assure compliance with this chapter.

Sec. 5. Capital or Surplus Required.—To qualify for a
license to transact insurance, unless otherwise provided
in this chapter, an insurer shall possess paid-in capital
stock (if a stock insurer) or surplus (if a mutual insurer)
in the amount set forth below opposite the kinds of insur-
ance for which license is requested:
(a) Life $200,000.00
(b) Accident and Sickness $200,000.00
(c) Life and Accident and Sickness $300,000.00
(d) Fire and Marine $100,000.00
(e) Casualty $100,000.00
(f) Surety $600,000.00
(g) Accident and Sickness together with any
one or more of the following: Fire and
Marine, Casualty $300,000.00
(h) Fire and Marine, and Casualty $200,000.00
(i) Surety together with any one or more of
the following: Accident and Sickness,
Fire and Marine, Casualty $600,000.00
In addition the commissioner shall require of any insurer
additional expendable surplus funds in an amount equal
to one-half such minimum capital or surplus listed above
for the kinds of insurance for which license is requested:
Provided, That insurers duly licensed to transact insur-
ance in West Virginia on March thirtieth, one thousand
nine hundred fifty-seven shall have until March thirty-
first, one thousand nine hundred sixty-one to meet the
requirement of additional expendable surplus funds in
the amount herein specified.

Sec. 6. Deposit Requirements.—The commissioner shall
not issue a license to any insurer unless it has deposited
and maintained in trust with the state treasurer, for the protection of its policyholders or its policyholders and creditors, cash or government securities eligible for the investment of capital funds of domestic insurers (of the type described in section seven of article eight of this chapter) under this chapter in the amount of one hundred thousand dollars; except:

(a) as to foreign insurers in lieu of such deposit or part thereof with the state treasurer, the commissioner may accept the current certificate of the state insurance supervisory official of any other state that a like deposit by such insurer is being maintained in public custody or in a depository approved by such supervisory official in such state in trust for the purpose of protection of all policyholders or policyholders and creditors of such insurer in the United States.

(b) as to alien insurers in lieu of such deposit or part thereof with the state treasurer, the commissioner may accept evidence satisfactory to him that the insurer maintains within the United States in public depositories, or in trust institutions within the United States approved by the commissioner, assets available for discharge of its United States insurance obligations which assets shall be in an amount not less than the outstanding liabilities of the insurer arising out of its insurance transactions in the United States, together with an amount equal to the deposit required under this section for other insurers requesting license to transact like kinds of insurance.

Sec. 7. Issuance of License; Kinds of Insurance.—Upon receiving the application and supporting documents required by section four of this article, if the commissioner is satisfied that an insurer has complied with the terms of its charter and the provisions of this chapter and other laws of this State and that such insurer is solvent and will transact insurance in a legal, proper and just manner, he may issue to such insurer a license authorizing it to transact insurance in this State. Such license may authorize an insurer which otherwise qualifies therefor to transact life and/or accident and sickness insurance, or an insurer other than a life insurer to transact any
of the kinds of insurance other than life for which it
otherwise qualifies. However, as to any life insurer which,
immediately prior to the effective date of this chapter,
lawfully held a license granting to it the right to trans-
act in West Virginia additional kinds of insurance other
than life and accident and sickness, the commissioner may
continue to license said insurer to transact the same kinds
of insurance as those specified in such prior license so
long as such insurer is otherwise in compliance with this
chapter.

Sec. 8. Term of License; Renewal.—All licenses of in-
surers shall expire at midnight on the March thirty-first
next following the date of issuance. The commissioner
shall renew annually the licenses of all insurers who
qualify and make application therefor upon a form pre-
scribed by the commissioner.

Sec. 9. Refusal to License.—The commissioner may re-
fuse to license an insurer when he determines that an
insurer has not complied with the laws of this State or
that it is not in the best interests of the people of this
State that such insurer be licensed or that such insurer
would transact business in this State in an improper,
illegal or unjust manner. In such event the commissioner
shall enter an order refusing such license, and the ap-
plicant therefor may demand a hearing in the manner
provided in article two of this chapter.

Sec. 10. Mandatory Revocation or Suspension.—The
commissioner after notice and hearing shall refuse to
renew or shall revoke or suspend the license of any in-
surer:
(a) if such action is required by any provision of this
chapter;
(b) if the insurer no longer meets the requirements for
the license originally granted, because of deficiency of
assets or otherwise.

Sec. 11. Discretionary Revocation or Suspension; Pen-
alty in Lieu Thereof; Reissuance.—(a) The commissioner
may after notice and hearing refuse to renew, or may
revoke or suspend the license of an insurer, in addition
to other grounds therefor in this chapter, if the insurer:
(1) violates any provision of this chapter other than those as to which refusal, suspension or revocation is mandatory;
(2) fails to comply with any lawful rule, regulation or order of the commissioner;
(3) is transacting insurance in an illegal, improper or unjust manner;
(4) is found by the commissioner to be in an unsound condition or in such condition as to render its further transaction of insurance in West Virginia hazardous to its policyholders or to the people of West Virginia;
(5) compels insureds under its policies to accept less than the amount due them or to bring suit against it to secure full payment when it has no substantial defense;
(6) refuses to be examined or to produce its accounts, records and files for examination by the commissioner when required;
(7) fails to pay any final judgment rendered against it in West Virginia within thirty days after the judgment became final or time for appeal expired, whichever is later;
(8) fails to pay when due to the State of West Virginia any taxes, fees, charges or penalties required by this chapter.

(b) In lieu of refusing to renew, revoking or suspending the license of an insurer in any case except where such action is mandatory, the commissioner may, by order, require the insurer to pay to the State of West Virginia a penalty in a sum not exceeding one thousand dollars, and upon the failure of the insurer to pay such penalty within thirty days after notice thereof, the commissioner may revoke or suspend the license of such insurer.

(c) When any license has been revoked or suspended or renewal thereof refused, the commissioner may reissue, terminate the suspension or renew such license when he is satisfied that the conditions causing such revocation, suspension or refusal to renew have ceased to exist and are unlikely to recur.

Sec. 12. Name of Insurer.—No insurer shall be licensed
to transact insurance in West Virginia which has or uses
a name so similar to that of any insurer already so licensed
as to cause uncertainty or confusion or which tends to
deceive or mislead as to the type of organization of the
insurer; except that in case of conflict of names between
two insurers the commissioner may permit or require
the newly licensed insurer to use in West Virginia such
supplementation or modification of its name as is reason-
ably necessary to avoid such conflict.

Sec. 13. Fees; Fund for Maintenance of Commissioner's
Office.—(a) Except where it is otherwise specially pro-
vided, the commissioner shall demand and receive the
following fees from all insurers: For annual fee for each
license, fifty dollars; for receiving and filing annual re-
ports, fifty dollars; for valuation of policies of life ins-
surers organized under the laws of this State, one and
one-half cents for each one thousand dollars of insurance;
for valuation of policies of life insurers organized under
the laws of any other state licensed to transact insurance
in this State such rate for each one thousand dollars of
insurance valued as is imposed by such other state upon
any similar insurer organized under the laws of this State
licensed to transact insurance in such other state; for
filing certified copy of articles of incorporation, twenty-
five dollars; for filing copy of its charter, twenty-five
dollars; for filing statements preliminary to admission,
fifty dollars; for filing any additional paper required by
law or furnishing copies thereof, one dollar; for every
certificate of valuation, copy of report or certificate of
condition of company to be filed in any other state, five
dollars; for each licensed agent, five dollars. The commis-
sioner may by regulation set reasonable charges for print-
ed forms for the annual statements required by law. He
may sell at cost publications purchased by, or printed on
behalf of the commissioner.

(b) The commissioner shall pay into the state treasury
all fees and charges collected by him under the provisions
of this section. Such fees and charges collected shall com-
prise a special fund designated "insurance commissioner's
fund" to be appropriated as provided by law for the use
of the commissioner in the administration of his office, and any portion of such fund not used during a calendar year shall be carried forward for such subsequent use. The state treasurer shall, at the end of each fiscal year, transfer any amount over and above the amount appropriated for the operation of the commissioner's office for the ensuing year to the general fund.

Sec. 14. Premium Tax.—Every insurer transacting insurance in West Virginia shall make a return to the commissioner annually on a form prescribed by the commissioner, on or before the first day of March, under the oath of its president or secretary, of the gross amount of direct premiums (whether designated as a premium or by some other name) collected and received by it during the previous calendar year on policies covering risks resident, located or to be performed in this State and stating the amount of tax due hereunder, together with payment to the commissioner in full for such tax due. Such tax shall be a sum equal to two percent of such gross direct premiums, including dividends (by whatever name called) on participating policies applied in reduction of premiums, less premiums returned to policyholders because of cancellation of policies. All such taxes received by the commissioner shall be paid by him into the state treasury for the benefit of the state fund.

Sec. 15. Annuity Tax.—Every life insurer transacting insurance in West Virginia shall make a return to the commissioner annually on a form prescribed by the commissioner, on or before the first day of March, under the oath of its president or secretary, of the gross amount of annuity considerations collected and received by it during the previous calendar year on business transacted in this State and stating the amount of tax due hereunder, together with payment in full for such tax due. Such tax shall be a sum equal to one per centum of the gross amount of such annuity considerations, less annuity considerations returned and less termination allowances on group annuity contracts. All such taxes received by the commissioner shall be paid by him into the state treasury for the benefit of the state fund.
Sec. 16. Retaliation.—(a) When by or pursuant to the laws of any other state or foreign country any premium or income or other taxes, or any fees, fines, penalties, licenses, deposit requirements or other material obligations, prohibitions or restrictions are imposed upon West Virginia insurers doing business, or that seek to do business in such other state or country, or upon the agents of such insurers, which in the aggregate are in excess of such taxes, fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions or restrictions directly imposed in the aggregate upon similar insurers of such other state or foreign country or upon the agents of such insurers under the statutes of this State, so long as such laws continue in force or are so applied, the same obligations, prohibitions and restrictions of whatever kind shall be imposed in the same manner upon similar insurers of such other state or foreign country doing business in West Virginia. Any tax, license or other obligation imposed by any city, county or other political subdivision of a state or foreign country on West Virginia insurers or their agents shall be deemed to be imposed by such state or foreign country within the meaning of this section. The provisions of this section shall not apply to ad valorem taxes on real or personal property or to personal income taxes.

(b) If an insurer domiciled in West Virginia is refused authority to transact in another state insurance upon a plan and in a manner which is permitted for domestic insurers of such other state, notwithstanding that the West Virginia insurer be fully qualified for such authority in accordance with the applicable laws of such other state, and if such refusal be not accompanied by a written statement of the grounds therefor, then and thereafter, and for so long as such refusal shall continue, the commissioner may refuse to grant an initial license (but not a renewal of an existing license) to any insurer domiciled in such other state which may seek to transact in West Virginia a like kind or kinds of insurance.


Section 1. Compliance Required.—No person shall trans-
sec. 2. Application to Particular Types of Insurers.—
No provision of this chapter shall apply to:
(a) hospital service corporations and medical service
       corporations except as stated in article twenty-four of this
       chapter;
(b) fraternal benefit societies except as stated in article
       twenty-three of this chapter;
(c) farmers' mutual fire insurance companies except as
       stated in article twenty-two of this chapter.

Sec. 3. Existing Licenses.—The expiration dates of
licenses in force immediately prior to the effective date
of this chapter, and lawfully existing under any law re-
pealed by this act, are hereby extended to midnight,
March thirty-first next succeeding such effective date, at
which time they shall expire. Any such license may be
renewed, suspended or revoked as though originally issued
under this chapter.

Sec. 4. Existing Contracts.—No provision of this chapter
shall be deemed to modify or invalidate any insurance
policy heretofore lawfully in force.

Sec. 5. Existing Forms and Filings.—Every insurance
form and every rate or other filing lawfully in use imme-
diately prior to the effective date of this chapter shall
continue in effect until the commissioner otherwise pre-
scribes pursuant to this chapter.

Sec. 6. Existing Actions, Violations.—Repeal by this act
of any laws shall not affect or abate any right heretofore
accrued, action or proceeding heretofore commenced or
any unlawful act or violation heretofore committed under
such laws and punishment or deprivation of license as a
consequence thereof as provided by such laws. All such
laws shall be deemed to continue in force to the extent
made necessary by the foregoing provision.

Sec. 7. Particular Provisions Prevail.—Provisions of
this chapter relative to a particular kind of insurance
or a particular type of insurer or to a particular matter shall prevail over provisions relating to insurance in general or insurers in general or to such matter in general.

Sec. 8. General Penalty.—In addition to the refusal to renew, suspension or revocation of a license, or penalty in lieu of the foregoing, because of violation of any provision of this chapter, it is a misdemeanor for any person to violate any provision of this chapter, and any person convicted of a misdemeanor for the violation of any provision of this chapter shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

Sec. 9. Repeal.—The provisions of all acts or parts of acts, or of this Code, which are inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistency. Repeal by this chapter or this act of any provision of any act or parts of acts or of this Code shall not have the effect of reviving any prior law theretofore repealed or superseded by such repealed provision.

Sec. 10. Severability.—If any provision of this chapter or the application of such provision to any circumstance is held to be unconstitutional or otherwise invalid, the remainder of this chapter or the application of the provisions to other circumstances shall not be affected thereby. The legislature hereby declares that it would have passed the remainder of this chapter if it had known that such provision, or its application to any circumstances, would be declared unconstitutional or otherwise invalid.

Sec. 11. Effective Date.—Except as otherwise expressly stated herein, this chapter shall become effective on the first day of January, one thousand nine hundred fifty-eight.

Sec. 12. Service of Process on Licensed Insurers.—The auditor of this State shall be, and is hereby constituted, the attorney-in-fact of every licensed insurer, domestic, foreign, or alien, transacting insurance in this State, upon whom all legal process in any action, suit or proceeding
against it shall be served, and he may accept service of such process. Such process shall be served upon the auditor, or accepted by him, in the same manner as provided for service of process upon unlicensed insurers under subparagraphs (2) and (3) of paragraph (b) of section thirteen of this article. Each licensed insurer shall pay to the auditor an annual fee of ten dollars for services as authorized agent for service of process.

Sec. 13. Service of Process on Unlicensed Insurers.—
(a) The purpose of this section is to subject certain insurers to the jurisdiction of the courts of this State in suits by or on behalf of insureds or beneficiaries under certain insurance contracts. The legislature declares that it is a subject of concern that many residents of this State hold policies of insurance issued or delivered in this State by insurers while not licensed to transact insurance in this State, thus presenting to such residents the often insuperable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such state interest, the legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing it exercises its power to protect its residents and to define, for the purpose of this section, what constitutes transacting insurance in this State, and also exercises powers and privileges available to the State by virtue of public law number fifteen, seventy-ninth congress of the United States, chapter twenty, first session, senate number three hundred forty, as amended, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

(b) (1) Any of the following acts in this State, effected by mail or otherwise, by an unlicensed foreign or alien insurer: (1) the issuance or delivery of contracts of insurance to residents of this State or to corporations authorized to do business therein, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments or other considerations for such contracts, or (4) any other transaction of business, is equivalent to and shall constitute an appointment by
such insurer of the auditor of the State and his successor in office, to be its true and lawful attorney, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance, and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this State upon such insurer.

(2) Such service of process upon any such insurer in any such action or proceeding in any court of competent jurisdiction of this State, may be made by serving the auditor of the State or his chief clerk with two copies thereof and the payment to him of a fee of two dollars. The auditor shall forward a copy of such process by registered mail to the defendant at its last known principal place of business, and shall keep a record of all process so served upon him. Such service of process is sufficient, provided notice of such service and a copy of the process are sent within ten days thereafter by or on behalf of the plaintiff to the defendant at its last known principal place of business by registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court, in case there be no clerk, an affidavit of compliance herewith, a copy of the process, and either a return receipt purporting to be signed by the defendant or a person qualified to receive its registered mail in accordance with the rules and customs of the post office department; or, if acceptance was refused by the defendant or its agent, the original envelope bearing a notation by the postal authorities that receipt was refused. Service of process so made shall be deemed to have been made within the territorial jurisdiction of any court in this State.

(3) Service of process in any such action, suit or proceeding shall in addition to the manner provided in subparagraph (2) of this paragraph (b) be valid if served upon any person within this State who, in this State on behalf of such insurer, is
A. Soliciting insurance, or
B. Making, issuing or delivering any contract of insurance, or
C. Collecting or receiving any premium, membership fee, assessment or other consideration for insurance; provided notice of such service and a copy of such process are sent within ten days thereafter, by or on behalf of the plaintiff to the defendant at the last known principal place of business of the defendant, by registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the process, and either a return receipt purporting to be signed by the defendant or a person qualified to receive its registered mail in accordance with the rules and customs of the post office department; or, if acceptance was refused by the defendant or its agent the original envelope bearing a notation by the postal authorities that receipt was refused.

(4) The papers referred to in subparagraphs (2) and (3) of this paragraph (b) shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete ten days after such process and the accompanying papers are filed in accordance with this section.

(5) Nothing in this section contained shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

(c) (1) Before any unlicensed foreign or alien insurer shall file or cause to be filed any pleading in any action, suit or proceeding instituted against it, such unlicensed insurer shall either (1) deposit with the clerk of the court in which such action, suit or proceeding is pending, cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in
such action: Provided, however, That the court may in its
discretion make an order dispensing with such deposit or
bond where the auditor of the State shall have certified
to such court that such insurer maintains within this
State funds or securities in trust or otherwise sufficient
and available to satisfy any final judgment which may be
entered in such action, suit or proceeding; or (2) procure
a license to transact insurance in this State.

(2) The court in any action, suit, or proceedings, in
which service is made in the manner provided in sub-
paragraphs (2) or (3) of paragraph (b) of this section
may, in its discretion, order such postponement as may be
necessary to afford the defendant reasonable opportunity
to comply with the provisions of subparagraph (1) of
this paragraph (c) and to defend such action.

(3) Nothing in subparagraph (1) of this paragraph (c)
is to be construed to prevent an unlicensed foreign or alien
insurer from filing a motion to set aside service thereof
made in the manner provided in paragraphs (2) or (3)
of paragraph (b) of this section on the grounds either (1)
that such unlicensed insurer has not done any of the acts
enumerated in subparagraph (1) of paragraph (b) of this
section, or (2) that the person on whom service was made
pursuant to subparagraph (3) of paragraph (b) of this
section was not doing any of the acts therein enumerated.

(d) In any action against an unlicensed foreign or alien
insurer upon a contract of insurance issued or delivered
in this State to a resident thereof or to a corporation
authorized to do business therein, if the insurer has failed
for thirty days after demand prior to the commencement
of the action to make payment in accordance with the
terms of the contract, and it appears to the court that such
refusal was vexatious and without reasonable cause, the
court may allow to the plaintiff a reasonable attorney's fee
and include such fee in any judgement that may be rend-
ered in such action. Such fee shall not exceed twelve and
one-half percent of the amount which the court finds the
plaintiff is entitled to recover against the insurer, but in
no event shall such fee be less than twenty-five dollars.

Failure of an insurer to defend any such action shall be
deemed prima facie evidence that its failure to make payment was vexatious and without reasonable cause.

e) The provisions of this section shall not apply to any suit, action or proceeding against any unlicensed foreign or alien insurer arising out of any contract of excess line insurance effected in accordance with article twelve of this chapter where any such contract contains a provision designating the auditor or his successor in office its true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding instituted by or on behalf of an insured or beneficiary arising out of such contract of insurance.

Sec. 14. Annual Statement by Insurers.—Each licensed insurer shall annually on or before March first, unless the time is extended by the commissioner for good cause shown, file with the commissioner a true statement of its financial condition, transactions and affairs as of the December thirty-first preceding; said statement to be in form and content as prescribed and required by the commissioner for the kinds of insurance to be reported upon. The statement of an alien insurer shall relate only to its transactions and affairs in the United States unless the commissioner requires otherwise.

Sec. 15. Reinsurance.—(a) An insurer shall reinsure its risks, or any part thereof, only in solvent insurers having surplus to policyholders not less in amount than the paid-in capital required under this chapter of a stock insurer licensed to transact like kinds of insurance.

(b) An insurer shall so reinsure in such alien insurers only as are authorized to transact insurance in at least one state of the United States or have in the United States a duly authorized attorney-in-fact to accept service of legal process against the insurer as to any liability which might arise on account of such reinsurance.

(c) No credit shall be allowed, as an asset or as a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is in insurers either licensed in West Virginia to transact insurance of the kind being reinsured or which have been approved by the commissioner in writing; nor unless the reinsurance is payable
by the assuming insurer on the basis of the liability of
the ceding insurer under the contracts reinsured without
diminution because of the insolvency of the ceding insurer
nor unless under the reinsurance contract the liability for
such reinsurance is assumed by the assuming insurer or
insurers as of the same effective date.
(d) Any licensed insurer may accept reinsurance for
the same kinds of insurance and within the same limits
as it is authorized to transact direct insurance.
(e) No insurer shall reinsure all or substantially all of
its risks on property or lives located in West Virginia, or
substantially all of a major class thereof, unless the reins-
surance agreement be filed with and approved by the
commissioner.
(f) This section shall not apply to insurance of ocean
marine risks or marine protection and indemnity risks.

Sec. 16. Limit of Risk.—(a) No insurer shall retain any
risk on any one subject of insurance, whether located or
to be performed in West Virginia or elsewhere, in an
amount exceeding ten percent of its surplus to policy-
holders.
(b) A "subject of insurance" for the purpose of this
section, as to insurance against fire and hazards other than
windstorm or earthquake, include all properties insured
by the same insurer which are customarily considered by
insurers to be subject to loss or damage from the same
fire or other such hazard insured against.
(c) Reinsurance in licensed or approved insurers as
authorized by section fifteen of this article shall be de-
ducted in determining risk retained. As to surety risk,
deduction shall also be made of the amount assumed by
any established incorporated co-surety and the value and
security deposited, pledged or held subject to the surety's
consent and for the surety's protection.
(d) "Surplus to policyholders" for the purpose of this
section shall be deemed to include any voluntary reserves
which are not required pursuant to law, and shall be
determined from the last sworn statement of the insurer
on file with the commissioner or by the last report of
examination by the commissioner, whichever is the more recent at time of assumption of such risk.

(e) As to alien insurers this section shall apply only to risks and surplus to policyholders of the insurer's United States branch.

(f) This section shall not apply to life or accident and sickness insurance, title insurance, insurance of ocean marine risks or marine protection and indemnity risks, nor to any policy or type of coverage as to which the maximum possible loss to the insurer is not reasonably ascertainable on issuance of the policy.

Sec. 17. Prohibited Interests of Officers and Directors in Certain Transactions.—(a) No director or officer of an insurer shall accept, except for and on behalf of the insurer, or be the beneficiary of any fee, commission, brokerage, gift or other emolument or thing of value in addition to his fixed salary or compensation, because of any investment, loan, deposit, purchase, sale, exchange, or other similar transaction made by or for the insurer, or be pecuniarily interested therein in any capacity except on behalf of the insurer.

(b) No insurer shall guarantee the financial obligation of any of its officers or directors.

(c) This section shall not prohibit such a director or officer from becoming a policyholder of the insurer and enjoying thereunder the rights customarily provided therein for holders of such policies, nor shall this section prohibit a director of an insurer other than a life insurer from receiving his share of the commission earnings of a stock exchange firm of which he is a partner, or a percentage of underwriting profits under a management contract, provided such contract is subject to review and termination by the board of directors, nor shall this section prohibit the payment to a director of a fee for legal services actually rendered to any such insurer provided such compensation is not in excess of the amounts customarily charged for the same type of service.

Sec. 18. Representation of Unlicensed Insurers Prohibited.—(a) No person in West Virginia shall in any manner, directly or indirectly, represent or assist any
insurer not then duly licensed to transact insurance in West Virginia, in the soliciting, procuring, placing or maintenance of any insurance coverage upon or with relation to any subject of insurance resident, located, or to be performed in West Virginia, or inspect or examine any risk or collect or receive any premium on behalf of such insurer.

(b) Any person transacting insurance in violation of this section shall be personally liable to the insured for the performance of any contract between the insured and the insurer resulting from such transactions.

(c) This section shall not apply to reinsurance procured in accordance with this chapter, to excess line insurance procured pursuant to the provisions of article twelve of this chapter, to transactions exempt under the provisions of section one of article three of this chapter, or to professional services of an adjuster or attorney-at-law.

Article 5. Organization and Procedures of Domestic Stock and Mutual Insurers

Section 1. Scope of Article.—This article shall govern domestic mutual and stock insurers hereafter formed and shall govern existing domestic mutual and stock insurers to the extent applicable.

Sec. 2. Application of General Laws.—The statutes of this State relating to corporations generally, except where inconsistent with the provisions of this chapter, shall apply to domestic stock and mutual insurers.

Sec. 3. Articles of Incorporation.—In addition to the matters and things required generally in articles of incorporation, those of a domestic stock or mutual insurer shall state:

(a) the name of the corporation;
(b) the duration of its existence, which may be perpetual;
(c) the kinds of insurance the corporation is formed to transact according to the definitions thereof in this chapter;
(d) if a stock insurer, its authorized capital, the classes and number of shares into which divided, the par value
of each such share, and the respective rights of each such
class. Shares without par value shall not be authorized;
(e) if a mutual insurer, the maximum contingent lia-
bility of its members (other than as to nonassessable
policies) for payment of losses and expenses incurred,
which liability shall be as stated in the articles of in-
corporation but not less than one nor more than six times
the premium for the member's policy at the annual
premium rate for a term of one year;
(f) the number of directors, not less than five nor more
than fifteen, who shall conduct the affairs of the cor-
(g) the city or town in West Virginia in which is to be
located the principal place of business, and states and
countries in which business may be transacted;
(h) the limitations, if any, on the corporation's indebt-
edness;
(i) if a stock insurer, the extent, if any, to which its
stock shall be assessable;
(j) such other provisions, not inconsistent with law, as
are deemed appropriate.

Sec. 4. Certificate of Incorporation.—The articles of in-
corporation shall be filed with the secretary of state of
this State in the same manner as for other corporations
and he shall issue a certificate of incorporation subject
to the provisions of section three of article three of this
chapter.

Sec. 5. Amendment of Articles of Incorporation.—
(a) A stock insurer may amend its articles of incorpor-
ation in the same manner as other corporations, but no
such amendment shall reduce authorized capital below
the amount required by this chapter for the kinds of
insurance thereafter to be transacted and except that no
such amendment shall be filed with or accepted by the sec-
retary of state unless approved in writing by the com-
missioner.
(b) A mutual insurer may amend its articles of incor-
poration by the affirmative vote of two-thirds of its mem-
bers present in person or by proxy at a regular or special
meeting of members of which notice in writing setting
forth the proposed amendment was mailed to all members
at least thirty days in advance, except that no such amend-
ment shall reduce the surplus below the amount required
by this chapter for the kinds of insurance thereafter to be
transacted and except that no such amendment shall be
filed with or accepted by the secretary of state unless
approved in writing by the commissioner.

Sec. 6. Formation of Mutuals, Applications for Insur-
ance.—(a) Upon issuance of its certificate of incorporation
as provided in section four of this article, the directors
and officers of a domestic mutual corporation formed for
the purpose of becoming a mutual insurer may open books
for the registration of such requisite applications for in-
surance policies as they may accept, and may receive de-
posits of premiums thereon.

(b) All such applications shall be in writing signed by
the applicant, covering subjects of insurance resident,
located, or to be performed in West Virginia.

(c) All such applications shall provide that:
(1) Issuance of the policy is contingent upon comple-
tion of organization of the insurer and issuance to it of
a proper license;
(2) No insurance is provided until the license has been
so issued; and
(3) The prepaid premium or deposit, and membership
or policy fee, if any, shall be refunded in full to the ap-
plicant if the organization is not completed and license
issued before a specified reasonable date, which date shall
be not later than one year following date of issuance of
the certificate of incorporation.
(d) All qualifying premiums collected shall be in cash.
(e) Solicitation for such qualifying applications for in-
surance shall be by licensed agents of the insurer, and
the commissioner shall upon application therefor issue
temporary agent's licenses expiring on the date specified
pursuant to paragraph (3), above, to individuals appointed
by the insurer and qualified as for a resident agent's
license. The commissioner may suspend or revoke any
such license for any of the same causes and pursuant to
the same procedures as are applicable to suspension or
revocation of licenses of agents in general under article twelve.

Sec. 7. Formation of Mutuals, Premium Deposit and Policy Issuance.—(a) All sums collected by a domestic mutual insurer as premiums and fees on qualifying applications for insurance therein shall be deposited in trust in a West Virginia bank or trust company under a written trust agreement consistent with this section and with paragraph (3) of subsection (c) of section six of this article. The corporation shall file an executed copy of such trust agreement with the commissioner.

(b) Upon issuance to the insurer of a license as an insurer for the kind of insurance for which such applications were solicited, all funds so held in trust shall become the funds of the insurer, and the insurer shall forthwith issue and deliver its policies for which premiums had been paid and accepted. The insurance provided by such policies shall be effective as of the date of the license.

Sec. 8. Formation of Mutuals, Assets Required, Temporary Capital Stock.—No such domestic mutual insurer shall be issued a license until bona fide applications have been received and cash premiums collected in the manner provided in sections six and seven of this article in such sum, which, together with any other funds that may be legally available, will result in the insurer having unencumbered assets over and above all required reserves and other liabilities of at least an amount equal to that required under section five of article three of this chapter for issuance of a license for the kinds of insurance proposed to be transacted. Such other funds may be provided by the issuance of temporary capital stock in an amount which together with such premiums collected will provide the amount necessary under section five of article three of this chapter, the proceeds of said stock to be invested in the manner provided for the investment of other funds of the insurer. In the event such temporary capital stock shall be issued, the amount of premiums required to be collected prior to licensing shall be not less than ten thousand dollars. Out of the net surplus of the insurer the holders of such temporary capital stock...
may receive a dividend of not more than ten percent per
annual, which may be cumulative. The stock shall not be
a liability of the insurer, except that it shall be retired
as soon as the surplus of the insurer becomes sufficient to
pay it at its par value and leave a surplus not less than
the amount of the temporary capital so retired.

Sec. 9. Mutual Bylaws.— (a) The initial board of direc-
tors of a domestic mutual insurer shall adopt original
bylaws for the government of the corporation and conduct
of its business. Such bylaws shall be subject to the ap-
proval of a majority of the insurer's members who are
present in person or by proxy at the next succeeding
annual meeting of members, and no bylaw provision shall
thereafter be effective which is not so approved. Bylaws
shall be revoked or modified only by vote of a majority
of the insurer's members who are present in person or by
proxy at a meeting of which notice was given as provided
in the bylaws.

(b) The bylaws shall provide that each member of the
insurer is entitled to one vote in the election of corporate
directors and on all matters coming before membership
meetings, and that such vote may be exercised in person
or by proxy.

(c) The insurer shall promptly file with the commis-
sioner a copy, certified by the insurer's secretary, of such
bylaws and of every modification thereof or of addition
thereto. The commissioner shall disapprove any bylaw
provision deemed by him to be unlawful, inadequate, un-
fair, or detrimental to the proper interests and protection
of the insurer's members or any class thereof. The in-
surer shall not, after receiving written notice of such dis-
approval and during the existence thereof, effectuate any
bylaw provision so disapproved.

Sec. 10. Mutual Quorum.—A domestic mutual insurer
may in its bylaws adopt a reasonable provision for de-
termining a quorum of members at any meeting thereof.
This section shall not affect any other provision of law
requiring vote of a larger percentage of members for a
specified purpose.

Sec. 11. Mutual Membership.—Each holder of one or
more insurance policies or contracts issued by a domestic mutual insurer, other than a contract of reinsurance, is a member of the insurer with all the rights and obligations of such membership and each such policy or contract so issued shall so specify. Any person, government or governmental agency, state or political subdivision thereof, public or private corporation, board, association, firm, estate, trustee or fiduciary may be a member of a domestic, foreign, or alien mutual insurer.

Sec. 12. Corporate Rights of Mutual Members.—With respect to the management, records, and affairs of the insurer, a member of a domestic mutual insurer shall have the same character of rights and relationship as a stockholder has toward a domestic stock insurer.

Sec. 13. Contingent Liability of Mutual Members.—
(a) Each member of a domestic mutual insurer shall, except as otherwise hereinafter provided with respect to nonassessable policies, have a contingent liability, pro rata and not one for another, for the discharge of its obligations, which contingent liability shall be in such maximum amount as is stated in the insurer's articles of incorporation.
(b) Each policy issued by the insurer shall contain a statement of the contingent liability, if any, of its members.
(c) Termination of the policy of any such member shall not relieve the member of contingent liability for his proportion, if any, of the obligations of the insurer which accrued while the policy was in force.
(d) Unrealized contingent liability of members does not constitute an asset of the insurer in any determination of its financial condition.

Sec. 14. Enforcement of Contingent Liability.—(a) If at any time the assets of a domestic mutual insurer are less than its liabilities and the minimum amount of surplus required of it by this chapter for authority to transact the kinds of insurance being transacted, and the deficiency is not cured from other sources, its directors shall levy an assessment only upon its members who at any time within the twelve months immediately preceding the date notice
of such assessment was mailed to them held policies pro-
viding for contingent liability, and such members shall be
liable to the insurer for the amount so assessed.

(b) The assessment shall be for such an amount as is
required to cure such deficiency and to provide a reason-
able amount of working funds above such minimum
amount of surplus, but such working funds so provided
shall not exceed five percent of the insurer’s liabilities
as of the date as of which the amount of such deficiency
was determined.

(c) No one policy or member as to such policy shall be
assessed or charged with an aggregate of contingent
liability as to obligations incurred by the insurer in any
one calendar year, in excess of the number of times the
premium as stated in the policy as computed solely upon
premium earned on such policy during that year.

(d) No member shall have an offset against any assess-
ment for which he is liable, on account of any claim for
unearned premium or loss payable.

(e) As to life insurance, any part of such an assessment
upon a member which remains unpaid following notice
of assessment, demand for payment, and lapse of a rea-
sonable waiting period as specified in such notice, may,
if approved by the commissioner as being in the best
interests of the insurer and its members, be secured by
placing a lien upon the cash surrender values and accumu-
lated dividends held by the insurer to the credit of such
member.

Sec. 15. Mutual Nonassessable Policies.—While a do-

mestic mutual insurer maintains the deposits and surplus
funds necessary for the kinds of insurance it is transact-
ing, and is otherwise in compliance with this chapter and
in a sound condition, it may extinguish the contingent
liability of its members as to all its policies in force and
may omit provisions imposing contingent liability in all
its policies currently issued upon receiving written ap-
proval by the commissioner. The commissioner shall re-
voice the authority of a domestic mutual insurer to issue
policies without contingent liability at any time the in-
surer’s assets are less than the sum of its liabilities and
the surplus required for such authority, or if the insurer, by resolution of its board of directors approved by a majority of its members, requests that such authority be revoked.

Sec. 16. Participating Policies.—(a) If so provided in its articles of incorporation, a domestic stock or domestic mutual insurer may issue any or all of its policies with or without participation in profits, savings, or unabsorbed portions of premiums, may classify policies issued on a participating or nonparticipating basis, and may determine the right to participate and the extent of participation of any class or classes of policies. Any such classification or determination shall be reasonable, and shall not unfairly discriminate as between policyholders within the same such classification. A life insurer may issue both participating and nonparticipating policies only if the right or absence of right to participate is reasonably related to the premium charged.

(b) No dividend, otherwise earned, shall be made contingent upon the payment of renewal premium on any policy.

Sec. 17. Dividends to Stockholders.—(a) A domestic stock insurer shall not pay any cash dividend to stockholders except out of that part of its available surplus funds which is derived from realized net profits on its business.

(b) A stock dividend may be paid out of any available surplus funds in excess of the aggregate amount of surplus loaned to the insurer pursuant to section twenty of this article.

(c) A dividend otherwise proper, may be payable out of the insurer's earned surplus even though its total surplus is then less than the aggregate of its past contributed surplus resulting from issuance of its capital stock at a price in excess of the par value thereof.

Sec. 18. Dividends to Mutual Members.—(a) The directors of a domestic mutual insurer may from time to time apportion and pay or credit to its members dividends only out of that part of its surplus funds which represents
net realized savings and net realized earnings from its business.

(b) A dividend otherwise proper may be payable out of such savings and earnings even though the insurer's total surplus is then less than the aggregate of its contributed surplus.

Sec. 19. Illegal Dividends, Penalty.—(a) Any director of a domestic stock or mutual insurer who votes for or concurs in declaration or payment of an illegal dividend to stockholders or members shall upon conviction thereof be guilty of a misdemeanor, and shall be jointly and severally liable, together with other such directors, for any loss thereby sustained by the insurer.

(b) The stockholders or members receiving such an illegal dividend shall be liable in the amount thereof to the insurer.

(c) The commissioner may revoke or suspend the license of an insurer which has declared or paid an illegal dividend.

Sec. 20. Borrowed Surplus.—(a) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose required by its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest at the rate agreed upon but not exceeding six percent per annum. Such interest shall not constitute a liability of the insurer as to its funds other than such excess of surplus unless so stipulated in the agreement.

(b) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its surplus in excess of the amount thereof stipulated in the agreement, or be the basis of any set-off; but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with any interest thereon accrued but unpaid.

(c) Such insurer in advance of any such loan shall file
with the commissioner a statement of the purposes of the
loan and a copy of the proposed loan agreement, which
shall be subject to the commissioner's approval. The loan
and agreement shall be deemed approved thirty days after
date of filing with the commissioner, unless within such
thirty day period the insurer is notified in writing of the
commissioner's disapproval and the reasons therefor. The
commissioner shall so disapprove any such proposed loan
or agreement if he finds that the loan is reasonably un-
necessary or excessive for the purpose intended, or that
the terms of the loan agreement are not fair and equitable
to the parties, and to other similar lenders, if any, to
the insurer, or is not fair to policyholders, or that the
information so filed by the insurer is inadequate.

(d) Any such loan to a mutual insurer or substantial
portion thereof shall be repaid by the insurer when no
longer reasonably necessary for the purpose originally
intended. No repayment of such a loan shall be made by
a mutual insurer unless in advance approved by the com-
missioner.

(e) This section shall not apply to loans obtained by
the insurer in ordinary course of business from banks
and other financial institutions, nor to loans secured by
pledge of assets.

—(a) No domestic stock or mutual insurer shall make
any contract whereby any person or persons is granted
or is to enjoy in fact the management of the insurer to
the substantial exclusion of its board of directors, or to
have the controlling or preemptive right to produce sub-
stantially all insurance business for the insurer, unless
such contract is filed with the commissioner for his ap-
proval. The contract shall be deemed approved thirty
days after filing unless disapproved by the commissioner
within such thirty day period, subject to such reasonable
extension of time as the commissioner may require by
notice given within such thirty days. Any disapproval
shall be delivered to the insurer in writing, stating the
grounds therefor.

(b) The commissioner shall disapprove any such con-
tract if he finds that it:
18    (1) Subjects the insurer to excessive charges; or
19    (2) Is to extend for an unreasonable length of time; or
20    (3) Does not contain fair and adequate standards of
21       performance; or
22    (4) Contains other inequitable provisions or provisions
23       which impair the proper interests of stockholders, policy-
24       holders or members of the insurer.

Sec. 22. Impairment of Capital or Assets.—(a) If the
2   capital stock of a domestic stock insurer becomes im-
3   paired, or the assets of a domestic mutual insurer are
4   less than its liabilities and the minimum amount of sur-
5   plus required of it by this chapter for authority to trans-
6   act the kinds of insurance being transacted, the com-
7   missioner shall at once determine the amount of the deficiency
8   and serve notice upon the insurer to make good the de-
9   ficiency within ninety days after service of such notice.
10    (b) The deficiency may be made good in cash or in
11    assets eligible under this chapter for the investment of
12    the insurer's funds; or if a stock insurer by reduction of
13    the insurer's capital to an amount not below the minimum
14    required for the kinds of insurance thereafter to be trans-
15    acted; or if a mutual insurer, by amendment of its license
16    to cover only such kind or kinds of insurance for which
17    the insurer has on deposit sufficient surplus.
18    (c) If the deficiency is not made good and proof thereof
19    filed with the commissioner within such ninety day period,
20    the insurer shall be deemed insolvent and the commis-
21    sioner shall institute delinquency proceedings against it
22    as authorized by this chapter. If such deficiency exists
23    because of increased loss reserves required by the com-
24    missioner, or because of disallowance by the commis-
25    sioner of certain assets or reduction of the value at which
26    carried in the insurer's accounts, the commissioner may
27    in his discretion and upon application and good cause
28    shown, extend for not more than an additional one hun-
29    dred eighty days the period within which such deficiency
30    may be so made good and such proof thereof so filed.

Sec. 23. Mutualization of Stock Insurer.—(a) A domes-
2    tic stock insurer may become a domestic mutual insurer
pursuant to such plan and procedure as may be approved
in advance by the commissioner.
(b) The commissioner shall not approve any such plan,
procedure, or mutualization unless:
(1) It is equitable to both stockholders and policy-
holders;
(2) It is subject to approval by a vote of the holders
of not less than three-fourths of the insurer’s capital stock
having voting rights and by a vote of not less than two-
thirds of the insurer’s policyholders who vote on such
plan in person, by proxy or by mail, pursuant to such
notice and procedure as may be approved by the com-
missioner;
(3) If a life insurer, the right to vote thereon is limited
to those policyholders whose policies have face amounts
of not less than one thousand dollars and have been in
force for one year or more;
(4) Mutualization will result in retirement of shares
of the insurer’s capital stock at a price not in excess of the
fair market value thereof as determined by competent
disinterested appraisers;
(5) The plan provides for definite conditions to be ful-
filled by a designated early date upon which such mutuali-
zation will be deemed effective; and
(6) The mutualization leaves the insurer with surplus
funds reasonably adequate for the security of its policy-
holders and to continue successfully in business in the
states in which it is then authorized to transact insurance,
and for the kinds of insurance included in its license.
(c) This section shall not apply to mutualization under
order of court pursuant to rehabilitation or reorganiza-
tion of an insurer under article ten of this chapter.

Sec. 24. Converting Mutual Insurer.—(a) A domestic
mutual insurer may become a domestic stock insurer
pursuant to such plan and procedure as is approved in
advance by the commissioner.
(b) The commissioner shall not approve any such plan
or procedure unless:
(1) Equitable to the insurer’s members;
(2) Subject to approval by vote of not less than three-
fourths of the insurer's current members voting thereon in person, by proxy, or by mail at a meeting of members called for the purpose pursuant to such notice and procedure as may be approved by the commissioner; if a life insurer, the right to vote may be limited to members whose policies have face amounts of not less than one thousand dollars and have been in force one year or more;

(3) The equity of each policyholder in the insurer is determinable under a fair formula approved by the commissioner, which such equity shall be based upon not less than the insurer's entire surplus (after deducting contributed or borrowed surplus funds) plus a reasonable present equity in its reserves and in all nonadmitted assets;

(4) The policyholders entitled to participate in the purchase of stock or distribution of assets shall include all current policyholders and all existing persons who had been a policyholder of the insurer within three years prior to the date such plan was submitted to the commissioner;

(5) The plan gives to each policyholder of the insurer as specified in paragraph (4), above, a preemptive right to acquire his proportionate part of all of the proposed capital stock of the insurer, within a designated reasonable period, and to apply upon the purchase thereof the amount of his equity in the insurer as determined under paragraph (3), above;

(6) Shares are so offered to policyholders at a price not greater than to be thereafter offered to others nor at more than double the par value of such shares;

(7) The plan provides for payment to each policyholder not electing to apply his equity in the insurer for or upon the purchase price of stock to which preemptively entitled, of cash in the amount of not less than fifty percent of the amount of his equity not so used for the purchase of stock, and which cash payment together with stock so purchased, if any, shall constitute full payment and discharge of the policyholder's equity as an owner of such mutual insurer; and

(8) The plan, when completed, would provide for the converted insurer paid-in capital stock in an amount not
less than the minimum paid-in capital required of a domestic stock insurer transacting like kinds of insurance, together with surplus funds in amount not less than one-half of such required capital.

Sec. 25. Mergers and Consolidations of Stock Insurers.—
(a) A domestic stock insurer of any kind may merge or consolidate with another domestic or foreign stock insurer by complying with the provisions of general law governing the merger or consolidation of stock corporations formed for profit, but subject to subsection (b), below.
(b) No such merger or consolidation shall be effectuated unless in advance thereof the plan, agreement and other supporting documents have been filed with and approved in writing by the commissioner. The commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:
(1) Is contrary to law; or
(2) Inequitable to the stockholders of any domestic insurer involved; or
(3) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in West Virginia or elsewhere.
(c) If the commissioner does not approve any such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.

Sec. 26. Reinsurance by Stock Insurers.—(a) A domestic stock insurer may accept reinsurance for the same kinds of insurance and within the same limits as it is authorized to transact direct insurance, unless such reinsurance is prohibited by its articles of incorporation.
(b) A domestic stock insurer may reinsure all or substantially all its business in force, or substantially all of a major class thereof, with another insurer by an agreement of bulk reinsurance; but no such agreement shall become effective unless filed with and approved in writing by the commissioner.
(c) The commissioner shall approve such agreement within a reasonable time after such filing unless he finds that it is inequitable to the stockholders of the domestic insurer or would substantially reduce the protection or
service to its policyholders. If the commissioner does not
approve the agreement he shall so notify the insurer in
writing specifying his reasons therefor.

Sec. 27. Reinsurance by Mutual Insurers.—(a) A domes-
tic mutual insurer may accept reinsurance for the same
kinds of insurance and within the same limits as it is
authorized to transact direct insurance unless such re-
insurance is prohibited by its articles of incorporation.
(b) A domestic mutual insurer may reinsure all or
substantially all its business in force, or all or substantially
all of a major class thereof, with another insurer, stock or
mutual, by an agreement of bulk reinsurance after com-
pliance with the following:
(1) In advance of such reinsurance the agreement
therefor shall be filed with and be subject to the approval
of the commissioner within a reasonable time after such
filing. The commissioner shall not approve the agree-
ment unless he finds it to be fair and equitable to each
domestic insurer involved, and that such reinsurance if
effectuated would not substantially reduce the protection
or service to its policyholders. If the commissioner does
not so approve, he shall so notify each insurer involved in
writing specifying his reasons therefor.
(2) The plan and agreement for such reinsurance must
be approved by vote of not less than two-thirds of each
domestic mutual insurer's members voting thereon at
meetings of members called for the purpose, pursuant to
such reasonable notice and procedure as the commissioner
may approve. If a life insurer, right to vote may be
limited to members whose policies have face amounts of
not less than one thousand dollars and have been in force
one year or more.

Sec. 28. Mergers and Consolidations of Mutual Insurers.
(a) A domestic mutual insurer shall not merge or con-
solidate with a stock insurer.
(b) A domestic mutual insurer may merge or consoli-
date with another mutual insurer in accordance with
procedures prescribed by general laws applying to corp-
orations formed for profit, except as hereinbelow provided.
(c) The plan and agreement for merger or consolida-
tion shall be submitted to and approved by at least two-thirds of the members of each mutual insurer involved voting thereon at meetings called for the purpose pursuant to such reasonable notice and procedure as has been approved by the commissioner. If a life insurer, right to vote may be limited to members whose policies are in face amount of not less than one thousand dollars and have been in force one year or more.

(d) No such merger or consolidation shall be effectuated unless in advance thereof the plan and agreement therefor have been filed with and approved in writing by the commissioner. The commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(1) Inequitable to the policyholders of any domestic insurer involved; or

(2) Would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in West Virginia or elsewhere.

If the commissioner does not approve such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.

Sec. 29. Mutual Member's Share of Assets on Liquidation.—(a) Upon any liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness, policy obligations, repayment of contributed or borrowed surplus, if any, and expenses of administration, shall be distributed to existing persons who were its members at any time within thirty-six months next preceding the date such liquidation was authorized or ordered, or date of last termination of the insurer's license, whichever date is the earliest.

(b) The distributive share of each such member shall be in the proportion that the aggregate premiums earned by the insurer on the policies of the member during the combined periods of his membership, bear to the aggregate of all premiums so earned on the policies of all such members. The insurer may, and a life insurer shall, make a reasonable classification of its policies so held by such members and a formula based upon such classification for
determining the equitable distributive share of each such
member. Such classification and formula shall be subject
to the approval of the commissioner.

Article 6. The Insurance Policy

Section 1. Scope of Article.—This article shall not apply
to reinsurance or ocean marine and foreign trade insur-
ance.

Sec. 2. Insurable Interest, Personal Insurance.—(a) Any
individual of competent legal capacity may procure or
effect an insurance contract upon his own life or body for
the benefit of any person. But no person shall procure or
cause to be procured any insurance contract upon the life
or body of another individual unless the benefits under
such contract are payable to the individual insured or his
personal representative or to a person having, at the time
when such contract was made, an insurable interest in
the individual insured.

(b) If the beneficiary, assignee, or other payee under
any contract made in violation of this section receives from
the insurer any benefits thereunder accruing upon the
death, disablement, or injury of the individual insured, the
individual insured or his executor or administrator, as the
case may be, may maintain an action to recover such
benefits from the person so receiving them.

(c) "Insurable interest" with reference to personal in-
surance includes only interests as follows:

(1) In the case of individuals related closely by blood
or by law, a substantial interest engendered by love and
affection.

(2) In the case of other persons, a lawful and substan-
tial economic interest in having the life, health, or bodily
safety of the individual insured continue, as distinguished
from an interest which would arise only by, or would be
enhanced in value by, the death, disablement or injury of
the individual insured.

(3) An individual heretofore or hereafter party to a
contract or option for the purchase or sale of an interest
in a business partnership or firm, or of shares of stock of
a closed corporation or of an interest in such shares, has
an insurable interest in the life of each individual party
to such contract and for the purposes of such contract only,
in addition to any insurable interest which may otherwise
exist as to the life of such individual.

Sec. 3. Insurable Interest in Property.—(a) No insur-
ance contract on property or of any interest therein or
arising therefrom shall be enforceable as to the insurance
except for the benefit of persons having an insurable
interest in the things insured.
(b) "Insurable interest" as used in this section means
any actual, lawful, and substantial economic interest in
the safety or preservation of the subject of the insurance
free from loss, destruction, or pecuniary damage or im-
pairment.
(c) The measure of an insurable interest in property is
the extent to which the insured might be damned by loss,
injury, or impairment thereof.

Sec. 4. Power of Minor to Contract.—(a) Any person of
competent legal capacity may contract for insurance.
(b) A minor not less than fifteen years of age as at
nearest birthday, may notwithstanding such minority,
contract for life or accident and sickness insurance on his
own life or body, for his own benefit or for the benefit of
his father or mother, spouse, child, brother, sister or grand-
parents. Such a minor shall, notwithstanding such minori-
ty, be deemed competent to exercise all rights and powers
with respect to or under any contract of life or accident
and sickness on his own life or body, as though of full
legal age, and may surrender his interest therein and give
a valid discharge for any benefit accruing or money pay-
able thereunder. The minor shall not, by reason of his
minority, be entitled to rescind, avoid or repudiate the
contract, nor to rescind, avoid or repudiate any exercise
of a right or privilege thereunder, except that such minor,
not otherwise emancipated, shall not be bound by any un-
performed agreement to pay, by promissory note or other-
wise, any premium on any such insurance contract.

Sec. 5. Application Required.—No life or accident and
sickness insurance contract upon an individual, except a
contract of group life insurance or of group accident and
sickness insurance, shall be made unless at the time of the
making of the contract the individual insured, being of
competent legal capacity to contract, applies therefor or
consents thereto, except in the following cases:
(a) A spouse may procure such insurance upon the
other spouse.
(b) Any person having an insurable interest in the life
of a minor, or any person upon whom a minor is dependent
for support and maintenance, may procure insurance upon
the life of or pertaining to such minor.
Sec. 6. Application as Evidence.—(a) No application
for the issuance of any life or accident and sickness insur-
ance policy or contract shall be admissible in evidence in
any action relative to such policy or contract, unless a true
copy of the application was attached to or otherwise made
a part of the policy when issued. This paragraph shall not
apply to industrial life insurance policies.
(b) If any policy of life or accident and sickness insur-
ance delivered in this State is reinstated or renewed, and
the insured or the beneficiary or assignee of the policy
makes written request, together with in the case of a
beneficiary evidence of the beneficiary's vested interest
in the policy, to the insurer for a copy of the application,
if any, for such reinstatement or renewal, the insurer
shall, within thirty days after receipt of such request at
its home office or at any of its branch offices, deliver or
mail to the person making such request a copy of such
application. If such copy is not so delivered or mailed
after having been so requested, the insurer shall be pre-
cluded from introducing the application in evidence in any
action or proceeding based upon or involving the policy
or its reinstatement or renewal.
(c) As to kinds of insurance other than life and accident
and sickness insurance, no application for insurance signed
by or on behalf of the insured shall be admissible in evi-
dence in any action between the insured and the insurer
arising out of the policy so applied for, if the insurer has
failed, at expiration of thirty days after receipt by the
insurer of written demand therefor by or on behalf of the
Sec. 7. Representations in Applications.—All statements and descriptions in any application for an insurance policy or in negotiations therefor, by or in behalf of the insured, shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealments of facts, and incorrect statements shall not prevent a recovery under the policy unless:

(a) Fraudulent; or
(b) Material either to the acceptance of the risk, or to the hazard assumed by the insurer; or
(c) The insurer in good faith would either not have issued the policy, or would not have issued a policy in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss, if the true facts had been made known to the insurer as required either by the application for the policy or otherwise.

Sec. 8. Approval of Forms.—(a) Except as provided in section eight of article seventeen of this chapter (fire and marine forms), no insurance policy form, no group certificate form, no insurance application form where written application is required and is to be made a part of the policy, and no rider, endorsement or other form to be attached to any policy, shall be delivered or issued for delivery in this State by an insurer unless it has been filed with and approved by the commissioner, except that as to group insurance policies delivered outside this State, only the group certificates to be delivered or issued for delivery in this State shall be filed with the commissioner upon his request. This section shall not apply to policies, riders, endorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or accident and sickness insurance policies, and are used at the request of the individual policyholder, contract holder, or certificate holder, nor to surety bond forms.
(b) Every such filing shall be made not less than thirty days in advance of any such delivery. At the expiration of such thirty days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than an additional thirty days the period within which he may so affirmatively approve or disapprove any such form, by giving notice of such extension before expiration of the initial thirty day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(c) Any order of the commissioner disapproving any such form or withdrawing a previous approval shall state the grounds therefor.

(d) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(e) This section shall apply also to any form used by domestic insurers for delivery in a jurisdiction outside West Virginia, if the insurance supervisory official of such jurisdiction informs the commissioner that such form is not subject to approval or disapproval by such official, and upon the commissioner's order requiring the form to be submitted to him for the purpose. The applicable same standards shall apply to such forms as apply to forms for domestic use.

Sec. 9. Grounds for Disapproval.—The commissioner shall disapprove any such form of policy, application, rider, or endorsement or withdraw any previous approval thereof:
Sec. 10. Standard Provisions.-(a) Insurance contracts shall contain such standard provisions as are required by the applicable provisions of this chapter pertaining to contracts of particular kinds of insurance. The commissioner may waive the required use of a particular standard provision in a particular insurance policy form, if he finds such provision unnecessary for the protection of the insured and inconsistent with the purposes of the policy, and the policy is otherwise approved by him.

(b) No policy shall contain any provision inconsistent with or contradictory to any standard provision used or required to be used, but the commissioner may approve any substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the standard provisions otherwise required. This section shall not apply to the standard fire insurance policy.

Sec. 11. General Policy Contents.—Every policy, except surety and group policies, shall specify the names of the parties to the contract, the insurer’s name, the subject of the insurance, the risks insured against, the time the insurance coverage becomes effective and the term during which such coverage continues, the premium (or if the exact amount of premium is determinable only at stated intervals or termination, a statement of the basis and rates of the same) and the time of payment, the date of policy, the address of the insured, the location of the property insured, the amount insured, the rate or rates charged, and all dates, including the date of policy, and the date of expiration of the policy, and all dates and times for any renewal or extension of the policy. The policy shall contain any other provisions which are necessary for the protection of the insured and for the enforcement of the contract. The commissioner shall prescribe the form of the policy and shall declare any substitute policy form to be acceptable.
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9 upon which the premium is to be determined), and the
10 conditions pertaining to the insurance.

sec. 12. additional contents.—a policy may contain
2 additional provisions not inconsistent with this chapter
3 and which are:
4 (a) required to be inserted by the laws of the insurer's
5 domicile;
6 (b) necessary, because of the manner in which the
7 insurer is constituted or operated, in order to state the
8 rights and obligations of the parties; or
9 (c) desired by the insurer and not prohibited by law
10 nor in conflict with any provisions required to be included
11 therein and which are considered reasonable and just.

sec. 13. charter or bylaw provisions.—no policy shall
2 contain any provision purporting to make any portion of
3 the charter, bylaws or other constituent document of the
4 insurer a part of the contract unless such portion is set
5 forth in full in the policy. any policy provision in viola-
6 tion of this section shall be invalid. this section shall not
7 apply to the subscribers agreement or power of attorney
8 of a reciprocal insurer.

sec. 14. policy restrictions voided.—no policy delivered
2 or issued for delivery in west virginia and covering a
3 subject of insurance resident, located, or to be performed
4 in west virginia, shall contain any condition, stipulation
5 or agreement requiring such policy to be construed ac-
6 cording to the laws of any other state or country, except
7 as necessary to meet the requirements of the motor vehicle
8 financial responsibility laws or compulsory disability bene-
9 fit laws of such other state or country, or preventing the
10 bringing of an action against any such insurer for more
11 than six months after the cause of action accrues, or limit-
12 ing the time within which an action may be brought to a
13 period of less than two years from the time the cause of
14 action accrues in connection with all insurances other than
15 marine insurances; in marine policies such time shall not
16 be limited to less than one year from the date of occur-
17 rence of the event resulting in the loss. any such condi-
18 tion, stipulation or agreement shall be void, but such
voidance shall not affect the validity of the other provisions of the policy. This section shall not apply to the standard fire insurance policy.

Sec. 15. Execution of Policies.—Every insurance policy shall be executed in the name of and on behalf of the insurer by its officer, attorney-in-fact, employee, or representative duly authorized by the insurer. A facsimile signature of any such executing individual may be used in lieu of an original signature, except that in all policies other than those approved for machine vending the countersignature shall be in original handwriting. No insurance contract heretofore or hereafter issued and which is otherwise valid shall be rendered invalid by reason of the apparent execution thereof on behalf of the insurer by the imprinted facsimile signature of an individual not authorized so to execute as of the date of the policy.

Sec. 16. Underwriters' and Combination Policies.—(a) Two or more licensed insurers may jointly issue, and shall be jointly and severally liable on, an underwriters' policy bearing their names. Any one insurer may issue policies in the name of an underwriter's department and such policy shall plainly show the true name of the insurer.

(b) Two or more insurers may, with the approval of the commissioner, issue a combination policy which shall contain provisions substantially as follows:

(1) That the insurers executing the policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of insurance under the policy, and

(2) That service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing the policy, shall constitute service upon all such insurers.

(c) This section shall not apply to co-surety obligations.

Sec. 17. Validity of Noncomplying Forms.—Any insurance policy, rider, or endorsement hereafter issued and otherwise valid which contains any condition or provision not in compliance with the requirements of this chapter,
shall not be thereby rendered invalid but shall be con-
strued and applied in accordance with such conditions
and provisions as would have applied had such policy,
rider, or endorsement been in full compliance with this
chapter.

Sec. 18. Binders.—(a) Binders or other contracts for
temporary insurance may be made orally or in writing,
and shall be deemed to include all the usual terms of the
policy as to which the binder was given together with
such applicable endorsements as are designated in the
binder, except as superseded by the clear and express
terms of the binder.

(b) No binder shall be valid beyond the issuance of the
policy with respect to which it was given, and no agent
or insurer shall issue a binder covering a period in excess
of ninety days from its effective date.

(c) If the policy has not been issued a binder may be
extended or renewed beyond such ninety days with the
written approval of the commissioner, or in accordance
with such rules and regulations relative thereto as the
commissioner may promulgate.

(d) This section shall not apply to conditional receipts
issued by life and accident and sickness insurers, nor to
policies of group insurance.

Sec. 19. Renewal by Certificate.—Any insurance policy
terminating by its terms at a specified expiration date and
not otherwise renewable, may be renewed or extended at
the option of the insurer and upon a currently authorized
policy form and at the premium rate then required there-
for for a specific additional period or periods by certificate
or by endorsement of the policy, and without requiring
the issuance of a new policy when such certificate and its
use for such purpose have been approved by the commis-
ioner.

Sec. 20. Assignment of Policies.—Whenever the insured
in a policy owned by him has reserved to himself the right
to change the beneficiary thereunder, the insured shall
have the right to and may assign said policy to the extent
permitted by the terms thereof as collateral security for
Sec. 21. Annulment of Liability Policies.—No insurance policy insuring against loss or damage through legal liability for the bodily injury or death by accident of any individual, or for damage to the property of any person, shall be retroactively annulled by any agreement between the insurer and the insured after the occurrence of any injury, death, or damage for which the insured may be liable, and any such attempted annulment shall be void.

Sec. 22. Payment Discharges Insurer.—Whenever the proceeds of or payments under a life or accident and sickness policy or annuity contract heretofore or hereafter issued become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder, and the insurer makes payment thereof in accordance with the terms of the policy or contract or in accordance with any written assignment thereof, the person then designated in the policy or contract or by such assignment as being entitled thereto shall be entitled to receive such proceeds or payments and to give full release therefor, and such payments shall fully discharge the insurer from all claims under the policy or contract unless, before payment is made, the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy or contract.

Sec. 23. Release by Minor.—Any minor domiciled in this State who has attained the age of eighteen years shall be deemed competent to receive and to give full acquittance and discharge for a payment or payments in aggregate amount not exceeding $2,000 in any one year made by a life insurer as benefits payable to such minor in compliance with the provisions of an insurance policy, annuity
contract or settlement agreement. No such minor shall be deemed competent to alienate the right to or to anticipate such payments. This section shall not be deemed to restrict the rights of minors set forth in paragraph (b) of section four of this article.

Sec. 24. Simultaneous Deaths.—Where the individual insured or the annuitant and the beneficiary designated in a life policy or policy insuring against accidental death or in an annuity contract have died and there is not sufficient evidence that they have died otherwise than simultaneously, the proceeds of the policy or contract shall be distributed as if the insured or annuitant had survived the beneficiary, unless otherwise specifically provided in the policy or contract.

Sec. 25. Proof of Loss Forms.—An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance contract issued by such insurer, forms of proof of loss for completion by such person.

Sec. 26. Defenses Not Waived.—Without limitation of any right or defense of an insurer otherwise, none of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer thereunder:

(a) Acknowledgment of the receipt of notice of loss or claim under the policy.

(b) Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss, or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted.

(c) Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any such loss or claim.

Sec. 27. Life Insurance Proceeds Exempt From Creditors.—(a) If a policy of insurance, whether heretofore or hereafter issued, is effected by any person on his own life or on another life, in favor of a person other than himself, or, except in cases of transfer with intent to defraud creditors, if a policy of life insurance is assigned or in any way made payable to any such person, the
lawful beneficiary or assignee thereof, other than the insured or the person so effecting such insurance or executors or administrators of such insured or the person so effecting such insurance, shall be entitled to its proceeds and avails against the creditors and representatives of the insured and of the person effecting the same, whether or not the right to change the beneficiary is reserved or permitted, and whether or not the policy is made payable to the person whose life is insured if the beneficiary or assignee shall predecease such person.

(b) Subject to the statute of limitations, the amount of any premiums for such insurance paid in fraud of creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy, but the insurer issuing the policy shall be discharged of all liability thereon by payment of the proceeds in accordance with its terms, unless before such payment the insurer received written notice by or in behalf of some creditor, with specification of the amount claimed, claiming to recover for certain premiums paid in fraud of creditors.

(c) For the purposes of paragraph (a), above, a policy shall also be deemed to be payable to a person other than the insured if and to the extent that a facility-of-payment clause or similar clause in the policy permits the insurer to discharge its obligations after the death of the individual insured by paying the death benefits to a person as permitted by such clause.

Sec. 28. *Group Life Insurance Proceeds Exempt From Creditors.*—(a) A policy of group life insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder, shall not be liable, either before or after payment, to be applied by any legal or equitable process to pay any liability of any person having a right under the policy.

(b) This section shall not apply to group life insurance issued to a creditor covering his debtors, to the extent that such proceeds are applied to payment of the obligation for the purpose for which the insurance was so issued.

Sec. 29. *Policies to Cover Injuries to Guest Passengers.* —No insurer shall issue any policy of bodily injury or
property damage liability insurance which excludes coverage to the owner or operator of a motor vehicle on account of bodily injury or property damage to any guest or invitee who is a passenger in such motor vehicle.

Sec. 30. Construction of Policies.—Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy and as amplified, extended, or modified by any rider, endorsement, or application attached to and made a part of the policy.

Article 7. Assets and Liabilities

Section 1. Assets Defined.—In any determination of the financial condition of an insurer, there shall be allowed as assets only such assets as are owned by the insurer and which consist of:

(a) Cash in the possession of the insurer, or in transit under its control, and including the true balance of any deposit in a solvent bank or trust company.

(b) Investments, securities, properties and loans acquired or held in accordance with this chapter, and in connection therewith the following items:

(1) Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.

(2) Declared and unpaid dividends on stock and shares, unless such amount has otherwise been allowed as an asset.

(3) Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon.

(4) Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets, if such interest is in the judgment of the commissioner a collectible asset.

(5) Interest due or accrued on a mortgage loan, in an amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest accrued for a period in excess of eighteen months be allowed as an asset.
(6) Rent due or accrued on real property if such rent
is not in arrears for more than three months, and rent
more than three months in arrears if the payment of such
rent be adequately secured by property held in the name
of the tenant and conveyed to the insurer as collateral.

(7) The unaccrued portion of taxes paid prior to the
due date on real property.

(c) Premium notes, policy loans, and other policy assets
and liens on policies and certificates of life insurance
and annuity contracts and interest due and accrued there-
on, in an amount not exceeding the legal reserve and
other policy liabilities carried on each individual policy.

(d) The net amount of uncollected and deferred
premiums and annuity considerations in the case of a life
insurer.

(e) Premiums in the course of collection, other than
for life insurance, not more than three months past due,
less commissions payable thereon. The foregoing limitation
shall not apply to premiums payable directly or
indirectly by the United States government or by any of
its instrumentalities.

(f) Instalment premiums other than life insurance
premiums, in accordance with regulations prescribed by
the commissioner.

(g) Notes and like written obligations not past due,
taken for premiums other than life insurance premiums,
on policies permitted to be issued on such basis, to the
extent of the unearned premium reserves carried thereon.

(h) The full amount of reinsurance recoverable by a
ceding insurer from a solvent reinsurer and which rein-
surance is authorized under this chapter.

(i) Amounts receivable by an assuming insurer repre-
senting funds withheld by a solvent ceding insurer under
a reinsurance treaty.

(j) Deposits or equities recoverable from underwriting
associations, syndicates and reinsurance funds, or from
any suspended banking institution, to the extent deemed
by the commissioner available for the payment of losses
and claims and at values to be determined by him.

(k) All assets, whether or not consistent with the pro-
visions of this section, as may be allowed pursuant to
the annual statement form approved by the commissioner
for the kinds of insurance to be reported upon therein.

(1) Other assets, not inconsistent with the provisions
of this section, deemed by the commissioner to be avail-
able for the payment of losses and claims, at values to be
determined by him.

Sec. 2. Deductions From Assets and Liabilities.—Assets
may be allowed as deductions from corresponding liabili-
ties, and liabilities may be charged as deductions from
assets, and deductions from assets may be charged as
liabilities, in accordance with the form of annual state-
ment applicable to such insurer as prescribed by the com-
missioner, or otherwise in his discretion.

Sec. 3. Assets Not Allowed.—In addition to assets im-
pliedly excluded by the provisions of section one of this
article, the following expressly shall not be allowed as
assets in any determination of the financial condition of
an insurer;

(a) Good will, trade names and other like intangible
assets.

(b) Advances to officers (other than policy loans)
whether secured or not, and advances to employees,
agents, and other persons on personal security only.

(c) Stock of such insurer, owned by it, or any equity
therein or loans secured thereby, or any proportionate
interest in such stock acquired or held through the own-
ership by such insurer of an interest in another firm,
corporation or business unit.

(d) Furniture, fixtures, furnishings, safes, vehicles,
libraries, stationery, literature and supplies, and except,
in the case of any insurer, such personal property as the
insurer is permitted to hold pursuant to article eight of
this chapter, or which is acquired through foreclosure of
chattel mortgages acquired pursuant to article eight of
this chapter, or which is reasonably necessary for the
maintenance and operation of real estate lawfully ac-
quired and held by the insurer other than real estate used
by it for home office, branch office and similar purposes.

(e) The amount, if any, by which the aggregate book
value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this chapter.

Sec. 4. Reporting Assets Not Allowed.—All assets not allowed and all other assets of doubtful value or character included as assets in any statement by an insurer to the commissioner, or in any examiner’s report to him, shall also be reported, to the extent of the value disallowed, as deductions from the gross assets of such insurer except where the commissioner permits a reserve to be carried among the liabilities of such insurer in lieu of any such deduction.

Sec. 5. Liabilities.—In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include:

(a) The amount of its capital stock outstanding, if any;
(b) The amount, estimated consistent with the provisions of this chapter, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof;
(c) With reference to life and accident and sickness insurance and annuity contracts:
(1) The amount of reserves on life insurance policies and annuity contracts in force, valued according to the tables of mortality, rates of interest, and methods adopted pursuant to this chapter which are applicable thereto,
(2) Reserves for disability benefits, for both active and disabled lives,
(3) Reserves for accidental death benefits, and
(4) Any additional reserves which may be reasonably required by the commissioner on account of such insurance.
(d) With reference to insurance other than specified in paragraph (c) of this section, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, computed in accordance with this article.
(e) Taxes, expenses and other obligations due or accrued at the date of the statement.
Sec. 6. *Unearned Premium Reserve.*—(a) With reference to insurance against loss or damage to property (except as provided in paragraph (e) of this section) and with reference to all general casualty insurance, and surety insurance, every insurer shall maintain an unearned premium reserve on all policies in force.

(b) The commissioner may require that such reserves shall be equal to the unearned portions of the gross premiums in force after deducting reinsurance in solvent insurers effected in the manner provided in this chapter as computed on each respective risk from the policy's date of issue.

(c) All of such reserves may be computed, at the option of the insurer, on a yearly or more frequent pro rata basis.

(d) After adopting a method for computing such reserve, an insurer shall not change methods without approval of the commissioner.

(e) With reference to marine insurance, premiums on trip risks not terminated shall be deemed unearned, and the commissioner may require the insurer to carry a reserve thereon equal to one hundred percent on trip risks written during the month ended as of the date of statement.

Sec. 7. *Reserves for Accident and Sickness Insurance.*—For all accident and sickness policies the insurer shall maintain an active life reserve which shall place a sound value on its liabilities under such policies and which shall not be less than the reserve according to standards set forth in regulations issued by the commissioner and, in no event, less than the pro rata gross unearned premium reserve for such policies.

Sec. 8. *Increased Reserves.*—(a) If the commissioner determines that an insurer's unearned premium reserve, however computed, is inadequate, he may require the insurer to compute such reserve or any part thereof according to such other method or methods as are prescribed in this article.

(b) If the loss experience of an insurer shows that its loss reserves, however estimated, are inadequate, the
commissioner shall require the insurer to maintain loss
reserves in such increased amount as is needed to make
them adequate.

Sec. 9. Standard Valuation Law for Life Policies.—
(1) The commissioner shall annually value, or cause to
be valued, the reserve liabilities (hereinafter called re-
serves) for all outstanding life insurance policies and an-
uity and pure endowment contracts of every life insurer
transacting insurance in this State, except that in the case
of an alien insurer such valuation shall be limited to its
United States business, and may certify the amount of any
such reserves, specifying the mortality table or tables,
rate or rates of interest and methods (net level premium
method or other) used in the calculation of such reserves.
All valuations made by him or by his authority shall
be made upon the net premium basis.
In every case the standard of valuation employed shall
be stated in his annual report.
In calculating such reserves, he may use group methods
and approximate averages for fractions of a year or other-
wise. In lieu of the valuation of the reserves herein re-
quired of any foreign or alien insurer, he may accept any
valuation made, or caused to be made, by the insurance
supervisory official of any state or other jurisdiction when
such valuation complies with the minimum standard
herein provided and if the official of such state or juris-
diction accepts as sufficient and valid for all legal pur-
poses the certificate of valuation of the commissioner
when such certificate states the valuation to have been
made in a specified manner according to which the aggre-
gate reserves would be at least as large as if they had
been computed in the manner prescribed by the law of
that state or jurisdiction.
Any such insurer which at any time shall have adopted
any standard of valuation producing greater aggregate
reserves than those calculated according to the minimum
standard herein provided may, with the approval of the
commissioner, adopt any lower standard of valuation, but
not lower than the minimum herein provided.

(2) This subsection shall apply to only those policies
and contracts issued prior to the original operative date of the Standard Nonforfeiture Law (now section thirty of article thirteen of this chapter). All valuations shall be according to the standard of valuations adopted by the insurer for the obligations to be valued. Any insurer may adopt different standards for obligations of different dates or classes, but if the total value determined by any such standard for the obligations for which it has been adopted shall be less than that determined by the legal minimum standard hereinafter prescribed, or if the insurer adopts no standard, said legal minimum standard shall be used.

The legal minimum standard for contracts issued before the first day of January, in the year one thousand nine hundred one, shall be actuaries' or combined experience table of mortality with interest at four percent per annum, and for contracts issued on or after said date shall be the “American Experience Table” of mortality with interest at three and one-half percent per annum. Policies issued by insurers doing business in this State may provide for not more than one year preliminary term insurance: Provided, however, That if the premium charged for term insurance under a limited payment life preliminary term policy providing for the payment of all premiums thereof in less than twenty years from the date of the policy, or under an endowment preliminary term policy, exceeds that charged for like insurance under twenty payment life preliminary term policies of the same insurer, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty payment life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium payment period, equal to the difference between the value at the end of such period of such a twenty payment life preliminary term policy and a full reserve at such time of such a limited payment life or endowment policy.

The commissioner may vary the standards of interest and mortality in the case of alien insurers and in par-
ticular cases of invalid lives and other extra hazards.

Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(3) This subsection shall apply to only those policies and contracts issued on or after the original operative date of the Standard Nonforfeiture Law (now section thirty of article thirteen of this chapter).

(a) The minimum standard for the valuation of all such policies and contracts shall be the commissioner's reserve valuation method defined in paragraph (b), three and one-half percent interest, and the following tables:

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

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

(iii) For annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies,—the 1937 Standard Annuity Mortality Table.

(iv) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—Class (3) Disability Table (1926) which, for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

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

(vi) For group life insurance, life insurance issued on the substandard basis and other special benefits—such tables as may be approved by the commissioner.

(b) Reserves according to the commissioner's reserve valuation method, for the life insurance and endowment
benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (A) over (B), as follows:

(A) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due: Provided, however, That such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

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

Reserves according to the commissioner's reserve valuation method for (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (ii) annuity and pure endowment contracts, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of this paragraph (b).

(c) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in paragraph (b) and the mortality table or tables
and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(d) Reserves for any category of policies, contracts or benefits as established by the commissioner may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein: Provided, however, That reserves for participating life insurance policies may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half percent the insurer issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve.

(e) If the gross premium charged by any life insurer on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

Sec. 10. Valuation of Bonds.—(a) All bonds or other evidences of debt having a fixed term and rate of interest held by any insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

(1) If purchased at par, at the par value.
(2) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, or in lieu of such method, according to such accepted method of valuation as is approved by the commissioner.

(3) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.

(4) Unless otherwise provided by valuation established or approved by the commissioner, no such security shall be carried at above the call price for the entire issue during any period within which the security may be so called.

(b) The commissioner shall have full discretion in determining the method of calculating values according to the rules set forth in this section.

Sec. 11. Valuation of Other Securities.—(a) Securities, other than those referred to in section ten of this article, held by an insurer shall be valued, in the discretion of the commissioner, at their market value, or at their appraised value, or at prices determined by him as representing their fair market value, all consistent with any current method for the valuation of any such security formulated or approved by the commissioner.

(b) Preferred or guaranteed stocks or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the commissioner and in accordance with such method of computation as he may approve.

Sec. 12. Valuation of Real Property.—(a) Real property acquired pursuant to a mortgage loan or contract for sale, in the absence of a recent appraisal deemed by the commissioner to be reliable, shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by
the insurer on assessments levied for improvements in
connection with the property.

(b) Other real property held by an insurer shall not be
valued at an amount in excess of fair value as determined
by recent appraisal. If valuation is based on an appraisal
more than three years old, the commissioner may at his
discretion call for and require a new appraisal in order
to determine fair value.

Sec. 13. Valuation of Mortgages.—Mortgages or deeds
of trust on real property shall be valued in an amount
equal to the unpaid balance but not exceeding sixty-six
and two-thirds percent of the fair value of such real
property, except that any amount in excess of sixty-six
and two-thirds percent may be included to the extent the
loan evidenced by such deed of trust or mortgage is
guaranteed by an agency of the federal government.

Article 8. Investments

Section 1. Scope of Article.—Except for section twenty-
two of this article which relates to investments of foreign
and alien insurers, this article applies to domestic insurers
only.

Sec. 2. Authorized Investments.—The capital, surplus,
assets and all other funds of insurers shall be invested
only as provided in this article. The eligibility of an invest-
ment shall be determined as of the date of its making or
acquisition. Any investment limitation based upon the
amount of the insurer's assets or particular funds shall
relate to assets or funds as shown by the insurer's annual
statement as of the December thirty-first last preceding
date of investment.

Sec. 3. General Qualifications.—(a) No security or in-
vestment (other than real property acquired pursuant to
section sixteen of this article) shall be eligible for acquisi-
tion unless it is interest bearing or interest accruing or
dividend or income paying, is not then in default in any
respect, and the insurer is entitled to receive for its ex-
clusive account and benefit, the interest or income accruing
thereon. Defaults in interest or income occurring sub-
sequent to acquisition of an investment shall not affect allowance thereof as an asset.

(b) No security or investment shall be eligible for purchase at a price above its market value.

(c) No provision of this article shall prohibit the acquisition by an insurer of other or additional securities or property if received as a dividend or as a lawful distribution of assets, or if acquired pursuant to a lawful and bona fide agreement of bulk reinsurance, merger, or consolidation. Any investment so acquired through bulk reinsurance, merger, or consolidation, which is not otherwise eligible under this article, shall be disposed of pursuant to section seventeen of this article if securities, or pursuant to section sixteen of this article if real property.

Sec. 4. Approval of Investments.—No investment or loan shall be made by an insurer unless the same has been authorized or approved by the insurer's board of directors or by a committee authorized thereby and charged with the duty of supervising or making such investment or loan. The minutes of any such committee shall be recorded and regular reports of such committee shall be submitted to the board of directors. This section does not apply to loans made by a life insurer on policies or annuity contracts.

Sec. 5. Limitation of Investments in One Person.—An insurer shall not, except with the consent of the commissioner, have at one time any combination of investments in or loans upon the security of the obligations, property, or securities of any one person, institution or corporation, aggregating an amount exceeding five percent of the insurer's assets. This restriction shall not apply to investments in or loans upon the security of general obligations of the United States or fully guaranteed by the United States or the District of Columbia or any state of the United States or of political subdivisions of the State of West Virginia or other states of the United States, made pursuant to section seven of this article, or include policy loans made under section nineteen of this article or investments in foreign securities pursuant to section eight of this article.
Sec. 6. Class Limitations on Investments.—(a) Every insurer shall invest and maintain invested funds to the amount of the minimum paid-in capital or surplus required under this chapter to transact like kinds of insurance only in cash and the securities described in section seven of this article (government obligations).

(b) The remaining assets of any insurer may be invested in the classes of securities described in the following sections of this article, and subject to restrictions or limitations contained in such sections: section seven (government securities), section eight (foreign securities) for those insurers who qualify under said section, section nine (bills of exchange, etc.), section eleven (corporate obligations), section twelve (building and loan shares, etc.), section thirteen (preferred or guaranteed stock), section fifteen (real property mortgages), section sixteen (real property), section eighteen (revenue bonds), and, subject to the limitations of paragraph (c) of this section, section ten (loans upon pledge of securities) and section fourteen (common stocks).

(c) No insurer shall invest in more than five per centum of the total number of shares of any one corporation, nor more than two per centum of the assets of such insurer in the shares of any one corporation, nor shall any insurer invest in shares and securities of corporations in the aggregate exceeding the capital and/or surplus of such insurer, the foregoing limitations to apply to all investments made pursuant to sections ten and fourteen of this article.

Sec. 7. Government Obligations.—An insurer may invest any of its funds in:

(a) Bonds or securities which are the direct obligation of or which are secured or guaranteed in whole or in part as to principal and interest by the United States, any state or territory of the United States, or the District of Columbia, where there exists the power to levy taxes for the prompt payment of the principal and interest of such bonds or evidences of indebtedness, and, in bonds issued by the federal land banks.

(b) Bonds or evidences of indebtedness which are direct
general obligations of any county, district, city, town, village, school district, park district, or other political subdivision of this State or any other state or territory of the United States, or the District of Columbia, which shall not be in default in the payment of any of its general obligation bonds, either principal or interest, at the date of such investment; where they are payable from ad valorem taxes levied on all the taxable property located therein and the total indebtedness after deducting sinking funds and all debts incurred for self-sustaining public works does not exceed ten per centum of the actual value of all taxable property therein on the basis of which the last assessment was made before the date of such investment.

Sec. 8. Foreign Securities.—(a) An insurer authorized to transact insurance in a foreign country may invest any of its funds, in aggregate amount not exceeding by more than five percent its deposit and reserve obligations incurred in such country, in securities of or in such country possessing characteristics and of a quality similar to those required pursuant to this chapter for investments in the United States.

(b) An insurer may invest any of its funds, in an aggregate amount not exceeding five percent of its assets, in addition to any amount permitted pursuant to paragraph (a) of this section, in obligations of the governments of Canadian provinces or municipalities, and in obligations of Canadian corporations which are otherwise of equal quality to like United States public or corporate securities as prescribed in this article.

Sec. 9. Certificates, Acceptances and Bills of Exchange. —Subject to the limit set forth in sections five and six of this article, an insurer may invest in bank certificates of deposit and bankers’ acceptances, and other bills of exchange of the kind and maturities made eligible by law for purchase in the open market by federal reserve banks.

Sec. 10. Loans Upon Pledge of Securities.—An insurer may invest in loans upon the pledge of bonds, mortgages, preferred or guaranteed stocks, debentures, securities or
evidence of indebtedness acceptable as investments for the lending insurer under the provisions of this article and subject to the same limits as to each security as is provided in this article for investment therein, if the face or current market value, whichever is less, of such mortgages is more than the amount loaned thereon, and the current market value of such bonds, preferred or guaranteed stocks, debentures, securities or evidences of indebtedness is at least twenty per centum more than the amount loaned thereon. These restrictions do not apply to loans on the pledge of bonds or securities of or guaranteed by the United States.

Sec. 11. Corporate Obligations.—Subject to the limits set forth in sections five and six of this article, an insurer may invest in bonds or evidence of indebtedness of any solvent corporation or corporations (other than those organized and chartered for the sole purpose of holding the stock of other corporations), including public utility corporations and bonds or evidence of indebtedness issued or guaranteed by railroad corporations (including certificates of an equipment trust created on behalf of any such railroad corporation), created under the laws of the United States or of any state of the United States or the District of Columbia.

Sec. 12. Building and Savings and Loan Shares, International Bank.—Subject to the limits set forth in sections five and six of this article, an insurer may invest in shares of insured state chartered building and loan associations and federal savings and loan associations, if such shares are insured by the Federal Savings and Loan Insurance Corporation and may invest in obligations issued or guaranteed by the International Bank for Reconstruction and Development.

Sec. 13. Preferred or Guaranteed Stock.—Subject to the limits set forth in sections five and six of this article, an insurer may invest in preferred or guaranteed stock issued or guaranteed by any solvent corporation or corporations created under the laws of the United States or any state, if such stock is not in default as to payment of any current dividends.
Sec. 14. Common Stocks.—Subject to the limits set forth in sections five and six of this article, an insurer may invest in the nonassessable shares of capital stock of any solvent corporation created under the laws of the United States or of any state if such corporation has paid cash dividends of not less than four percent per annum on the average market price of such common stock for a period of five fiscal years next preceding the date of acquisition by such insurer or shall have earned, during such period, an aggregate sum applicable to dividends on its common stock equal at least to an aggregate sum which would have been sufficient to pay dividends of four percent per annum on the average market price of all its common stocks outstanding during such period.

Sec. 15. Real Property Mortgages.—(a) An insurer may invest in entire first mortgages on improved unencumbered real estate or the entire issue of bonds secured thereby located within any state worth at least fifty per centum more than the amount loaned thereon, based on sound appraisal by a competent appraiser and duly certified by him, provided that the investment in any one mortgage or any one issue of bonds or any one contract for deed does not exceed twenty thousand dollars or two per centum of the insurer's assets, whichever is the greater.

(b) "Improved real estate", as used in this section, means all farm land which has been reclaimed and is used for the purpose of husbandry, whether for tillage or pasture, and all real property on which permanent buildings suitable for residence or commercial use are situated.

(c) Real property shall not be deemed to be encumbered within the meaning of this section by reason of the existence of instruments reserving or excepting mineral rights and interests, rights-of-way, sewer rights and rights in walls or easements, nor by reason of building restrictions or other restrictive covenants, nor by reason of the fact that it is subject to lease under which rents or profits are reserved to the owners: Provided, That the security for such investment is a full and unrestricted
first lien upon such real property and that there is no
condition nor right of re-entry or forfeiture under which
such investments can be cut off, subordinated or other-
wise disturbed.

(d) Notwithstanding the restrictions set forth in this
section any insurer may invest (1) in bonds or notes
secured by mortgage or trust deed insured by the federal
housing administration or in debentures issued by it
under the terms of an act of Congress of the United
States entitled the "National Housing Act", as heretofore
or hereafter amended and (2) in securities issued by
national mortgage associations established by or under
the authority of the National Housing Act, and (3) in
bonds or notes secured by mortgage or trust deed guar-
anteed as to principal by the administrator of veterans'
affairs pursuant to the provisions of Title III of act of
Congress of the United States as of June twenty-two,
one thousand nine hundred forty-four, entitled the "Serv-
icemen's Re-Adjustment Act of one thousand nine hun-
dred forty-four", as heretofore or hereafter amended.

(e) Notwithstanding the restrictions herein set forth
the amount of any first mortgage investment is limited
by paragraph (a) of this section may be exceeded if and
to the extent that such excess shall be guaranteed by the
administrator of veterans' affairs pursuant to the pro-
visions of Title III of an act of Congress of the United
States of June twenty-two, one thousand nine hundred
forty-four, entitled the "Servicemen's Re-Adjustment Act
of one thousand nine hundred forty-four", as heretofore
or hereafter amended.

(f) No such insurer shall in any manner, either directly
or indirectly, by means of corporations, holding com-
panies, trustees or otherwise, invest in real estate secu-
rities junior to first mortgages unless the first mortgage
in its entirety is owned by the insurer.

Sec. 16. Real Property.—(a) No insurer may acquire or
hold real property except as follows:

(1) Such as shall be requisite for the convenient ac-
modation of the transaction of its own business; the
amount invested in such real property shall not exceed
ten per centum of the investing insurer's assets but the
commissioner may grant permission to the insurer to
invest in real property for such purpose, in such increased
amount as he may deem proper on the showing made if,
upon a hearing held before him, he shall find that the
amount represented by such percentage of the insurer's
assets is insufficient to provide convenient accommoda-
tions for the insurer's business;
(2) Such as shall have been mortgaged to it in good
faith by way of security for loans previously contracted
or for monies due;
(3) Such as shall have been conveyed to it in satis-
faction of debts previously contracted in course of its
dealings;
(4) Such as shall have been purchased at sales or judg-
ments, decrees or mortgages obtained or made for such
debts; and
(5) Such unencumbered real property as shall have
been acquired in whole or in part, in exchange for real
property of approximately the same value theretofore
legally acquired and held by it;
(6) Such as shall be held as security for contracts for
deeds;
(7) (A) Such as may be acquired for the purpose of
leasing the same to any person, firm, or corporation, or
real estate already leased under the following conditions:
a. Where there has already been erected on said prop-
erty a building or other improvements satisfactory to the
purchaser, or where the lessee shall at its own cost erect
thereon, free of liens, a building or other improvements
satisfactory to the lessor, or where the lessor under the
terms and conditions of a lease executed and entered into
simultaneously with the purchaser of the property agrees
to erect a building or other improvements on said prop-
erty.
b. That the said improvements shall remain on the said
property during the period of the lease, and in cases where
the said improvements are put upon said property at the
cost of the lessee the said improvements at the termina-
tion of the lease shall vest, free of liens, in the owner of
the real estate.

c. That during the term of the lease the lessee shall
keep and maintain the said improvements in good repair.

Real estate acquired pursuant to the provisions of this
part (A) shall not be valued in any amount exceeding
the amount actually invested reduced each year by equal
decrements sufficient to write off at least seventy-five per-
cent of the investment at the normal termination of the
lease or at the end of thirty years should the term of
the lease be for a longer period. The total investments
of any insurer under this part (A) shall not exceed five
percent of its assets, nor more than the sum of its capital
and surplus, whichever is less.

(B) Subject to approval of the commissioner, real
estate for recreation, hospitalization, convalescence and
retirement purposes of its employees. Such investment
shall not exceed five percent of the company's surplus.

(C) No investment shall be made by any insurer pur-
suant to this subparagraph (7) which will cause such
insurer's investment in all real property owned or held
by it directly or indirectly to exceed ten percent of its
assets.

(b) All real property acquired for purposes, or in the
manner, specified in subparagraphs other than subpara-
graphs (1), (6) and (7) of paragraph (a) of this section
may be held for a period of five years after the insurer
shall have acquired title to the same and thereafter until
the date specified in an order issued by the commissioner
directing the insurer to dispose of the same. The date
specified in such order shall be not less than six months
from the date of the service of the said order upon the
insurer. No such order shall be issued without a hearing
and a determination by the commissioner that the inter-
ests of the insurer will not suffer materially by the sale
of the same within the period to be specified.

Sec. 17. Disposal of Ineligible Securities.—(a) Secu-
rities or other assets not proper investments under this
article, but lawfully acquired through merger or consoli-
dation with any other insurer or through a reinsurance
agreement, if such assets when originally acquired constituted legal investments for the merging, consolidating or ceding insurer which acquired them, and securities, obligations or other assets incident to the adjustment of any debt or investment when deemed by the board of directors or investment committee to be in the best interests of the insurer, shall not be considered to be acquired in violation of this article; but all such securities, obligations or other assets so acquired or accepted shall be disposed of not later than five years after the date of such acquisition or acceptance.

(b) The commissioner may, upon application by the insurer, extend the time for the disposition of such securities, obligations or other assets described in paragraph (a) of this section, if he is satisfied that such insurer will suffer materially by the forced sale thereof.

(c) Any ineligible investment unlawfully acquired by an insurer shall be disposed of forthwith.

Sec. 18. Revenue Bonds.—Any insurer may invest, subject to the limits prescribed by sections five and six of this article, in revenue bonds issued by any state or the United States, or any agency or instrumentality thereof, or any county, city, town, village or district of any state, if by statutory or other legal requirements applicable thereto such revenue bonds are payable as to both principal and interest from special revenues pledged or otherwise appropriated or by law required to be provided for the purpose of such payment (but not including any obligations payable solely out of special assessments on properties benefited by local improvements): Provided, That such revenue bonds constitute a first and paramount lien upon such special revenues and that such bonds are not in default as to any payment of principal or interest. No insurer shall invest in more than five percent of any one issue of such revenue bonds, nor more than two percent of its assets in such revenue bonds payable from any one public project, nor shall any insurer invest in such revenue bonds in the aggregate exceeding ten percent of its assets, except that any insurer holding a valid license in this State on the first day of January, one thousand
nine hundred fifty-six, and on such date possessed of such revenue bonds in excess of such limits, may apply to the commissioner for an extension of time for such period as the commissioner deems proper for the disposal of such bonds under the provisions of section seventeen of this article.

Sec. 19. Policy Loans.—A life insurer may lend to its policyholders upon pledge of the policy as collateral security a sum not exceeding the applicable cash surrender value specified in the policy.

Sec. 20. Personal Liability of Officers, Directors, Employees and Investment Committee; Misdemeanor.—Any officer, director, employee, or member of the investment committee of an insurer, who knowingly consents to a loan or investment in violation of this article shall be personally liable to the insurer for any loss resulting therefrom and in addition thereto shall be guilty of a misdemeanor.

Sec. 21. Stock of Other Insurers; Investment in Insurer's Own Stock; State and National Bank Stocks.—(a) In addition to such insurance stocks as may be otherwise eligible under this article, an insurer may, upon receiving the written consent of the commissioner, use its funds for the purchase of the controlling capital stock interest or of all the outstanding capital stock of another insurer.

(b) No insurer shall invest in or loan any of its funds on its own stocks nor invest in or loan any of its funds on the stocks of any state or national bank.

Sec. 22. Investments of Foreign and Alien Insurers.—(a) Foreign and alien insurers transacting insurance in West Virginia shall have assets of the same general quality as specified in this article for domestic insurers, except that other investments authorized by the laws of such foreign or alien insurer's state or country of domicile may be recognized as assets in the discretion of the commissioner.

(b) A foreign insurer domiciled in a state that requires West Virginia domiciled insurers to invest in the secu-
Article 9. Administration of Deposits

Section 1. Deposits of Insurers.—The state treasurer of West Virginia shall accept and hold in trust, when made through the commissioner, deposits of securities or funds by insurers as follows:
(a) Deposits required for a license to transact insurance in West Virginia.
(b) Deposits of domestic, foreign, or alien insurers when made pursuant to the laws of other states, provinces, and countries as prerequisite for authority to transact insurance in such state, province, or country.
(c) Deposits in such additional amounts as are permitted to be made by section six of this article.

Sec. 2. Purpose of Deposits.—Such deposits shall be held for purposes as follows:
(a) When the deposit is required for authority to transact insurance in West Virginia the deposit shall be held for the protection of all the insurer’s policyholders and creditors within the United States.
(b) When the deposit is made pursuant to the laws of another state, province, or country, the deposit shall be held for such purposes as is required by such laws, and as specified by the commissioner at the time the deposit is made.
(c) When the deposit is required pursuant to the retaliatory provisions, section sixteen of article three of this chapter, the deposit shall be held for purposes as specified in the commissioner’s order requiring the deposit.

Sec. 3. Assets Eligible for Deposit.—(a) All such deposits required for a license to transact insurance in West Virginia shall consist of cash or any combination of the government obligations described in section seven of article eight of this chapter.
(b) All such deposits required pursuant to the laws of
another state, province, or country, or pursuant to the retaliatory provision, section sixteen of article three of this chapter, shall consist of such assets as are required or permitted by such laws, or as required pursuant to such retaliatory provision.

Sec. 4. Trust Companies as Depositories; State of West Virginia Responsible.—(a) Upon request of the insurer, the state treasurer may designate any solvent trust company or other solvent financial institution having trust powers domiciled in this State as the treasurer's depository to receive and hold any such deposit. Any such deposit so held shall be at the expense of the insurer.

(b) The State of West Virginia shall be responsible for the safekeeping and return of all funds and securities deposited pursuant to this chapter with the state treasurer or in any depository so designated by him.

Sec. 5. Rights of Insurer During Solvency.—So long as the insurer remains solvent and complies with this chapter it may:

(a) Demand, receive, sue for and recover the income from the securities or cash deposited,

(b) Exchange and substitute for the deposited cash or securities, or any part thereof, cash or eligible securities of equivalent or greater value, and

(c) Inspect, at reasonable times, any such deposit.

Sec. 6. Excess Deposits.—An insurer may so deposit cash or eligible securities in an amount exceeding its deposit required or otherwise permitted under this chapter, such excess deposit to be held for the protection of such insurer's policyholders and creditors. During the solvency of the insurer any such excess deposit or part thereof shall be released to the insurer upon its request. During the insolvency of the insurer such excess deposit shall be released only as provided in section seven of this article.

Sec. 7. Release of Deposits.—Any deposit made in this State under this chapter shall be released and returned:

(a) To the insurer upon extinguishment by authorized reinsurance or otherwise of substantially all liability of the insurer for the security of which the deposit is held;
(b) To the insurer to the extent such deposit is in excess of the amount required; or

(c) Upon proper order of a court of competent jurisdiction to the receiver, conservator, rehabilitator or liquidator of the insurer, or to any other properly designated official or officials who succeed to the management and control of the insurer's assets.

Sec. 8. Release Only on Order.—No such release of deposited funds shall be made except upon application to and written order of the commissioner. The commissioner shall have no personal liability for any such release of any such deposit or part thereof so made by him in good faith.

Sec. 9. Deposit Not Subject to Levy.—No judgment creditor or other claimant of an insurer shall levy upon any deposit held pursuant to this chapter, or upon any part thereof; except, that such levy may be permitted if so specified in the commissioner's order requiring the deposit pursuant to the retaliatory provision, section sixteen of article three of this chapter.

Article 10. Rehabilitation and Liquidation

Section 1. Definitions.—For the purpose of this article:

(a) "Impairment" or "insolvency". The capital of a stock insurer, or the surplus of a mutual or reciprocal insurer shall be deemed to be impaired and the insurer shall be deemed to be insolvent, when such insurer shall not be possessed of assets at least equal to all liabilities and required reserves together with its total issued and outstanding capital stock if a stock insurer, or the minimum surplus if a mutual or reciprocal insurer, required by this chapter to be maintained for the kind or kinds of insurance it is then licensed to transact.

(b) "Insurer" means any person, firm, corporation, association or aggregation of persons doing an insurance business and subject to the insurance supervisory authority of, or to liquidation, rehabilitation, reorganization or conservation by the commissioner or the equivalent insurance supervisory official of another state.

(c) "Delinquency proceeding" means any proceeding commenced against an insurer pursuant to this article for
the purpose of liquidating, rehabilitating, reorganizing or conserving such insurer.

d) "State" means any state of the United States and also the District of Columbia, Alaska, Hawaii, and Puerto Rico.

e) "Foreign country" means territory not in any state.

(f) "Domiciliary state" means the state in which an insurer is incorporated or organized, or in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become authorized to do business in such state, has at the commencement of delinquency proceedings, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States, and any such insurer is deemed to be domiciled in such state.

g) "Ancillary state" means any state other than a domiciliary state.

(h) "Reciprocal state" means any state other than this State in which in substance and effect the provisions of the uniform insurers liquidation act, as defined in section twenty-one of this article, are in force, including the provisions requiring that the insurance commissioner or equivalent insurance supervisory official be the receiver of a delinquent insurer.

(i) "General assets" means all property, real, personal or otherwise, not specifically mortgaged, pledged, deposited or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders or all policyholders and creditors in the United States shall be deemed general assets.

(j) "Preferred claim" means any claim with respect to which the law of the state or of the United States accords priority of payments from the general assets of the insurer.

(k) "Special deposit claim" means any claim secured
by a deposit made pursuant to statute for the security or
benefit of a limited class or classes of persons, but not
including any general assets.

(1) "Secured claim" means any claim secured by mort-
gage, trust deed, pledge, deposit as security, escrow, or
otherwise, but not including special deposit claim or claims
against general assets. The term also includes claims
which more than four months prior to the commencement
of delinquency proceedings in the state of the insurer's
domicile have become liens upon specific assets by reason
of judicial process.

(m) "Receiver" means receiver, liquidator, rehabilita-
tor, or conservator as the context may require.

Sec. 2. Jurisdiction, Venue and Appeal of Delinquency
Proceedings; Exclusive Remedy.—(a) The circuit courts
of this State or the judges thereof in vacation are vested
with exclusive original jurisdiction of delinquency pro-
ceedings under this article, and are authorized to make
necessary and proper orders to carry out the purposes
of this article.

(b) The venue of delinquency proceedings against a
domestic insurer shall be in the circuit court of the county
of the insurer's principal place of business. The venue of
such proceedings against foreign and alien insurers shall
be in the circuit court of Kanawha County.

(c) Delinquency proceedings pursuant to this article
shall constitute the sole and exclusive method of liquidat-
ing, rehabilitating, reorganizing or conserving an insurer,
and no court shall entertain a petition for the commence-
ment of such proceedings unless the same has been filed
in the name of the State on the relation of the insurance
commissioner.

(d) An appeal shall lie to the supreme court of appeals
from an order granting or refusing rehabilitation, liquidation,
or conservation, and from every other order in delin-
quency proceedings having the character of a final
order as to the particular portion of the proceedings em-
braced therein.

Sec. 3. Commencement of Delinquency Proceedings.—
The insurance commissioner shall commence any such
proceeding by an application to the court for an order
directing the insurer to show cause why the commissioner
should not have the relief prayed for. On the return of
such order to show cause, and after a full hearing, the
court shall either deny the application or grant the appli-
cation, together with such other relief as the nature of
the case and the interests of policyholders, creditors,
stockholders, members, subscribers, or the public may
require.

Sec. 4. Injunctions.—(a) Upon application by the com-
missioner for such an order to show cause, or at any time
thereafter, the court may without notice issue an injunc-
tion restraining the insurer, its officers, directors, stock-
holders, members, subscribers, agents and all other per-
sons from the transaction of its business or the waste or
disposition of its property until the further order of the
court.

(b) The court may at any time during a proceeding
under this article issue such other injunctions or orders
as may be deemed necessary to prevent interference with
the commissioner or the proceeding, or waste of the assets
of the insurer, or the commencement or prosecution of any
actions, or the obtaining of preferences, judgments, attach-
ments or other liens, or the making of any levy against
the insurer or against its assets or any part thereof.

(c) Notwithstanding any other provision of law, no
bond shall be required of the commissioner as a prerequi-
site for the issuance of any injunction or restraining order
pursuant to this section.

Sec. 5. Grounds For Rehabilitation of Domestic Insurers.
—The commissioner may apply to the court for an order
appointing him as receiver of and directing him to reha-
bilitate a domestic insurer upon one or more of the follow-
the insurer:

(a) Is impaired or insolvent.

(b) Has refused to submit its books, records, accounts
or affairs to reasonable examination by the commissioner.

(c) Has failed to comply with an order of the commis-
sioner to make good an impairment of capital or surplus
or both.
(d) Has transferred or attempted to transfer substantially its entire property or business, or has entered into any transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without having first obtained the written approval of the commissioner.

(e) Has wilfully violated its charter or any law of this State.

(f) Has an officer, director, or manager who has refused to be examined under oath concerning its affairs, for which purpose the commissioner is hereby authorized to conduct and to enforce by all appropriate and available means any such examination under oath in any other state or territory of the United States, in which any such officer, director, or manager may then presently be, to the full extent permitted by the laws of such other state or territory, this special authorization considered.

(g) Has been the subject of an application for the appointment of a receiver, trustee, custodian, or sequestrator of the insurer or its property otherwise than pursuant to the provisions of this chapter, but only if such appointment has been made or is imminent and its effect is or would be to oust the courts of this State of jurisdiction hereunder.

(h) Has consented to such an order through a majority of its directors, stockholders, members or subscribers.

(i) Has failed to pay a final judgment rendered against it in this State upon any insurance contract issued or assumed by it, within thirty days after the judgment became final or within thirty days after the time for taking an appeal has expired or within thirty days after dismissal of an appeal before final determination, whichever date is the later.

Sec. 6. **Grounds for Liquidation.**—The commissioner may apply to the court for an order appointing him as receiver (if his appointment as receiver shall not be then in effect) and directing him to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this State, regardless of whether or not there has been a prior order direct-
ing him to rehabilitate such insurer, upon any of the
grounds specified in section five of this article, or if such
insurer:
(a) Has ceased transacting business for a period of one
year, or
(b) Is an insolvent insurer and has commenced volun-
tary liquidation or dissolution, or attempts to commence
or prosecute any action or proceeding to liquidate its
business or affairs, or to dissolve its corporate charter, or
to procure the appointment of a receiver, trustee, cus-
todian, or sequestrator under any law except this chapter.

Sec. 7. Grounds for Conserving Assets of Foreign In-
surers.—The commissioner may apply to the court for an
order appointing him as receiver or ancillary receiver, and
directing him to conserve the assets within this State, of
a foreign insurer upon any of the following grounds:
(a) Upon any of the grounds specified in sections five
or six of this article, or
(b) Upon the ground that its property has been seques-
trated in its domiciliary sovereignty or in any other
sovereignty.

Sec. 8. Grounds for Conserving Assets of Alien Insurers.
—The commissioner may apply to the court for an order
appointing him as receiver or ancillary receiver, and
directing him to conserve the assets within this State, of
any alien insurer upon any of the following grounds:
(a) Upon any of the grounds specified in sections five
or six of this article.
(b) Upon the ground that the insurer has failed to
comply, within the time designated by the commissioner,
with an order made by him to make good an impairment
of its trusteed funds, or
c) Upon the ground that the property of the insurer
has been sequestrated in its domiciliary sovereignty or
elsewhere.

Sec. 9. Grounds for Ancillary Liquidation of Foreign In-
surers.—The commissioner may apply to the court for an
order appointing him as ancillary receiver of and directing
him to liquidate the business of a foreign insurer having
assets, business, or claims in this State upon the appoint-
ment in the domiciliary state of such insurer of a receiver,
liquidator, conservator, rehabilitator or other officer by
whatever name called for the purpose of liquidating the
business of such insurer.

Sec. 10. Order of Rehabilitation.—(a) An order to re-
habilitate a domestic insurer shall direct the commissioner
forthwith to take possession of the property of the insurer
and to conduct the business thereof, and to take such steps
toward removal of the causes and conditions which have
made rehabilitation necessary as the court may direct.
(b) If at any time the commissioner deems that further
efforts to rehabilitate the insurer would be useless, he
may apply to the court for an order of liquidation.
(c) The commissioner, or any interested person upon
due notice to the commissioner, at any time may apply to
the court for an order terminating the rehabilitation pro-
ceedings and permitting the insurer to resume possession
of its property and the conduct of its business, but no such
order shall be granted except when, after a full hearing,
the court has determined that the purposes of the pro-
ceeding have been fully accomplished.

Sec. 11. Order of Liquidation of Domestic Insurers.—
(a) An order to liquidate the business of a domestic in-
surer shall direct the commissioner forthwith to take
possession of the property of the insurer, to liquidate its
business, to deal with the insurer's property and business
in his own name as insurance commissioner or in the name
of the insurer, as the court may direct, and to give notice
to all creditors who may have claims against the insurer
to present such claims.
(b) The commissioner may apply for and secure an
order dissolving the corporate existence of a domestic
insurer upon his application for an order of liquidation of
such insurer or at any time after such order has been
granted.

Sec. 12. Order of Liquidation of Alien Insurers.—An
order to liquidate the business of a United States branch
of an alien insurer having trusteeed assets in this State shall
be in the same terms as those prescribed for domestic
insurers, save and expect only that the assets of the busi-
ness of such United States branch shall be the only assets
included therein.

Sec. 13. Order of Conservation or Ancillary Liquidation
of Foreign or Alien Insurers.—(a) An order to conserve
the assets of a foreign or alien insurer shall require the
commissioner forthwith to take possession of the property
of the insurer within this State and to conserve it, subject
to the further direction of the court.
(b) An order to liquidate the assets in this State of a
foreign insurer shall require the commissioner forthwith
to take possession of the property of the insurer within
this State and to liquidate it subject to the orders of the
court and with due regard to the rights and powers of the
domiciliary receiver, as provided in this article.

Sec. 14. Conduct of Delinquency Proceedings Against
Domestic and Alien Insurers.—(a) Whenever under this
article a receiver is to be appointed in delinquency pro-
ceedings for a domestic or alien insurer, the court shall
appoint the insurance commissioner as such receiver. The
court shall order the commissioner forthwith to take pos-
session of the assets of the insurer and to administer the
same under the orders of the court.
(b) As domiciliary receiver, the commissioner shall be
vested by operation of law with the title to all of the
property, contracts, and rights of action and all of the
books and records of the insurer, wherever located, as of
the date of entry of the order directing him to rehabilitate
or liquidate a domestic insurer or to liquidate the United
States branch of an alien insurer domiciled in this State,
and he shall have the right to recover the same and reduce
the same to possession; except that ancillary receivers in
reciprocal states shall have, as to assets located in their
respective states, the rights and powers which are herein
prescribed for ancillary receivers appointed in this State
as to assets located in this State.
(c) The recording of a certified copy of the order direct-
ing possession to be taken in the office of the clerk of the
county court of the county where the proceedings are
pending and in the office of the clerk of the county court of any county wherein the insurer has property or other assets, recorded in the same manner as deeds to real property are recorded, shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly recorded or filed.

(d) The commissioner as domiciliary receiver shall be responsible for the proper administration of all assets coming into his possession or control. The court may at any time require a bond from him or his deputies if deemed desirable for the protection of such assets.

(e) Upon taking possession of the assets of an insurer, the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are authorized by this article for the purpose of rehabilitating, liquidating, or conserving the affairs or assets of the insurer.

(f) In connection with delinquency proceedings, the commissioner may appoint one or more special deputy commissioners of insurance to act for him and may employ such counsel, clerks, and assistants as he deems necessary. The compensation of the special deputies, counsel, clerks, or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Within the limits of duties imposed upon them, special deputies shall possess all the powers given to and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to such proceedings.

Sec. 15. Conduct of Delinquency Proceedings Against Foreign Insurers.—(a) Whenever under this article an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this State, the court shall appoint the insurance commissioner as ancillary receiver. The commissioner shall file a petition requesting the appointment on the grounds set forth in section nine of this article if he finds that there are sufficient assets of the insurer located in this State to justify the
appointment of an ancillary receiver, or if ten or more
persons resident in this State having claims against such
insurer file a petition with the commissioner requesting
the appointment of such ancillary receiver.

(b) The domiciliary receiver for the purpose of liqui-
dating an insurer domiciled in a reciprocal state shall be
vested by operation of law with the title to all of the
property, contracts, and rights of action and all of the
books and records of the insurer located in this State, and
he shall have the immediate right to recover balances due
from local agents and to obtain possession of any books
and records of the insurer found in this State. He shall
also be entitled to recover the other assets of the insurer
located in this State, except that upon the appointment of
an ancillary receiver in this State, the ancillary receiver
shall during the ancillary receivership proceedings have
the sole right to recover such other assets. The ancillary
receiver shall, as soon as practicable, liquidate from their
respective securities those special deposit claims and
secured claims which are proved and allowed in the
ancillary proceedings in this State, and shall pay the
necessary expenses of the proceedings. All remaining
assets he shall promptly transfer to the domiciliary re-
ceiver. Subject to the foregoing provisions, the ancillary
receiver and his deputies shall have the same powers and
be subject to the same duties with respect to the adminis-
tration of such assets as a receiver of an insurer domiciled
in this State.

(c) The domiciliary receiver of an insurer domiciled
in a reciprocal state may sue in this State to recover any
assets of such insurer to which he may be entitled under
the laws of this State.

Sec. 16. Claims of Nonresidents Against Domestic Ins-
ers.—(a) In a delinquency proceeding begun in this
State against a domestic insurer, claimants residing in
reciprocal states may file claims either with the ancillary
receivers, if any, in their respective states, or with the
domiciliary receiver. All such claims must be filed on or
before the last date fixed for the filing of claims in the
domiciliary delinquency proceedings.
(b) Controverted claims belonging to claimants residing in reciprocal states may either be proved in this State, or if ancillary proceedings have been commenced in such reciprocal states, may be proved in those proceedings. In the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appear and be heard is afforded the domiciliary receiver of this State as provided in section seventeen of this article with respect to ancillary proceedings in this State, the final allowance of such claim by the courts in the ancillary state shall be accepted in this State as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary state.

Sec. 17. Claims Against Foreign Insurers.—(a) In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against such insurer who reside within this State may file claims either with the ancillary receiver, if any, appointed in this State, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in this State may either be proved in the domiciliary state as provided by the law of that state, or if ancillary proceedings have been commenced in this State, be proved in those proceedings. In the event that any such claimant elects to prove his claim in this State, he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered mail or by personal service at least forty days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any. If the domiciliary receiver within thirty days after the giving of such notice shall give notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his intention to contest such claim, he shall be entitled to appear or to be represented in any proceeding in this State involving adjudication of the
claim. The final allowance of the claim by the courts of this State shall be accepted as conclusive as to its amount and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within this State.

Sec. 18. Proof of Claims.—(a) All claims against an insurer against which delinquency proceedings have been begun shall set forth in reasonable detail the amount of the claim, or the basis upon which such amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. All such claims shall be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and shall be supported by such documents as may be material thereto.

(b) All claims filed in this State shall be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this article.

(c) Within ten days of the receipt of any claim, or within such further period as the court may, for good cause shown, fix, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court shall determine to such persons as shall appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.

(d) At the hearing, all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order shall be deemed to be an appealable order.

Sec. 19. Priority of Certain Claims.—(a) In a delinquency proceeding against an insurer domiciled in this State, claims owing to residents of ancillary states shall
be preferred claims if like claims are preferred under
the laws of this State. All such claims owing to residents
or nonresidents shall be given equal priority of payment
from general assets regardless of where such assets are
located.
(b) In a delinquency proceeding against an insurer
domiciled in a reciprocal state, claims owing to residents
of this State shall be preferred if like claims are preferred
by the laws of that state.
(c) The owners of special deposit claims against an in-
surer for which a receiver is appointed in this or any
other state shall be given priority against their several
special deposits in accordance with the provisions of the
statutes governing the creation and maintenance of such
deposits. If there is a deficiency in any such deposit so
that the claims secured thereby are not fully discharged
therefrom, the claimants may share in the general assets,
but such sharing shall be deferred until general creditors,
and also claimants against other special deposits who
have received smaller percentages from their respective
special deposits, have been paid percentages of their
claims equal to the percentage paid from the special de-
posit.
(d) The owner of a secured claim against an insurer
for which a receiver has been appointed in this or any
other state may surrender his security and file his claim
as a general creditor, or the claim may be discharged
by resort to the security, in which case the deficiency, if
any, shall be treated as a claim against the general assets
of the insurer on the same basis as claims of unsecured
creditors. If the amount of the deficiency has been adju-
dicated in ancillary proceedings as provided in this ar-
ticle or if it has been adjudicated by a court of competent
jurisdiction in proceedings in which the domiciliary re-
ceiver has had notice and opportunity to be heard, such
amounts shall be conclusive; otherwise the amount shall
be determined in the delinquency proceeding in the domi-
ciliary state.

Sec. 20. Attachment or Garnishment of Assets.—Dur-
ing the pendency of delinquency proceedings in this or
any reciprocal state, no action or proceeding in the nature
of an attachment, garnishment or execution shall be com-
cenced or maintained in the courts of this State against
the delinquent insurer or its assets. Any lien obtained
by any such action or proceeding within four months
prior to the commencement of any such delinquency pro-
ceeding or at any time thereafter shall be void as against
any rights arising in such delinquency proceeding.

Sec. 21. Uniform Insurers Liquidation Act.—(a) Para-
graphs (b) to (m), inclusive, of section one of this article,
together with sections three, four, and fourteen to twenty,
inclusive, of this article constitute and may be referred
to as the uniform insurers liquidation act.
(b) The uniform insurers liquidation act shall be so
interpreted and construed as to effectuate its general pur-
pose to make uniform the law of those states that enact
it. To the extent that its provisions when applicable con-
FLICT with other provisions of this article the provisions of
such act shall control.

Sec. 22. Deposit of Monies Collected.—The monies col-
clected by the commissioner in a proceeding under this
article shall be from time to time deposited in one or
more state or national banks, savings banks, or trust
companies, and in the case of the insolvency or voluntary
or involuntary liquidation of any such depository which
is an institution organized and supervised under the laws
of this State, such deposits shall be entitled to priority
of payment on an equality with any other priority given
by the banking laws of this State. The commissioner may
in his discretion deposit such monies or any part thereof
in a national bank or trust company as a trust fund.

Sec. 23. Exemption From Fees.—The commissioner shall
not be required to pay any fee to any public officer in
this State for filing, recording, issuing a transcript or cer-
tificate or authenticating any paper or instrument per-
taining to the exercise by the commissioner of any of
the powers or duties conferred upon him under this ar-
ticle, whether or not such paper or instrument be exe-
cuted by the commissioner or his deputies, employees or
attorneys of record and whether or not it is connected
with the commencement of any action or proceeding by
or against the commissioner, or with the subsequent con-
duct of such action or proceeding.

Sec. 24. Borrowing on Pledge of Assets.—For the pur-
pose of facilitating the rehabilitation, liquidation, con-
servation or dissolution of an insurer pursuant to this
article, the commissioner may, subject to the approval
of the court, borrow money and execute, acknowledge
and deliver notes or other evidences of indebtedness
therefor and secure the repayment of the same by the
mortgage, pledge, assignment, transfer in trust, or hy-
pothecation of any or all of the property, whether real,
personal or mixed, of such insurer, and the commissioner,
subject to the approval of the court, shall have power to
take any and all other action necessary and proper to
consummate any such loan and to provide for the repay-
ment thereof. The commissioner shall be under no obli-
gation personally or in his official capacity to repay any
loan made pursuant to this section.

Sec. 25. Date Rights Fixed on Liquidation.—The rights
and liabilities of the insurer and of its creditors, policy-
holders, stockholders, members, subscribers, and all other
persons interested in its estate shall, unless otherwise
directed by the court, be fixed as of the date on which
the order directing the liquidation of the insurer is en-
tered in the office of the clerk of the court which made
the order, subject to the provisions of this article with
respect to the rights of claimants holding contingent
claims.

Sec. 26. Voidable Transfers.—(a) Any transfer of, or
lien upon, the property of an insurer which is made or
created within four months prior to the granting of an
order to show cause under this article with the intent
of giving to any creditor or of enabling him to obtain a
greater percentage of his debt than any other creditor
of the same class and which is accepted by such creditor
having reasonable cause to believe that such preference
will occur, shall be voidable.

(b) Every director, officer, employee, stockholder,
member, subscriber, and any other person acting on be-
half of such insurer who shall be concerned in any such act or deed and every person receiving thereby any property of such insurer or the benefit thereof shall be personally liable therefor and shall be bound to account to the insurance commissioner.

(c) The insurance commissioner as a receiver in any proceeding under this article may avoid any transfer of or lien upon the property of an insurer which any creditor, stockholder, subscriber or member of such insurer might have avoided and may recover the property so transferred unless such person was a bona fide holder for value prior to the date of the granting of an order to show cause under this article. Such property or its value may be recovered from anyone who has received it except a bona fide holder for value as herein specified.

Sec. 27. Priority of Claims for Compensation.—(a) Compensation actually owing to employees other than officers of an insurer, for services rendered within three months prior to the commencement of a proceeding against the insurer under this article, but not exceeding three hundred dollars for each such employee, shall be paid prior to the payment of any other debt or claim, and in the discretion of the commissioner may be paid as soon as practicable after the proceeding has been commenced; except that at all times the commissioner shall reserve such funds as will in his opinion be sufficient for the expenses of administration.

(b) Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of such employees.

Sec. 28. Offsets.—(a) In all cases of mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under this article, such credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in subsection (b), below.

(b) No offset shall be allowed in favor of any such person where (1) the obligation of the insurer to such person would not at the date of the entry of any liquidation order or otherwise, as provided in section twenty
five of this article, entitle him to share as a claimant in the assets of the insurer, or (2) the obligation of the insurer to such person was purchased by or transferred to such person with a view of its being used as an offset, or (3) the obligation of such person is to pay an assessment levied against the members of a mutual insurer, or against the subscribers of a reciprocal insurer, or is to pay a balance upon the subscription to the capital stock of a stock insurer.

Sec. 29. Allowance of Certain Claims.—(a) No contingent claim shall share in a distribution of the assets of an insurer which has been adjudicated to be insolvent by an order made pursuant to this article, except that such claim shall be considered, if properly presented, and may be allowed to share where:

(1) Such claim becomes absolute against the insurer on or before the last day for filing proof of claims against the assets of such insurer, or
(2) There is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent.

(b) Where an insurer has been so adjudicated to be insolvent any person who has a cause of action against an insured of such insurer under a liability insurance policy issued by such insurer shall have the right to file a claim in the liquidation proceeding, regardless of the fact that such claim may be contingent, and such claim may be allowed:

(1) If it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured, and
(2) If such person shall furnish suitable proof, unless the court for good cause shown shall otherwise direct, that no further valid claim against such insurer arising out of his cause of action other than those already presented can be made, and
(3) If the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than its maximum liability would be were it not in liquidation.

(c) No judgment against such an insured taken after
the date of entry of the liquidation order shall be con-
considered in the liquidation proceedings as evidence of lia-
bility, or of the amount of damages, and no judgment
against an insured taken by default or by collusion prior
to the entry of the liquidation order shall be considered
as conclusive evidence in the liquidation proceedings,
either of the liability of such insured to such person upon
such cause of action or of the amount of damages to
which such person is therein entitled.

(d) No claim of any secured claimant shall be allowed
at a sum greater than the difference between the value of
the claim without security and the value of the security
itself as of the date of the entry of the order of liquidation
or such other date set by the court for determining rights
and liabilities as provided in section twenty-five of this
article unless the claimant shall surrender his security
to the commissioner, in which event the claim shall be
allowed in the full amount for which it is valued.

Sec. 30. Time to File Claims.—(a) If upon the granting
of an order of liquidation under this article or at any
time thereafter during the liquidation proceeding, the
insurer shall not be clearly solvent, the court shall, after
such notice and hearing as it deems proper, make an order
declaring the insurer to be insolvent. Thereupon regard-
less of any prior notice which may have been given to
creditors, the commissioner shall notify all persons who
may have claims against such insurer and who have not
filed proper proofs thereof to present the same to him,
at a place specified in such notice, within four months
from the date of entry of such order, or if the commis-
sioner shall certify that it is necessary, within such longer
time as the court shall prescribe. The last day for filing
of proofs of claims shall be specified in the notice, and
notice shall be given in a manner to be determined by
the court.

(b) Proofs of claim may be filed subsequent to the
date specified, but no such claim shall share in the dis-
tribution of the assets until all allowed claims, proofs of
which have been filed before said date, have been paid
in full with interest.
Sec. 31. **Report for Assessment.**—Within three years from the date an order of rehabilitation or liquidation of a domestic mutual insurer or a domestic reciprocal insurer was entered in the office of the clerk of the court by which such order was made, the commissioner may make a report to the court setting forth:

(a) The reasonable value of the assets of the insurer,
(b) The insurer's probable liabilities, and
(c) The probable necessary assessment, if any, to pay all claims and expenses in full, including expenses of administration.

Sec. 32. **Levy of Assessment.**—(a) Upon the basis of the report provided for in section thirty-one of this article, including any amendments thereof, the court, ex parte, may levy one or more assessments against all members of such insurer who, as shown by the records of the insurer, were members (if a mutual insurer) or subscribers (if a reciprocal insurer) at any time within one year prior to the date of issuance of the order to show cause under section three of this article.

(b) Such assessment or assessments shall cover the excess of the probable liabilities over the reasonable value of the assets, together with estimated cost of collection and percent of uncollectibility thereof. The total of all assessments against any member or subscriber with respect to any policy, whether levied pursuant to this article or pursuant to any other provision of this chapter, shall be for no greater amount than that specified in the policy or policies of the member or subscriber and as limited under this chapter, except that if the court finds that the policy was issued at a rate of premium below the minimum rate lawfully permitted for the risk insured, the court may determine the upper limit of such assessment upon the basis of such minimum rate.

(c) No assessment shall be levied against any member or subscriber with respect to any nonassessable policy issued in accordance with this chapter.

Sec. 33. **Order to Pay Assessment.**—After levy of assessment as provided in section thirty-two of this article, upon the filing of a further detailed report by the commissioner
the court shall issue an order directing each member (if a mutual insurer) or each subscriber (if a reciprocal insurer), if he shall not pay the amount assessed against him to the commissioner on or before a day to be specified in the order, to show cause why he should not be held liable to pay such assessment, together with costs as provided in section thirty-five of this article, and to show cause why the commissioner should not have judgment therefor.

Sec. 34. Publication and Service of Assessment Order.—The commissioner shall cause a notice of such assessment order, setting forth a brief summary of the contents of such order, to be (a) published in such manner as shall be directed by the court, and (b) enclosed in a sealed envelope, addressed and mailed postage prepaid, to each member or subscriber liable thereunder at his last known address as it appears on the records of the insurer, at least twenty days before the return day of the order to show cause provided for in section thirty-three of this article.

Sec. 35. Judgment Upon the Assessment.—(a) Upon the return day of the order to show cause provided for in section thirty-three of this article, if the member or subscriber does not appear and serve duly verified objections upon the commissioner, the court shall make an order adjudging that such member or subscriber is liable for the amount of the assessment against him, together with costs, and that the commissioner may have judgment against the member or subscriber therefor.

(b) If, on such return day, the member or subscriber shall appear and serve duly verified objections upon the commissioner, there shall be a full hearing before the court which, after such hearing, shall make such order as the facts shall warrant.

(c) Any such order shall have the same force and effect, shall be entered and docketed and may be appealed from, as if it were a judgment in an original action brought in the court in which the proceeding is pending.
Article 11. Unfair Practices and Frauds

Section 1. Declaration of Purpose.—The purpose of this article is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the act of Congress of March ninth, one thousand nine hundred forty-five (Public Law fifteen, seventy-ninth Congress), by defining, or providing for the determination of, all such practices in this State which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

Sec. 2. Unfair Practices Prohibited.—No person shall engage in this State in any trade practices which is defined in this article as, or determined pursuant to this article to be, an unfair method of competition or unfair or deceptive act or practice in the business of insurance.

Sec. 3. Misrepresentations and False Advertising of Policies.—No person shall make, issue, circulate, or cause to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or make any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or make any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or use any name or title of any policy or class of policies misrepresenting the true nature thereof, or make any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

Sec. 4. False Information and Advertising Generally.—No person shall make, publish, disseminate, circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet,
letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

Sec. 5. *Defamation.*—No person shall make, publish, disseminate or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false or maliciously critical of or derogatory to the financial condition of an insurer and which is calculated to injure any person engaged in the business of insurance.

Sec. 6. *Boycott, Coercion and Intimidation.*—(a) No person shall enter into any agreement to commit, or by any concerted action commit, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

(b) No person engaged in the business of financing the purchase of real or personal property or of lending money on the security of real or personal property, nor any agent, servant or employee of such person, shall directly or indirectly impose or require as a condition of any such financing or loaning of money, whether the financing or the security to be taken shall be in the form of a mortgage, deed of trust, contract, pledge or otherwise, or as a condition to the renewal or extension of any such loan or financing or to the performance of any other act in connection therewith, that the purchaser or borrower, or his successors, shall negotiate for or procure any policy of insurance or renewal thereof covering the property involved in the transaction from or through a particular insurer, agent, solicitor, broker or other person; but the foregoing shall not be deemed to prevent such lender from reasonably exercising the right to approve or disapprove the sufficiency of any policy or renewal thereof or insurer issuing same tendered in connection with such
transaction by the person seeking or obtaining such financ-
ing or loan.

Sec. 7. False Financial Statements.—(a) No person shall
file with any supervisory or other public official, or make,
publish, disseminate, circulate or deliver to any person,
or place before the public, or cause directly or indirectly,
to be made, published, disseminated, circulated, delivered
to any person or placed before the public, any false state-
ment of financial condition of an insurer with intent to
deceive.

(b) No person shall make any false entry in any book,
report or statement of any insurer with intent to deceive
any agent or examiner lawfully appointed to examine
into its condition or into any of its affairs, or any public
official to whom such insurer is required by law to report,
or who has authority by law to examine into its condition
or into any of its affairs or, with like intent, wilfully omit
to make a true entry of any material fact pertaining to
the business of such insurer in any book, report or state-
ment of such insurer.

Sec. 8. Unfair Discrimination.—(a) No person shall
make or permit any unfair discrimination between indi-
viduals of the same class and equal expectation of life in
the rates charged for any contract of life insurance or
of life annuity or in the dividends or other benefits pay-
able thereon, or in any other of the terms and conditions
of such contract.

(b) No person shall make or permit any unfair dis-
tribution between individuals of the same class and
of essentially the same hazard in the amount of premium,
policy fees, or rates charged for any policy or contract
of accident and sickness insurance or in the benefits pay-
able thereunder, or in any of the terms or conditions of
such contract, or in any other manner whatever.

c) As to kinds of insurance other than life and acci-
dent and sickness, no person shall make or permit any
unfair discrimination in favor of particular persons, or
between insureds or subjects of insurance having sub-
stantially like insuring, risk, and exposure factors, or
expense elements, in the terms or conditions of any in-
surance contract, or in the rate or amount of premium
charged therefor. This subsection shall not apply as to any premium or premium rate in effect pursuant to article twenty of this chapter (rate laws).

Sec. 9. Rebates on Life or Accident and Sickness Policies.—Except as otherwise expressly provided by law, no person shall knowingly permit or offer to make or make any contract of life insurance, life annuity, or accident and sickness insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow, or give, directly or indirectly, as an inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract.

Sec. 10. Exceptions to Discrimination and Rebate Provisions for Life and Accident and Sickness Policies.—Nothing in sections eight or nine of this article shall be construed as including within the definition of discrimination or rebates any of the following practices:

(a) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or part out of surplus accumulated from nonparticipating insurance: Provided, That any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders.

(b) In the case of life insurance policies issued on the debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(c) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

(d) Issuing life or accident and sickness policies on a salary savings or payroll deduction plan at a reduced rate
Sec. 11. Rebates on Insurance Other Than Life and Accident and Sickness.—No insurer or employee, agent or representative thereof, or broker shall knowingly charge, demand or receive a premium for any policy of insurance, other than life or accident and sickness insurance and ocean marine and marine protection and indemnity insurance, except in accordance with an applicable filing on file with the commissioner. No such insurer, employee, agent, representative, or broker shall 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 relative, representative or employee of such insured shall knowingly receive 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 and brokers, 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 sur-eyship and the word “policy” includes bond.

Sec. 12. Inducements.—No insurer, agent, broker, solicitor, or other person shall, as an inducement to insurance, directly or indirectly, offer, sell, buy, or offer or promise to buy, sell, give, promise, or allow to the insured or prospective insured or to any other person in his behalf in any manner whatsoever:

(a) Any employment.
(b) Any shares of stock or other securities issued or
at any time to be issued or any interest therein or rights thereto.

(c) Any advisory board contract, or any similar contract, agreement or understanding, offering, providing for, or promising any special profits.

(d) Any prizes, goods, wares, merchandise, or tangible property.

(e) Any loans except those made solely for the purpose of paying policy premiums, or policy loans pursuant to section nineteen of article eight of this chapter.

Sec. 13. Interlocking Ownership or Management; Multiple Directorship.—(a) Any insurer may retain, invest in or acquire the whole or any part of the capital stock of any other insurer or insurers, or have a common management with any other insurer or insurers, unless such retention, investment, acquisition or common management is inconsistent with any other provision of this chapter, or unless by reason thereof the business of such insurers with the public is conducted in a manner which substantially lessens competition generally in the insurance business or tends to create a monopoly therein.

(b) Any person otherwise qualified may be a director of two or more insurers which are competitors, unless the effect thereof is to substantially lessen competition between insurers generally or tends to create a monopoly.

Sec. 14. Violations, Cease and Desist Orders, Penalty.—If, after notice and hearing, the commissioner determines that any person has engaged in or is engaging in any method of competition, act or practices in violation of the provisions of this article or any rules or regulations promulgated by the commissioner thereunder, the commissioner shall issue an order directing such person to cease and desist from engaging in such method of competition, act or practice. No order of the commissioner pursuant to this section or order of court to enforce it, or holding of a hearing, shall in any manner relieve or absolve any person affected by such order or hearing from any other liability, penalty or forfeiture under law.

Sec. 15. Undefined Acts or Practices.—If, after notice
and hearing, the commissioner determines that any per-
son transacting insurance is engaging in this State in any
method of competition or act or practice in the transac-
tion of such insurance which is not defined in this article,
and that such method of competition is unfair or such act
or practice is unfair or deceptive, the commissioner shall
issue an order directing such person to cease and desist
from engaging in such method of competition, act or
practice.

**Article 12. Agents, Brokers, Solicitors and Excess Line**

Section 1. *License Required.*—(a) No person shall in
West Virginia act as or hold himself out to be an agent,
broker or solicitor nor shall any person in any manner
solicit, negotiate, make or procure insurance covering
subjects of insurance resident, located or to be performed
in West Virginia, unless then licensed therefor pursuant
to this article.

(b) No agent, broker or solicitor or any representative
or employee thereof shall solicit or take application for,
negotiate, procure or place for others any kind of insur-
ance for which he is not then licensed.

(c) No insurer shall accept any business from any agent
who does not then hold an appointment as agent for such
insurer pursuant to this article.

Sec. 2. *General Qualifications.*—For the protection of
the people of West Virginia, the commissioner shall not
issue, renew or permit to exist any agent's, broker's or
solicitor's license except to an individual who:

(a) Is twenty-one years of age or more, except that
present licensees who otherwise qualify may secure re-
newal even though they be less than twenty-one.

(b) Is a resident of West Virginia, except that a broker's
license shall be issued only to non-residents, and except
for non-resident life and accident and sickness agents as
provided in section eight of this article.

(c) Is, in the case of an agent applicant, appointed as
agent by a licensed insurer for the kind or kinds of insur-
ance for which application is made, subject to issuance of
license, or, in the case of a solicitor applicant, appointed as
solicitor by a licensed resident agent, subject to issuance
of license.
(d) Does not intend to use the license principally for
the purpose, in the case of life or accident and sickness
insurance, of procuring insurance on himself, members of
his family or his relatives; or, as to insurance other than
life and accident and sickness, upon his property or ins-
surable interests or those of his family or his relatives or
those of his employer, employees, or firm, or corporation
in which he owns a substantial interest, or of the em-
ployees of such firm or corporation, or on property or
insurable interests for which the applicant or any such
relative, employer, firm or corporation is the trustee, bailee
or receiver. For the purposes of this provision, a vendor's
or lender's interest in property sold or being sold under
contract or which is the security for any loan, shall not
be deemed to constitute property or an insurable interest
of such vendor or lender.
(e) Satisfies the commissioner that he is trustworthy
and competent.

Sec. 3. Application.—(a) Application for an agent's,
broker's or solicitor's license or renewal thereof shall be
made to the commissioner upon a form prescribed by him
and shall contain such information and be accompanied
by such supporting documents as the commissioner may
require, and the commissioner may require such applica-
tion to be made under the applicant's oath.
(b) If for an agent's license, the application shall show
the kinds of insurance to be transacted, and shall be ac-
accompanied by the written appointment of the applicant as
agent by at least one licensed insurer for each kind of
insurance for which application is made.
(c) If for a solicitor's license, the application shall be
accompanied by written appointment of the applicant as
solicitor by a licensed agent.
(d) If for a broker's license, the application shall be
accompanied by a statement upon a form prescribed by the
commissioner as to the trustworthiness and competency
of the applicant, signed by at least three licensed resident
agents of this State.
(e) Wilful misrepresentation of any fact in any such application or any documents in support thereof is a violation of this chapter.

Sec. 4. Broker's Requirements and Restrictions.—(a) Broker's licenses shall be issued only to non-residents as provided in section two of this article and only to such applicants as are licensed agents or brokers in a state other than West Virginia and furnish to the commissioner satisfactory proof thereof.

(b) No license shall be issued to any such broker unless he shall file with the commissioner a power of attorney appointing the auditor of this State and his successors in office the agent of such broker for the service of process in any suit or proceeding arising in this State out of or in connection with the exercise of such license, and such service of process shall be of the same legal force and validity as personal service of process in this State upon such broker.

(c) No such license shall be issued to any person who is an employer, employee or partner of a licensed agent of this State, nor shall such license be issued to any person who is a salaried employee of any insurer.

(d) No such broker shall solicit, negotiate, make or procure within this State, or aid in any manner in soliciting, negotiating, making or procuring within this State, any insurance contracts covering subjects of insurance resident, located, or to be performed in this State, either on account of any person desiring to procure insurance or on account of any insurer.

(e) A licensed broker lawfully soliciting, negotiating, making or procuring outside this State, or aiding in soliciting, negotiating, making or procuring outside this State, insurance contracts covering subjects of insurance resident, located, or to be performed in this State, shall place all such contracts only with licensed resident agents of this State for insurers licensed in this State.

Sec. 5. Issuance of License.—The commissioner may issue a license to any individual as agent, broker or solicitor who complies with the applicable provisions of this
Sec. 6. Fees.—The fee for an agent's license shall be five dollars as provided in section thirteen of article three of this chapter, the fee for a solicitor's license shall be five dollars, and the fee for a broker's license shall be ten dollars, except that when any other state imposes a tax, bond, fine, penalty, license fee or other obligation or prohibition on agents resident in this State, the same tax, bond, fine, penalty, license fee or other obligation or prohibition shall be imposed upon agents (where licensing of non-resident agents is permitted under this article) or brokers of such other state licensed or seeking a license in this State. All fees and monies so collected shall be deposited in the fund for the purposes set forth in section thirteen of article three of this chapter.

Sec. 7. Countersignature.—No contract of insurance covering a subject of insurance, resident, located, or to be performed in this State, shall be executed, issued or delivered by any insurer unless the contract, or in the case of an interstate risk a countersignature endorsement carrying full information as to the West Virginia risk, is signed or countersigned in writing by a licensed resident agent of the insurer, except that excess line insurance shall be countersigned by a duly licensed excess line broker. This section does not apply to: reinsurance; credit insurance; any contract of insurance covering the rolling stock of any railroad or covering any vessel, aircraft or motor carrier used in interstate or foreign commerce, or covering any liability or other risks incident to the ownership, maintenance or operation thereof; any contract of insurance covering any property in interstate or foreign commerce, or any liability or risks incident thereto. Countersignature of a duly licensed resident agent of the company originating a contract of insurance participated in by other companies as co-sureties or co-indemnitors shall satisfy all countersignature requirements in respect to such contract of insurance.

Sec. 8. Non-Resident Life and Accident and Sickness
Agents.—(a) Non-residents otherwise complying with the provisions of this chapter may be licensed as a life agent but all policies issued as a result of solicitation on the part of such non-resident in this State shall be reported, placed, countersigned, and consummated by and through a duly licensed resident agent of the issuing insurer.

(b) Individuals otherwise complying with the provisions of this chapter, who are residents of a county in another state adjoining a county in this State, and a licensed accident and sickness agent of such state, may be licensed as a non-resident accident and sickness agent in this State, if the state of residence of such non-resident has established, by law or regulation, like requirements for licensing of residents of counties in this State adjoining a county in such state as non-resident accident and sickness agents. All policies issued as a result of solicitation by such non-resident accident and sickness agents shall be reported, placed, countersigned and consummated by and through a duly licensed resident agent of the issuing insurer.

Sec. 9. Agent Resident in Contiguous Municipalities.—An agent who has his residence in an urban community composed of two immediately contiguous municipal corporations not separated by a river or other stream, one of which is located in this State and the other located in another state, shall be considered a resident of this State for the purposes of this article if his residence is in any part of such urban community and the state wherein the other municipal corporation is located has established by law or regulation like requirements as to residence of agents in such urban community.

Sec. 10. Excess Lines.—Any portion or all of an insurance coverage against loss or damage to property or person from any cause which cannot be procured from licensed insurers, which coverages are hereinafter designated as “excess line”, may be procured from unlicensed insurers subject to the following conditions:

(a) The insurance must be procured only through a licensed excess line broker.

(b) The insurance coverage must not be procurable,
after diligent effort has been made to do so, from licensed
insurers authorized to transact that kind of insurance in
this State, or has been procured to the full extent such
insurers are willing to insure, and the placing of insurance
with an unlicensed insurer must not be for the purpose of
securing advantages either as to premium rate or terms of
the insurance contract.

Sec. 11. Excess Line Broker's Affidavit and Report.—
At the time of procuring any excess line insurance, the
excess line broker shall execute and file with the com-
missioner his report thereof in duplicate and under oath,
setting forth facts from which it may be determined
whether the requirements of section ten of this article
have been met, and in addition thereto the following:

(a) Name and address of the insurer.

(b) Number of the policy issued.

(c) Name and address of the insured.

(d) Nature and amount of liability assumed by the
insurer.

(e) Premium, and premium rate if applicable.

(f) Other information reasonably required by the com-
mmissioner.

Sec. 12. Excess Line Insurance Valid.—Insurance con-
tracts procured as excess line coverage from unlicensed
insurers in accordance with this article shall be fully valid
and enforceable as to all parties, and shall be given recog-
nition in all matters and respects to the same effect as like
contracts issued by licensed insurers.

Sec. 13. Licensing of Excess Line Brokers.—(a) Any
licensed insurance agent deemed by the commissioner to
be competent and trustworthy for the purpose, may be
licensed as an excess line broker.

(b) The license fee shall be fifty dollars, all fees so col-
lected to be deposited in the fund for the purposes set
forth in section thirteen of article three of this chapter.

(c) Prior to issuance of the license, the applicant there-
for shall file with the commissioner and thereafter main-
tain in force for so long as the license or any renewal
thereof remains in effect, a bond in favor of the State of
West Virginia in the penal sum of two thousand dollars, with an authorized corporate surety approved by the commissioner, conditioned that he will conduct business under the license in accordance with this article, that he will promptly remit the taxes provided by section sixteen of this article, and that he will properly account to the person entitled thereto for funds received by him through transactions under the license. No such bond shall be terminated unless at least thirty-days' prior written notice thereof is filed with the commissioner.

Sec. 14. May Accept Business from Agents.—A licensed excess line broker may accept and place authorized excess line business from any insurance agent or broker licensed in this State for the kind of insurance involved, and may compensate such agent or broker therefor. The excess line broker shall have the right to receive from the insurer the customary commission.

Sec. 15. Records of Excess Line Brokers.—Each excess line broker shall keep in his office a full and true record of each excess line contract procured by him, and such record may be examined at any time thereafter by the commissioner. The record shall include such of the following items as are applicable:

(a) Name and address of the insurer,
(b) Name and address of the insured,
(c) Amount of insurance,
(d) Gross premium charged,
(e) Return premium paid, if any,
(f) Rate of premium charged on the several items of coverage,
(g) Effective date of the contract and the terms thereof, and
(h) Brief general description of the risks insured against and the property insured.

Sec. 16. Annual Return of and Tax on Excess Line Brokers.—Every excess line broker licensed pursuant to the provisions of this article shall make a return annually, under oath, on or before the first day of March to the com-
missioner of the gross amount of premiums charged the
insureds by the insurers for insurance procured by such
licensee, pursuant to such license during the previous
calendar year, together with the amount of tax due there-
on. The annual tax required to be paid, under the pro-
visions of this section, shall be a sum equal to two percent
of the gross premiums received on the gross business proc-
cured by such licensee on subjects of insurance, resident,
located or to be performed in this State and obtained
pursuant to the provisions of this article, including any
so-called dividends on participating insurance policies
applied in reduction of premiums, less premiums return-
able for cancellation. All such taxes paid to the commis-
sioner shall be paid by him into the state treasury for the
benefit of the state fund.

Sec. 17. Service of Process on Excess Line Insurers and
Brokers.—As to every unlicensed insurer issuing or de-
liberating an excess line policy through an excess line
broker in this State, the state auditor of West Virginia
shall be, and is hereby constituted the attorney-in-fact of
each such insurer and broker for service of process in the
same manner as for licensed insurers as provided in sec-
ction twelve of article four of this chapter.

Sec. 18. Term of Licenses.—All licenses of agents, solici-
tors, brokers and excess line brokers shall expire at mid-
night on the March thirty-first next following the date of
issuance. The commissioner shall renew annually the
license of all such licensees who qualify and make appli-
cation therefor.

Sec. 19. Agent to Deal Only With Licensed Insurer,
Broker or Solicitor.—(a) No agent shall accept any risk,
place any insurance or issue any policy except with an
insurer licensed in this State and for which insurer such
agent has been appointed and licensed.
(b) No agent shall accept any contract of insurance
from any broker not licensed in this State.
(c) No agent shall employ or accept the services of any
solicitor not duly appointed and licensed as solicitor for
such agent.
Sec. 20. Solicitor to Act Only Through Appointing Agent.—A solicitor shall solicit and receive applications for insurance only for the duly licensed agent who appointed such solicitor, and shall report all business through such agent. The expiration, cancellation, suspension or revocation of the license of the appointing agent shall automatically expire, cancel, suspend or revoke the solicitor's license in like manner, and the appointing agent may cancel a solicitor's license at any time by written request to the commissioner. No agent may apply for licenses for more than two solicitors. No solicitors shall be permitted for life insurance agents.

Sec. 21. Personal Liability of Agent or Broker.—Any agent or broker who participates directly or indirectly in effecting any insurance contract, except authorized reinsurance, upon any subject of insurance resident, located or to be performed in this State, where the insurer is not licensed to transact insurance in this State, shall be personally liable upon such contract as though such agent or broker were the insurer thereof. This section shall not apply to excess line insurance procured in the manner provided in sections ten to seventeen, inclusive, of this article, nor to ocean marine insurance or marine protection and indemnity insurance.

Sec. 22. Solvent Insurer Required.—No agent, broker or excess line broker shall knowingly place any coverage in an insolvent insurer.

Sec. 23. Person Soliciting Insurance is Agent of Insurer.—Any person who shall solicit within this State an application for insurance shall, in any controversy between the insured or his beneficiary and the insurer issuing any policy upon such application, be regarded as the agent of such insurer and not the agent of the insured.

Sec. 24. Payment of Commissions.—(a) The entire commission payable by any insurer licensed to transact insurance in this State on any insurance policy shall be paid directly to the licensed resident agent who countersigns the policy. The countersigning agent shall not pay any part of such commission to any person other than a
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Provided, That the portion of such commission paid to any licensed broker or brokers shall not exceed ten percent of the gross policy premium or fifty percent of the commission payable by the insurer as provided herein, whichever is the lesser amount. The term “commission” as used herein shall include engineering fees, service fees or any other compensation incident to the issuance of a policy payable by or to any insurer, agent or broker. It shall be unlawful for any insurer or agent to pay, and any person to accept, directly or indirectly, any commission except as provided in this section.

(b) This section shall not apply to reinsurance, accident and sickness insurance, or life insurance; nor to excess line insurance procured in accordance with the provisions of this article relating thereto; nor to credit insurance, any contract of insurance covering the rolling stock of any railroad or covering any vessel, aircraft or motor carrier used in interstate or foreign commerce, any liability or other risks incident to the ownership, maintenance or operation thereof, any contract of insurance covering any property in interstate or foreign commerce, or any liability or risks incident thereto.

Sec. 25. Revocation, Suspension or Refusal to Renew License; Fine in Lieu Thereof.—Whenever, after notice and hearing, the commissioner is satisfied that any agent, solicitor, broker or excess line broker has violated any provision of this chapter, or is incompetent or untrustworthy, he shall revoke, suspend, or, if renewal of license is pending, refuse to renew the license of such agent, solicitor, broker or excess line broker. In lieu of revoking, suspending or refusing to renew such license, the commissioner may in his discretion order such licensee to pay to the State of West Virginia a penalty in a sum not to exceed one hundred dollars and upon the failure of such licensee to pay such penalty by delivery of such sum to the commissioner within thirty days of notice thereof, the commissioner shall revoke, suspend or refuse to renew such license.

Sec. 26. Insurance Vending Machines.—(a) A licensed resident agent may solicit applications for and issue poli-
cies for trip accident insurance by means of mechanical vending machines supervised by him, if:

(1) The commissioner finds that the kind of insurance and form of policy to be so sold is reasonably suited for sale and issuance through vending machines and otherwise complies with this chapter, and that use of such machines therefor would be of convenience to the public, and

(2) The commissioner finds that the type of vending machines to be used is reasonably suitable and practical for the purpose.

(b) The commissioner shall issue to the agent a special vending machine license as to each such machine to be used. The license shall specify name and address of the insurer and agent, kind of insurance and type of policy to be sold, and the place where the machine is to be in operation. The license shall expire, be renewable, and be suspended or revoked, coincidently with that of the agent. The license fee shall be five dollars for each year or part thereof for each vending machine. Proof of existence of the license shall be displayed on or about each such machine in such manner as the commissioner may reasonably require. Fees so collected are subject to the provisions of section thirteen of article three of this chapter.

Sec. 27. Payment of Commission Under an Assigned Risk Plan.—An insurer participating in a plan for assignment of personal injury liability insurance or property damage liability insurance on owner's automobiles or operators, which plan has been approved by the commissioner, may pay a commission to a qualified agent who is licensed to act as agent for any insurer participating in such plan when such agent is designated by the insured as the producer of record under an automobile assigned risk plan pursuant to which a policy is issued under such plan, and sections seven and twenty-four of this article shall not be applicable thereto.

Article 13. Life Insurance

Section 1. Scope of Article.—This article applies to life insurance (including annuities), other than reinsurance
and group life insurance (including group annuities); except that sections sixteen (contestability as to excluded or restricted coverage), twenty-five (limitation of liability), twenty-six (incontestability after reinstatement), twenty-nine (dual pay policies), thirty (standard non-forfeiture law) and sections thirty-one to forty-six, inclusive (which specifically relate only to industrial life insurance), shall be the only sections of this article which apply to industrial life insurance.

Sec. 2. Standard Provisions Required.—(a) No policy of life insurance other than industrial, group, and pure endowments with or without return of premiums or of premiums and interest, shall be delivered or issued for delivery in West Virginia unless it contains in substance all of the provisions required by sections three to fifteen, inclusive, of this article. This section shall not apply to annuity contracts nor to any provision of a life insurance policy or contract supplemental thereto relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(b) Any of such provisions or portions thereof not applicable to single premium or term policies shall to that extent not be incorporated therein.

Sec. 3. Grace Period.—There shall be a provision that a grace period of thirty-one days shall be allowed within which the payment of any premium after the first may be made, during which period of grace the policy shall continue in full force; but if a claim arises under the policy during such period of grace before the overdue premium is paid the amount of such premium may be deducted from the policy proceeds.

Sec. 4. Incontestability.—There shall be a provision that the policy (exclusive of provisions relating to disability benefits or to additional benefits in the event of death by accident or accidental means) shall be incontestable, except for non-payment of premiums, after it has been in force during the lifetime of the insured for a period of two years from its date of issue.

Sec. 5. Entire Contract.—There shall be a provision that
the policy, or the policy and the application therefor if a copy of such application is endorsed upon or attached to the policy when issued, shall constitute the entire contract between the parties, and that all statements contained in the application shall, in the absence of fraud, be deemed representations and not warranties.

Sec. 6. Misstatement of Age.—There shall be a provision that if the age of the insured or of any other person whose age is considered in determining the premium has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

Sec. 7. Dividends.—There shall be a provision in participating policies that, beginning not later than the end of the third policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, that will accrue on the policy anniversary or other dividend date specified in the policy provided the policy is in force and all premiums to that date are paid. Except as hereinafter provided, any dividend so apportioned shall at the option of the party entitled to elect such option be either (a) payable in cash or (b) applied to any one of such other dividend options as may be provided by the policy. If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option. If the policy specifies a period within which such other dividend option may be elected, such period shall be not less than thirty days following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of (a) above even though the policy provides that payment of such dividend is to be deferred for a specified period, provided such period does not exceed six years from the date of apportionment and that interest will be added to such dividend at a specified rate. If a participating policy provides that the benefit under any paid-up nonforfeiture provision is to be participating, it may provide that any divisible surplus apportioned while the insurance is in force under such nonforfeiture pro-
vision shall be applied in the manner set forth in the policy.

Sec. 8. Loans on New Policies.—(a) There shall be a provision that after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment of pledge of the policy and on the sole security thereof, at a specified rate of interest not exceeding six percent per annum, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, provided that the insurer may deduct, either from such loan value or from the proceeds of the loan, any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application therefor. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect.

(b) This section shall not apply to term policies nor to term insurance benefits provided by rider or supplemented policy provision.

Sec. 9. Nonforfeiture Benefits.—There shall be provisions for nonforfeiture benefits and cash surrender values as required by section thirty of this article.

Sec. 10. Table of Values.—There shall be a table showing in figures the loan value and the options available under the policy each year upon default in premium pay-
ments, during the first twenty years or during the term
of the policy, whichever is shorter.

Sec. 11. Table of Instalments.—In case the policy pro-
vides that the proceeds may be payable in instalments
which are determinable at issue of the policy, there shall
be a table showing the amounts of the guaranteed instal-
ments.

Sec. 12. Reinstatements.—There shall be a provision
that unless the policy has been surrendered for its cash
surrender value or unless the paid-up term insurance, if
any, has expired, the policy will be reinstated at any time
within three years from the date of premium default upon
written application therefor, the production of evidence
of insurability satisfactory to the insurer, the payment
of all premiums in arrears, and the payment or reinstate-
ment of any other indebtedness to the insurer upon the
policy, all with interest at a rate not exceeding six per-
cent per annum compounded annually.

Sec. 13. Payment of Premiums.—There shall be a pro-
vision that all premiums after the first shall be payable
in advance.

Sec. 14. Payment of Claims.—There shall be a provision
that when a policy shall become a claim by the death of
the insured settlement shall be made upon receipt of
due proof of death and, at the insurer's option, surrender
of the policy and/or proof of the interest of the claimant.
If an insurer shall specify a particular period prior to the
expiration of which settlement shall be made, such period
shall not exceed two months from the receipt of such
proofs.

Sec. 15. Title.—There shall be a title on the face of the
policy, briefly describing the same.

Sec. 16. Excluded or Restricted Coverage.—A clause in
any policy of life insurance providing that such policy
shall be incontestable after a specified period shall pre-
clude only a contest of the validity of the policy, and
shall not preclude the assertion at any time of defenses
based upon provisions in the policy which exclude or
restrict coverage, whether or not such restrictions or
exclusions are excepted in such clause.

Sec. 17. Standard Provisions of Annuity Contracts.—
(a) No annuity or pure endowment contract, other than
reversionary annuities, survivorship annuities or group
annuities and except as stated herein, shall be delivered
or issued for delivery in this State unless it contains in
substance each of the provisions specified in sections
eighteen to twenty-three, inclusive, of this article. Any
of such provisions not applicable to single premium an-
uities or single premium pure endowment contracts shall
not, to that extent, be incorporated therein.
(b) This section shall not apply to contracts for de-
ferred annuities included in, or upon the lives of bene-
cficiaries under, life insurance policies.

Sec. 18. Annuity Grace Period.—In an annuity or pure
endowment contract, other than a reversionary, survivor-
ship or group annuity, there shall be a provision that
there shall be a period of grace of not less than thirty-one
days, within which any stipulated payment to the insurer
falling due after the first may be made, subject at the
option of the insurer to an interest charge thereon at a
rate to be specified in the contract but not exceeding six
percent per annum for the number of days of grace
elapsing before such payment, during which period of
grace the contract shall continue in full force; but in
case a claim arises under the contract on account of death
prior to expiration of the period of grace before the over-
due payment to the insurer or the deferred payments of
the current contract year, if any, are made, the amount
of such payments, with interest on any overdue pay-
ments, may be deducted from any amount payable under
the contract in settlement.

Sec. 19. Annuity Incontestability.—If any statements,
other than those relating to age, sex and identity are
required as a condition to issuing an annuity or pure
endowment contract, other than a reversionary, survivor-
ship, or group annuity, and subject to section twenty-one
of this article, there shall be a provision that the contract
shall be incontestable after it has been in force during
the lifetime of the person or of each of the persons as to whom such statements are required, for a period of two years from its date of issue, except for nonpayment of stipulated payments to the insurer; and at the option of the insurer such contract may also except any provisions relative to benefits in the event of disability and any provisions which grant insurance specifically against death by accident or accidental means.

Sec. 20. Annuity Entire Contract.—In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the contract shall constitute the entire contract between the parties or, if a copy of the application is endorsed upon or attached to the contract when issued, a provision that the contract and the application therefor shall constitute the entire contract between the parties.

Sec. 21. Annuity Misstatement of Age or Sex.—In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that if the age or sex of the person or persons upon whose life or lives the contract is made, or of any of them, has been misstated, the amount payable or benefits accruing under the contract shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age or sex; and that if the insurer shall make or has made any overpayment or overpayments on account of any such misstatement, the amount thereof with interest at the rate to be specified in the contract but not exceeding six percent per annum, may be charged against the current or next succeeding payment or payments to be made by the insurer under the contract.

Sec. 22. Annuity Dividends.—If an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract.

Sec. 23. Annuity Reinstatement.—In an annuity or pure endowment contract, other than a reversionary, survivor-
ship, or group annuity, there shall be a provision that the contract may be reinstated at any time within one year from the default in making stipulated payments to the insurer, unless the cash surrender value has been paid, but all overdue stipulated payments and any indebtedness to the insurer on the contract shall be paid or reinstated with interest thereon at a rate to be specified in the contract but not exceeding six percent per annum payable annually, and in cases where applicable the insurer may also include a requirement of evidence of insurability satisfactory to the insurer.

Sec. 24. Standard Provisions of Reversionary Annuities.—(a) Except as stated herein, no contract for a reversionary annuity shall be delivered or issued for delivery in this State unless it contains in substance each of the following provisions:

(1) Any such reversionary annuity contract shall contain the provisions specified in sections eighteen, nineteen, twenty-one and twenty-two of this article, except that under said section eighteen the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue or deferred payment in lieu of providing for deduction of such payments from an amount payable upon settlement under the contract.

(2) In such reversionary annuity contracts there shall be a provision that the contract may be reinstated at any time within three years from the date of default in making stipulated payments to the insurer, upon production of evidence of insurability satisfactory to the insurer, and upon condition that all overdue payments and any indebtedness to the insurer on account of the contract be paid, or, within the limits permitted by the then cash values of the contract, reinstated, with interest as to both payments and indebtedness at a rate to be specified in the contract but not exceeding six percent per annum compounded annually.

(b) This section shall not apply to group annuities or to annuities included in life insurance policies, and any
of such provisions not applicable to single premium annuities shall not to that extent be incorporated therein.

Sec. 25. Limitation of Liability.—(a) No policy of life insurance shall be delivered or issued for delivery in this State if it contains a provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

(1) Death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces, or of any act or hazard of such war or action, or of service in the military, naval, or air forces or in civilian forces auxiliary thereto, or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

(2) Death as a result of aviation;

(3) Death as a result of a specified hazardous occupation or occupations;

(4) Death while the insured is outside continental United States and Canada;

(5) Death within two years from the date of issue of the policy as a result of suicide, while sane or insane.

(b) A policy which contains any exclusion or restriction pursuant to subsection (a) of this section shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the commissioners reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

(c) This section shall not apply to group life insurance,
accident and sickness insurance, reinsurance, or annuities, or to any provision in a life insurance policy relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(d) Nothing contained in this section shall prohibit any provision which in the opinion of the commissioner is more favorable to the policyholder than a provision permitted by this section.

Sec. 26. Incontestability After Reinstatement.—The reinstatement of any policy of life insurance or annuity contract hereafter delivered or issued for delivery in this State may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement and with the same conditions and exceptions as the policy provides with respect to contestability after original issuance.

Sec. 27. Policy Settlements.—Any life insurer shall have the power to hold under agreement the proceeds of any policy issued by it, upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries, and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as set forth in the policy or as agreed to in writing by the insurer and the policyholder. Upon maturity of a policy, in the event the policyholder has made no such agreement, the insurer shall have the power to hold the proceeds of the policy under an agreement with the beneficiaries. The insurer shall not be required to segregate the funds so held but may hold them as part of its general assets.

Sec. 28. Indebtedness Deducted From Proceeds.—In determining the amount due under any life insurance policy heretofore or hereafter issued, deduction may be made of:

(a) Any unpaid premiums or instalments thereof for the current policy year due under the terms of the policy, and of

(b) The amount of principal and accrued interest of any policy loan or other indebtedness against the policy then remaining unpaid.
Sec. 29. Dual or Multiple Pay Policies Prohibited.—No life insurance policy shall be delivered or issued for delivery in this State if it provides that on the death of anyone not insured thereunder, the owner or beneficiary of the policy shall receive the payment or granting of anything of value.

Sec. 30. Standard Nonforfeiture Law.—(1) In the case of policies issued on or after the original operative date of this provision, no policy of life insurance, except as stated in subsection six, shall be delivered or issued for delivery in this State unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:
   (a) That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified;
   (b) That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified;
   (c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty days after the due date of the premium in default;
   (d) That, if the policy shall have become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary the insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified;
   (e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the
paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefits, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy;

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

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

The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

(2) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection one, shall be an amount not less than the excess, if any, of the present value, on such anniversary,
of the future guaranteed benefits which would have been
provided for by the policy, including any existing paid-
up additions, if there had been no default, over the sum
of (i) the then present value of the adjusted premiums
as defined in subsection four, corresponding to premiums
which would have fallen due on and after such anni-
versary, and (ii) the amount of any indebtedness to the
insurer on the policy. Any cash surrender value avail-
able within thirty days after any policy anniversary un-
der any policy paid up by completion of all premium
payments or any policy continued under any paid-up
nonforfeiture benefit, whether or not required by sub-
section one, shall be an amount not less than the present
value, on such anniversary, of the future guaranteed
benefits provided for by the policy, including any exist-
ing paid-up additions decreased by any indebtedness to
the insurer on the policy.

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

(4) The adjusted premiums for any policy shall be cal-
culated on an annual basis and shall be such uniform
percentage of the respective premiums specified in the
policy for each policy year, excluding extra premiums
on a substandard policy, that the present value, at the
date of issue of the policy, of all such adjusted premiums
shall be equal to the sum of (i) the then present value
of the future guaranteed benefits provided for by the
policy; (ii) two percent of the amount of insurance, if
the insurance be uniform in amount, or of the equivalent
uniform amount, as hereinafter defined, if the amount of
insurance varies with duration of the policy; (iii)
forty percent of the adjusted premium for the first policy
year; (iv) twenty-five percent of either the adjusted
premium for the first policy year or the adjusted premium
for a whole life policy of the same uniform or equivalent
uniform amount with uniform premiums for the whole
of life issued at the same age for the same amount of
insurance, whichever is less: Provided, however, That in
applying the percentages specified in (iii) and (iv) above,
no adjusted premium shall be deemed to exceed four
percent of the amount of insurance or level amount
equivalent thereto. The date of issue of a policy for the
purpose of this subsection shall be the date as of which
the rated age of the insured is determined.

In the case of a policy providing an amount of insur-
ance varying with duration of the policy, the equivalent
uniform amount thereof for the purpose of this subsec-
tion shall be deemed to be the level amount of insurance
provided by an otherwise similar policy, containing the
same endowment benefit or benefits, if any, issued at the
same age and for the same term, the amount of which does
not vary with duration and the benefits under which have
the same present value at the date of issue as the benefits
under the policy.

All adjusted premiums and present values referred to in
this section shall be calculated on the basis of the commis-
sioners one thousand nine hundred forty-one standard
ordinary mortality table for ordinary insurance and the
one thousand nine hundred forty-one standard industrial
mortality table for industrial insurance and the rate of
interest, not exceeding three and one-half percent per
annum, specified in the policy for calculating cash sur-
render values and paid-up nonforfeiture benefits: Pro-
vided, That in calculating the present value of any paid-
up term insurance with accompanying pure endowment,
if any, offered as a nonforfeiture benefit, the rate of
mortality assumed may be not more than one hundred and
thirty percent of the rates of mortality according to such
applicable table: Provided further, That for insurance
issued on a substandard basis, the calculation of any such
adjusted premiums and present values may be based on
such other table of mortality as may be specified by the
insurer and approved by the commissioner.
(5) Any cash surrender value and any paid-up non-forfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subsections two, three and four may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends paid to provide such additions. Notwithstanding the provisions of subsection two, additional benefits payable (a) in the event of death or dismemberment by accident or accidental means, (b) in the event of total and permanent disability, (c) as reversionary or deferred reversionary annuity benefits, (d) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply and (e) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(6) This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen years or less expiring before age sixty-six, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsection four, is less than the adjusted premium so calculated on a policy issued at the same age and for the same initial amount of insurance for a term defined as follows—for ages at issue fifty and under the term shall be fifteen years, thereafter, the terms shall decrease one year for each year of age beyond fifty, nor to any policy for which shall be delivered outside this State through an
Sec. 31. Required Provisions, Industrial Life Insurance. —No policy of industrial life insurance, which is that form of life insurance provided by an individual insurance contract under which premiums are payable monthly or oftener, and bearing the words “industrial policy” or “weekly premium policy” printed upon the policy as a part of the descriptive matter, shall be delivered or be issued for delivery in this State unless it complies with sections sixteen, twenty-five, twenty-six, twenty-nine, and thirty of this article, nor unless such policy contains in substance the applicable provisions set forth in sections thirty-two to forty-four, inclusive, of this article.

Sec. 32. Grace Period, Industrial Life Insurance. —There shall be a provision in each industrial life insurance policy that the insured is entitled to a grace period of four weeks within which the payment of any premium after the first may be made, except that in policies the premiums for which are payable monthly, the period of grace shall be not less than thirty-one days, and that during the period of grace the policy shall continue in full force, but if during the grace period the policy becomes a claim, then any overdue and unpaid premiums may be deducted from any settlement under the policy.

Sec. 33. Entire Contract, Industrial Life Insurance. —There shall be a provision in each industrial life insurance policy that the policy shall constitute the entire contract between the parties, or, if a copy of the application is endorsed upon or attached to the policy when issued, a provision that the policy and the application therefor shall constitute the entire contract. If the application is so made a part of the contract, the policy shall also provide that all statements made by the applicant in such application shall, in the absence of fraud, be deemed to be representations and not warranties.

Section 34. Incontestability, Industrial Life Insurance. —There shall be a provision in each industrial life insurance policy that the policy (exclusive of provisions relating to
disability benefits or to additional benefits in the event of
death by accident or accidental means) shall be incontest-
able, except for non-payment of premiums, after it has
been in force during the lifetime of the insured for a
period of two years from its date of issue.

Sec. 35. Misstatement of Age, Industrial Life Insurance.
—There shall be a provision in each industrial life insur-
ance policy that if it is found that the age of the individual
insured, or the age of any other individual considered in
determining the premium, has been misstated, any amount
payable or benefit accruing under the policy shall be such
as the premium would have purchased at the correct age
or ages.

Sec. 36. Dividends, Industrial Life Insurance.—If an
industrial life insurance policy is a participating policy,
there shall be a provision that the insurer shall annually
ascertain and apportion any divisible surplus accruing on
the policy, except that at the option of the insurer such
participation may be deferred to the end of the fifth policy
year. This provision shall not prohibit the payment of
additional dividends on default of payment of premiums
or termination of the policy.

Sec. 37. Nonforfeiture Benefits, Industrial Life Insur-
ance.—There shall be in each policy of industrial life in-
surance provisions for nonforfeiture benefits and cash
surrender values as required by section thirty of this
article.

Sec. 38. Reinstatement, Industrial Life Insurance.—
There shall be in each industrial life insurance policy a
provision that unless the policy has been surrendered for
its cash surrender value or unless the paid-up term insur-
ance, if any, has expired, the policy will be reinstated at
any time within two years from the date of premium
default upon written application therefor, the production
of evidence of insurability satisfactory to the insurer, the
payment of all premiums in arrears, and the payment or
reinstatement of any other indebtedness to the insurer
upon the policy, all with interest at a rate not exceeding
six percent per annum compounded annually.
Sec. 39. Settlement, Industrial Life Insurance.—There shall be a provision in each industrial life insurance policy that when the policy becomes a claim by the death of the insured, settlement shall be made upon surrender of the policy and receipt of due proof of death.

Sec. 40. Beneficiary and Facility of Payment Clause, Industrial Life Insurance.—(a) Each such industrial life insurance policy shall have a space on the front or back page of the policy for the name of the beneficiary designated with a reservation of the right to designate or change the beneficiary after the issuance of the policy.

(b) The policy may also provide that no designation or change of beneficiary shall be binding on the insurer unless endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insured to have an insurable interest in the life of the insured. Such a policy may also provide that if the beneficiary designated in the policy does not surrender the policy with due proof of death within the period stated in the policy, which shall be not less than thirty days after the death of the insured, or if the beneficiary is the estate of the insured or is a minor, or dies before the insured, or is not legally competent to give a valid release, then the insurer may make payment thereunder to the executor or administrator of the insured, or to any of the insured's relatives by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having incurred expense for the maintenance, medical attention or burial of the insured. Such policy may also include a similar provision applicable to any other payment due under the policy.

Sec. 41. Direct Payment of Industrial Life Insurance Premiums.—In the case of weekly premium industrial life insurance policies, there may be a provision that upon proper notice to the insurer, while premiums on the policy are not in default beyond the grace period, of the intention to pay future premiums directly to the insurer at its home office or any office designated by the insurer for the pur-
pose, the insurer will, at the end of each period of a year from the due date of the first premium so paid, for which period such premiums are so paid continuously without default beyond the grace period, refund a stated percentage of the premiums in an amount which fairly represents the savings in collection expense.

Sec. 42. Conversion of Weekly Industrial Life Insurance Policies.—There shall be a provision in the case of weekly premium industrial life insurance policies granting to the insured, upon proper written request and upon presentation of evidence of insurability satisfactory to the insurer, the privilege of converting a weekly premium industrial insurance policy to any form of life insurance with less frequent premium payments regularly issued by the insurer, in accordance with terms and conditions agreed upon with the insurer. The privilege of making such conversion need be granted only if the insurer's weekly premium industrial policies on the life insured, in force as premium paying insurance and on which conversion is requested, grant benefits in event of death, exclusive of additional accidental death benefits and exclusive of any dividend additions, in an amount not less than the minimum amount of such insurance with less frequent premium payments issued by the insurer at the age of the insured on the plan of industrial or ordinary insurance desired.

Sec. 43. Conversion of Monthly Industrial Life Insurance Policies.—There shall be a provision, in the case of monthly premium industrial life insurance policies, granting, upon proper written request and upon presentation of evidence of insurability satisfactory to the insurer, the privilege of converting a monthly premium industrial life insurance policy to any form of ordinary life insurance regularly issued by the insurer, in accordance with terms and conditions agreed upon with the insurer. The privilege of making such conversion need be granted only if the insurer's monthly premium industrial policies on the life insured, in force as premium paying insurance and on which conversion is requested, grant benefits in event of death, exclusive of additional accidental death
benefits and exclusive of any dividend additions, in an amount not less than the minimum amount of ordinary insurance issued by the insurer at the age of the insured on the plan of ordinary insurance desired.

Sec. 44. Title of Industrial Life Insurance Policies.—There shall be a title on the face of each industrial life insurance policy briefly describing its form.

Sec. 45. Application of Industrial Life Provisions to Term or Specified Insurance.—Any of the provisions required in industrial life insurance policies by sections thirty-two to forty-four, inclusive, of this article or any portion thereof which are not applicable to single premium or term policies or to policies issued or granted pursuant to nonforfeiture provisions shall to that extent not be incorporated therein.

Sec. 46. Prohibited Provisions in Industrial Life Insurance Policies.—No policy of industrial life insurance shall contain any of the following provisions:

(a) A provision by which the insurer may deny liability under the policy for the reason that the insured has previously obtained other insurance from the same insurer.

(b) A provision giving the insurer the right to declare the policy void because the insured has had any disease or ailment, whether specified or not, or because the insured has received institutional, hospital, medical or surgical treatment or attention, except a provision which gives the insurer the right to declare the policy void if the insured has, within two years prior to the issuance of the policy, received institutional, hospital, medical or surgical treatment or attention and if the insured or claimant under the policy fails to show that the condition occasioning such treatment or attention was not of a serious nature or was not material to the risk.

(c) A provision giving the insurer the right to declare the policy void because the insured has been rejected for insurance, unless such right be conditioned upon a showing by the insurer that knowledge of such rejection would have led to a refusal by the insurer to make such contract.

Sec. 47. Burial Insurance.—(a) Burial insurance is that
type of insurance whereby an insurer agrees to pay for any or all of the incidents of the burial of the body of a named or designated person, whether such insurance is evidenced or effected by any kind of agreement, policy, contract, bond, assurance, guarantee, by-law, regulation, or otherwise. No provision of this article except this section shall apply to burial insurance, and no provision of article fourteen of this chapter shall apply to burial insurance.

(b) Burial insurance shall be transacted only by insurers licensed in this State to transact life insurance.

(c) All burial insurance benefits shall be paid in cash to the beneficiary. No insurer issuing burial insurance shall contract to pay or pay such benefits or any part thereof to any official undertaker, designated undertaker or undertaking concern, or to any particular tradesman or business man.

(d) This section shall not apply to fraternal benefit societies operating under article twenty-three of this chapter or to any organization of employees under a common employer.

Article 14. Group Life Insurance

Section 1. Contracts Must Meet Group Requirements.—

(a) No life insurance policy or certificate shall be delivered or issued for delivery in this State insuring the lives of more than one individual unless to one of the groups as provided for in sections two to five, inclusive, of this article, and unless in compliance with the other applicable provisions of those sections.

(b) Paragraph (a), above, shall not apply to life insurance policies:

1. Insuring only individuals related by marriage, blood or legal adoption;

2. Insuring only individuals having a common interest through ownership of a business enterprise, or a substantial legal interest or equity therein, and who are actively engaged in the management thereof; or

3. Insuring only individuals otherwise having an insurable interest in each other's lives.
(c) Nothing in this article validates any charge or practice illegal under any rule of law or regulation governing usury, small loans, retail instalment sales, or the like, or extends the application of any such rule of law or regulation to any transaction not otherwise subject thereto.

Sec. 2. Employee Groups.—The lives of a group of individuals may be insured under 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:

(a) 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 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. 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.

(b) 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
party from funds contributed by the insured employees.
No policy may be issued on which the entire premium is
to be derived from funds contributed by the insured em-
ployees, except that the entire premium may be paid from
funds contributed by the insured employees if the amount
of insurance does not exceed one thousand dollars on the
life of any employee. A policy on which 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 percent of the then eligible employees, ex-
cluding any as to whom evidence of individual insura-
ability 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 employees must insure all eligible employees, or
all except any as to whom evidence of individual insur-
ability is not satisfactory to the insurer.

(c) The policy must cover at least ten employees at
date of issue.

(d) 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.

Sec. 3. Debtor Groups.—The lives of a group of indi-
viduals may be insured under a policy issued to a creditor,
who shall be deemed the policyholder, to insure debtors
of the creditor, subject to the following requirements:

(a) The debtors eligible for insurance under the policy
shall be all of the debtors of the creditor whose indebted-
ness is repayable either (i) in instalments, or (ii) in one
sum at the end of a period not in excess of eighteen
months from the initial date of debt, or all of any class
or classes thereof determined by conditions pertaining to
the indebtedness or to the purchase giving rise to the
indebtedness. The policy may provide that the term
"debtors" shall include the debtors of one or more sub-
sidiary corporations, and the debtors of one or more affiliated corporation, proprietors, or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. No debtor shall be eligible unless the indebtedness constitutes an obligation to repay which is binding upon him during his lifetime, at and from the date the insurance becomes effective upon his life.

(b) 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 percent 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.

(c) The policy may be issued 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 percent of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

(d) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in instalments to the creditor, or ten thousand dollars, whichever is less. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect
for a period in excess of eighteen months except that
such insurance may be continued for an additional period
not exceeding six months in the case of default, exten-
sion or recasting of the loan. The amount of the insurance
on the life of any debtor shall at no time exceed the
amount of the unpaid indebtedness, or ten thousand dol-
lors, whichever is less.

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

Sec. 4. Labor Union Groups.—The lives of a group of
individuals may be insured under 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:

(a) 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 pertain-
ing to their employment, or to membership in the union,
or both.

(b) 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 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 percent of the then eligible members, excluding any
as to whom evidence of individual insurability is not satis-
factory to the insurer, elect to make the required con-
tributions. A policy on which no part of the premium is
to be derived from funds contributed by the insured mem-
bers specifically for their insurance must insure all eligible
members, or all except any as to whom evidence of in-
dividual insurability is not satisfactory to the insurer.
(c) The policy must cover at least twenty-five members at date of issue.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

Sec. 5. *Trustee Groups.*—The lives of a group of individuals may be insured under 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:

(a) 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 membership 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.

(b) 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, or partly from such funds and partly from funds contributed by the insured persons. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured persons.
specifically for their insurance. A policy on which part
of the premium is to be derived from funds contributed
by the insured persons specifically for their insurance
may be placed in force only if at least seventy-five per-
cent of the then eligible persons, excluding any as to
whom evidence of 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 persons specifically
for their insurance must insure all eligible persons, or all
except any as to whom evidence of individual insurability
is not satisfactory to the insurer.

(c) The policy must cover at date of issue at least one
hundred persons and not less than an average of five per-
sons 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 percent
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.

(d) 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.

Sec. 6. Limit as to Amount.—No such policy of group
life insurance may be issued to an employer, or to a labor
union, or to the trustees of a fund established in whole or
in part by an employer or a labor union, 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 employer or employers of such
person or to a labor union or labor unions of which such
person is a member or to the trustees of a fund or funds
established in whole or in part by such employer or em-
ployers or such labor union or labor unions, exceeds
twenty thousand dollars, unless one hundred and fifty percent of the annual compensation of such person from his employer or employers exceeds twenty thousand dollars, in which event all such term insurance shall not exceed forty thousand dollars or one hundred and fifty percent of such annual compensation, whichever is the lesser.

Sec. 7. Dependent Coverage.—Any policy issued pursuant to sections two, four and five 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 seventy-five percent 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 of Insurance</th>
<th>Maximum Amount</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></td>
<td>3 years and under 4 years</td>
</tr>
<tr>
<td>----</td>
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<tr>
<td>34</td>
<td></td>
</tr>
<tr>
<td>35</td>
<td></td>
</tr>
<tr>
<td>36</td>
<td></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 paragraphs (a), (b) and (c) of section sixteen 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 section seventeen 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.

(d) Notwithstanding section fifteen of this article, only one certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate.

Sec. 8. Group Life Standard Provisions.—(a) Except as set forth in subsection (b), below, no policy of group life insurance shall be delivered in this State unless it contains in substance the standard provisions as required by sections nine to eighteen, inclusive, of this article, 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 policy-
holder.
(b) The provisions of sections fourteen to eighteen,
inclusive, of this article shall not apply to policies issued
to a creditor to insure debtors of such creditor. The
standard provisions required for individual life insurance
policies shall not apply to group life insurance policies.
If the group life insurance policy is on a plan of insurance
other than the term plan, it shall contain a nonforfeiture
provision or provisions which in the opinion of the com-
missioner 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 required for indi-

Sec. 9. Grace Period.—In group life policies there shall
be 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 policy-
holder shall have given the insurer written notice of dis-
continuance in advance of the date of discontinuance 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 rata premium for the
time the policy was in force during such grace period.

Sec. 10. Incontestability.—In group life policies there
shall be 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 contained in
a written instrument signed by him.

Sec. 11. Application, Representations.—In group life
2 policies there shall be a provision that a copy of the appli-
3 cation, if any, of the policyholder shall be attached to the
4 policy when issued, that all statements made by the
5 policyholder or by the persons insured shall be deemed
6 representations and not warranties, and that no state-
7 ment made by any person insured shall be used in any
8 contest unless a copy of the instrument containing the
9 statement is or has been furnished to such person or to
10 his beneficiary.

Sec. 12. Insurability.—In group life policies there shall
2 be a provision setting forth the conditions, if any, under
3 which the insurer reserves the right to require a person
4 eligible for insurance to furnish evidence of individual
5 insurability satisfactory to the insurer as a condition to
6 part or all of his coverage.

Sec. 13. Misstatement of Age.—In group life policies
2 there shall be a provision specifying an equitable adjust-
3 ment of premiums or of benefits or of both to be made in
4 the event the age of a person insured has been misstated,
5 such provision to contain a clear statement of the method
6 of adjustment to be used.

Sec. 14. Beneficiary.—In group life policies there shall
2 be a provision that any sum becoming due by reason of
3 the death of the person insured shall be payable to the
4 beneficiary designated by the person insured, subject to
5 the provisions of the policy in the event there is no desig-
6 nated beneficiary, as to all or any part of such sum, living
7 at the death of the person insured, and subject to any
8 right reserved by the insurer in the policy and set forth
9 in the certificate to pay at its option a part of such sum
10 not exceeding five hundred dollars to any person appear-
11 ing to the insurer to be equitably entitled thereto by rea-
12 son of having incurred funeral or other expenses incident
13 to the last illness or death of the person insured.

Sec. 15. Certificates.—In group life policies there shall
2 be a provision that the insurer will issue to the policy-
3 holder for delivery to each person insured an individual
4 certificate setting forth a statement as to the insurance
5 protection to which he is entitled, to whom the insurance
benefits are payable, and the rights and conditions set forth in sections sixteen, seventeen, and eighteen of this article.

Sec. 16. Conversion on Termination of Eligibility.—In group life policies there shall be 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 seven 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 instalments 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.

Sec. 17. Conversion on Termination of Policy.—In group
life policies there shall be 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 seven 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 an individual policy of life insurance, subject to the same conditions and limitations as are provided by section sixteen of this article, except that term insurance shall not be available and, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of (a) the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one days after such termination, and (b) two thousand dollars.

Sec. 18. Death Pending Conversion.—In group life policies there shall be a provision that if a person insured under the group policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with sections sixteen and seventeen of this article and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him 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.

Sec. 19. Certificate or Statement of Coverage to Debtor. —In the case of a group life policy issued to a creditor to insure debtors of such creditor, there shall be a provision in such policy that the insurer will furnish to the policy-holder for delivery to each debtor insured under the policy a certificate or statement of coverage form which shall contain a statement that the life of the debtor is insured
Sec. 20. 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 exercise 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. 21. 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, including expenditures made in connection with administration of such policies, such excess shall be applied by the
Sec. 22. Standard Provisions of Group Annuity Contracts.—No group annuity contract shall be delivered or issued for delivery in this State and no certificate shall be used in connection therewith unless it contains in substance the provisions set forth in sections twenty-three to twenty-seven, inclusive, of this article, to the extent that such provisions are applicable to such contract or to such certificate, as the case may be, or provisions which in the opinion of the commissioner are more favorable to annuitants, or not less favorable to annuitants and more favorable to the holders.

Sec. 23. Grace Period of Group Annuity.—In group annuity contracts there shall be a provision that there shall be a period of grace of thirty-one days within which any stipulated payment to be remitted by the holder to the insurer, falling due after one year from date of issue, may be made, subject, at the option of the insurer, to an interest charge thereon at a rate to be specified in the contract, which shall not exceed six percent per annum for the number of days of grace elapsing before such payment.

Sec. 24. Entire Contract of Group Annuity.—In group annuity contracts there shall be a provision specifying the document or documents which shall constitute the entire contract between parties. The document or documents so specified shall be only (a) the contract, (b) the contract together with the application of the holder of which a copy is attached thereto, or (c) the contract together with the application of the holder of which a copy is attached thereto, and the individual applications of annuitants on file with the insurer and referred to therein.

Sec. 25. Misstatements in Group Annuity.—In group annuity contracts there shall be a provision, with an appropriate reference thereto in the certificate, for the equitable adjustment of the benefits payable under the contract or of the stipulated payments thereunder, if it be
found that the sex, age, service, salary or any other fact
determining the amount of any stipulated payment or
the amount or date or dates of payment of any benefit
with respect to any annuitant covered thereby has been
misstated.

Sec. 26. Termination Benefits of Group Annuity.—In
group annuity contracts there shall be a provision or pro-
visions, with an appropriate reference thereto in the
certificate, specifying the nature and basis of ascertain-
ment of the benefits which will be available to an annuit-
ant who contributes to the cost of the annuity and the con-
ditions of payment thereof in the event of either the termi-
nation of employment of the annuitant, except by death,
or the discontinuance of stipulated payments under the
contract. Such provision or provisions shall, in either of
such events, make available to an annuitant who con-
tributed to the cost of the annuity a paid-up annuity pay-
able commencing at a fixed date in an amount at least
equal to that purchased by the contributions of the
annuitant, determinable as of the respective dates of pay-
ment of the several contributions, as shown by a schedule
in the contract for that purpose, based upon the same
mortality table, rate of interest and loading formula used
in computing the stipulated payments under such contract.
Such provision or provisions may, by way of exception
to the foregoing, provide that if the amount of the annuity
determined as aforesaid from such fixed commencement
date would be less than one hundred twenty dollars
annually, the insurer may at its option, in lieu of granting
such paid-up annuity, pay a cash surrender value at least
equal to that hereinafter provided.
If a cash surrender value, in lieu of such paid-up
annuity, is allowed to the annuitant by the terms of such
contract, it may be either in a single sum or in equal
instalments over a period of not more than twelve months
and it shall at least equal either (a) or (b), whichever is
less:
(a) The amount of reserve attributable to the annuit-
ant's contributions less a surrender charge not exceeding
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35 thirty-five percent of the average annual contribution
36 made by the annuitant; or
37 (b) The amount which would be payable as a death
38 benefit at the date of surrender.
39 Such contract shall also provide that in case of the death
40 of an annuitant before the commencement date of the
41 annuity, the insurer shall pay a death benefit at least
42 equal to the aggregate amount of the annuitant’s contri-
43 butions without interest. If any benefits are available to
44 the holder in either of such events, the contract shall
45 contain a provision or provisions specifying the nature
46 and basis of ascertainment of such benefits.

Sec. 27. Group Annuity Certificates.—In group annuity
2 contracts there shall be a provision that the insurer will
3 issue to the holder of the contract for delivery to each
4 annuitant who contributes thereunder an individual cer-
5 tificate setting forth a statement in substance of the bene-
6 fits to which he is entitled under such contract.

Article 15. Accident and Sickness Insurance

Section 1. Scope of Article.—Nothing in this article
2 shall apply to or affect:
3 (a) Any policy of liability or workmen’s compensation
4 insurance.
5 (b) Any group accident and sickness policy issued in
6 accordance with article sixteen of this chapter.
7 (c) Life insurance (including endowment or annuity
8 contracts), or contracts supplemental thereto, which con-
9 tain only such provisions relating to accident and sickness
10 insurance as (1) provide additional benefits in case of
11 death by accidental means, or as (2) operate to safe-
12 guard such contracts against lapse, or to give a special
13 surrender value or special benefit or an annuity in the
14 event that the insured shall become totally and per-
15 manently disabled as defined by the contract or supple-
16 mental contract.
17 (d) Reinsurance.

Sec. 2. Scope and Format of Policy.—No policy of acci-
2 dent and sickness insurance shall be delivered or issued
3 for delivery to any person in this State unless:
(a) The entire money and other considerations therefor are expressed therein; and
(b) The time at which the insurance takes effect and terminates is expressed therein; and
(c) It purports to insure only one person, except that a policy may insure, originally or by subsequent amendment upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed nineteen years and any other person dependent upon the policyholder; and
(d) The style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lower-case unspaced alphabet length not less than one hundred and twenty-point (the "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions), the policy shall clearly indicate on the first page its optionally renewable nature; and
(e) The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in sections four and five of this article, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions", or "Exceptions and Reductions": Provided, That if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and
(f) Each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first part thereof; and
(g) It contains no provision purporting to make any
portion of the charter, rules, constitution, or by-laws of
the insurer a part of the policy unless such portion is set
forth in full in the policy, except in the case of the in-
corporation of, or reference to, a statement of rates or
classification of risks, or short-rate table filed with the
commissioner.

Sec. 3. Age Limit.—If any such policy contains a pro-
vision establishing as an age limit or otherwise, a date
after which the coverage provided by the policy will not
be effective, and if such date falls within a period for
which premium is accepted by the insurer or if the insurer
accepts a premium after such date, the coverage provided
by the policy will continue in force until the end of the
period for which premium has been accepted. In the
event the age of the insured has been misstated and if,
according to the correct age of the insured, the coverage
provided by the policy would not have become effective,
or would have ceased prior to the acceptance of such
premium or premiums, then the liability of the insurer
shall be limited to the refund, upon request, of all pre-
miums paid for the period not covered by the policy.

Sec. 4. Required Policy Provisions.—Except as provided
in section six of this article, each such policy delivered
or issued for delivery to any person in this State shall
contain the provisions specified in this section in the
words in which the same appear in this section: Pro-
vided, however, That the insurer may, at its option, sub-
stitute for one or more of such provisions corresponding
provisions of the different wording approved by the com-
missioner which are in each instance not less favorable
in any respect to the insured or the beneficiary. Such
provisions shall be preceded individually by the caption
appearing in this section or, at the option of the insurer,
by such appropriate individual or group captions or sub-
captions as the commissioner may approve.

(a) A provision as follows:

“Entire Contract; Changes: This policy, including the
donorsements and the attached papers, if any, constitutes
the entire contract of insurance. No change in this policy
shall be valid until approved by an executive officer of
the insurer and unless such approval be endorsed hereon
or attached hereto. No agent has authority to change this
policy or to waive any of its provisions."

(b) A provision as follows:
"Time Limit on Certain Defenses: (1) After two years
from the date of issue of this policy no misstatements,
except fraudulent misstatements, made by the applicant
in the application for such policy shall be used to void
the policy or to deny a claim for loss incurred or disability
(as defined in the policy) commencing after the expira-
tion of such two year period."
The foregoing policy provision shall not be so construed
as to affect any legal requirement for avoidance of a
policy or denial of a claim during such initial two year
period, nor to limit the application of clauses (a), (b),
(c), (d) and (e) of section five of this article in the event
of misstatement with respect to age or occupation or other
insurance. A policy which the insured has the right to
continue in force subject to its terms by the timely pay-
ment of premium (i) until at least age fifty, or (ii) in
the case of a policy issued after age forty-four, for at
least five years from its date of issue, may contain in lieu
of the foregoing the following provision (from which the
clause in parentheses may be omitted at the insurer's
option) under the caption "Incontestable":
"After this policy has been in force for a period of two
years during the lifetime of the insured (excluding any
period during which the insured is disabled), it shall be-
come incontestable as to the statements contained in the
application.

(2) No claim for loss incurred or disability (as defined
in the policy) commencing after two years from the date
of issue of this policy shall be reduced or denied on the
ground that a disease or physical condition not excluded
from coverage by name or specific description effective
on the date of loss had existed prior to the effective date
of coverage of this policy."

(c) A provision as follows:
"Grace Period: A grace period of ______ (insert a
number not less than '7' for weekly premium policies,
'10' for monthly premium policies and '31' for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force."

A policy in which the insurer reserves the right to refuse renewal shall have at the beginning of the above provision, "Unless not less than thirty days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted. . . ."

(d) A provision as follows:

"Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy: Provided, however, That if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement."

The last sentence of the above provision may be omitted
from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age fifty, or, (2) in the case of a policy issued after age forty-four, for at least five years from its date of issue.

(e) A provision as follows:

"Notice of Claim: Written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provision:

"Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given."

(f) A provision as follows:

"Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the
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giving of such notice the claimant shall be deemed to have
complied with the requirements of this policy as to proof
of loss upon submitting, within the time fixed in the
policy for filing proofs of loss, written proof covering the
occurrence, the character and the extent of the loss for
which claim is made."

(g) A provision as follows:

“Proof of Loss: Written proof of loss must be furnished
to the insurer at its said office in case of claim for loss
for which this policy provides any periodic payment con-
tingent upon continuing loss within ninety days after the
termination of the period for which the insurer is liable
and in case of claim for any other loss within ninety days
after the date of such loss. Failure to furnish such proof
within the time required shall not invalidate nor reduce
any claim if it was not reasonably possible to give proof
within such time, provided such proof is furnished as
soon as reasonably possible and in no event, except in the
absence of legal capacity, later than one year from the
time proof is otherwise required.”

(h) A provision as follows:

“Time of Payment of Claims: Indemnities payable un-
der this policy for any loss other than loss for which this
policy provides any periodic payment will be paid im-
mediately upon receipt of due written proof of such loss.
Subject to due written proof of loss, all accrued indem-
nities for loss for which this policy provides periodic pay-
ment will be paid __________________ . (insert period for payment
which must not be less frequently than monthly) and
any balance remaining unpaid upon the termination of
liability will be paid immediately upon receipt of due
written proof.”

(i) A provision as follows:

“Payment of Claims: Indemnity for loss of life will be
payable in accordance with the beneficiary designation
and the provisions respecting such payment which may
be prescribed herein and effective at the time of payment.
If no such designation or provision is then effective, such
indemnity shall be payable to the estate of the insured.
Any other accrued indemnities unpaid at the insured’s
death may, at the option of the insurer, be paid either
to such beneficiary or to such estate. All other indemnities
will be payable to the insured."
The following provisions, or either of them, may be
included with the foregoing provisions at the option of
the insurer:
“If any indemnity of this policy shall be payable to the
estate of the insured, or to an insured or beneficiary who
is a minor or otherwise not competent to give a valid
release, the insurer may pay such indemnity, up to an
amount not exceeding $__________ (insert an amount
which shall not exceed one thousand dollars), to any
relative by blood or connection by marriage of the insured
or beneficiary who is deemed by the insurer to be equita-
ibly entitled thereto. Any payment made by the insurer
in good faith pursuant to this provision shall fully dis-
charge the insurer to the extent of such payment.
“Subject to any written direction of the insured in the
application or otherwise all or a portion of any indem-
nities provided by this policy on account of hospital
nursing, medical, or surgical services may, at the insurer’s
option and unless the insured requests otherwise in writ-
ing not later than the time of filing proofs of such loss,
be paid directly to the hospital or person rendering such
services; but it is not required that the service be ren-
dered by a particular hospital or person.”
(j) A provision as follows:
“Physical Examinations and Autopsy: The insurer at
its own expense shall have the right and opportunity to
examine the person of the insured when and as often
as it may reasonably require during the pendency of a
claim hereunder and to make an autopsy in case of death
where it is not forbidden by law.”
(k) A provision as follows:
“Legal Actions: No action at law or in equity shall
be brought to recover on this policy prior to the expira-
tion of sixty days after written proof of loss has been
furnished in accordance with the requirements of this
policy. No such action shall be brought after the expira-
tion of three years after the time written proof of loss is
required to be furnished.”
(1) A provision as follows:

"Change of Beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy."

The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.

(m) In addition each policy, except accident insurance only policies, in which the insurer reserves the right to refuse renewal on an individual basis shall provide, in substance, in a provision thereof or in an endorsement thereon or in a rider attached thereto (entitled "Renewability"), that subject to the right to terminate the policy upon non-payment of premiums when due, such right to refuse renewal shall not be exercised before the renewal date occurring on, or after and nearest, each anniversary, or in the case of lapse and reinstatement at the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement, and that any refusal of renewal shall be without prejudice to any claim originating while the policy is in force.

Sec. 5. Optional Policy Provisions.—Except as provided in section six of this article, no such policy delivered or issued for delivery to any person in this State shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section: Provided, however, That the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.
(a) A provision as follows:

"Change of Occupation: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro-rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation."

(b) A provision as follows:

"Misstatement of Age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age."

(c) A provision as follows:

"Other Insurance in This Insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for (insert type of coverage or coverages) in
excess of $__________ (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate."

Or, in lieu thereof:

"Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies."

Provided that no policy hereafter issued for delivery in this State which provides, with or without other benefits, for the payment of benefits or reimbursement for expenses with respect to hospitalization, nursing care, medical or surgical examination or treatment, or ambulance transportation shall contain any provision for a reduction of such benefits or reimbursement, or any provision for avoidance of the policy, on account of other insurance of such nature carried by the same insured with the same or another insurer.

(d) A provision as follows:

"Insurance with Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro-rata portion for the indemnities thus determined."

The insurer may, at its option, include in this provision a definition of “other valid coverage”, approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United
States or any province of Canada, and to any other cov-
erage the inclusion of which may be approved by the
commissioner. In the absence of such definition such term
shall not include group insurance, or benefits provided
by union welfare plans or by employer or employee
benefit organizations. For the purpose of applying the
foregoing policy provision with respect to any insured
any amount of benefit provided for such insured pursuant
to any compulsory benefit statute (including any work-
men's compensation or employer's liability statute)
whether provided by a governmental agency or other-
wise shall in all cases be deemed to be "other valid cover-
age" of which the insurer has had notice. In applying the
foregoing policy provision no third party liability cover-
age shall be included as "other valid coverage."
(e) A provision as follows:
"Relation of Earnings to Insurance: If the total monthly
amount of loss of time benefits promised for the same
loss under all valid loss of time coverage upon the in-
sured, whether payable on a weekly or monthly basis,
shall exceed the monthly earnings of the insured at the
time disability commenced or his average monthly earn-
ings for the period of two years immediately preceding
a disability for which claim is made, whichever is the
greater, the insurer will be liable only for such propor-
tionate amount of such benefits under this policy as the
amount of such monthly earnings or such average monthly
earnings of the insured bears to the total amount of
monthly benefits for the same loss under all such cover-
age upon the insured at the time such disability com-
ences and for the return of such part of the premiums
paid during such two years as shall exceed the pro-rata
amount of the premiums for the benefits actually paid
hereunder; but this shall not operate to reduce the total
monthly amount of benefits payable under all such cover-
age upon the insured below the sum of two hundred
dollars or the sum of the monthly benefits specified in
such coverages, whichever is the lesser, nor shall it op-
erate to reduce benefits other than those payable for loss
of time."
The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age fifty or, (2) in the case of a policy issued after age forty-four, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage", approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

(f) A provision as follows:

"Unpaid Premium: Upon the payment of a claim under this policy, any premiums then due and unpaid or covered by any note or written order may be deducted therefrom."

(g) A provision as follows:

"Return of Premium on Cancellation: If the insured cancels this policy, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation."

(h) A provision as follows:

"Conformity with State Statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes."
(i) A provision as follows:

"Illegal Occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation."

(j) A provision as follows:

"Intoxicants and Narcotics: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician."

Sec. 6. Inapplicable or Inconsistent Provisions.—If any provision of this article is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

Sec. 7. Order of Certain Provisions.—The provisions which are the subject of sections four and five of this article or any corresponding provisions which are used in lieu thereof in accordance with such sections, shall be printed in consecutive order of the provisions in such sections or, at the option of the insurer, any such provisions may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

Sec. 8. Third Party Ownership.—The word "insured" as used in this article, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under
such a policy to any indemnities, benefits and rights provided therein.

Sec. 9. Requirements of Other Jurisdictions.—(a) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this State, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this article and which is prescribed or required by the law of the state under which the insurer is organized.

(b) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

Sec. 10. Franchise Insurance.—Accident and sickness insurance on a franchise plan is hereby declared to be that form of accident and sickness insurance issued to:
(a) Five or more employees of any corporation, partnership or individual employer or any governmental corporation, agency or department thereof, or
(b) Five or more members of any trade or professional association or of a labor union or of any other association having had an active existence for at least two years where such association or union has a constitution or by-laws and is formed in good faith for purposes other than that of obtaining insurance;
where such persons, with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons, under an arrangement whereby the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association or union for its members, or by some designated person acting on behalf of such employer or association or union. The term "employees" as used in this section shall be deemed to include the officers, managers, employees and retired employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership.
Article 16. Group Accident and Sickness Insurance

Section 1. Scope of Article.—(a) Nothing in this article shall apply to or affect any policy of liability or workmen's compensation insurance, or any policy of individual accident and sickness insurance issued in accordance with article fifteen of this chapter, or any policy issued by a fraternal benefit society.

(b) Nothing in this article shall apply to or in any way affect life insurance, endowment or annuity contracts or contracts supplemental thereto which contain no provisions relating to accident or sickness insurance except (a) such as provide additional benefits in case of death by accidental means and except (b) such as operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled as defined by the contract or supplemental contract.

(c) No accident and sickness policy or certificate shall be delivered or issued for delivery in this State insuring more than one individual (subject to the same exceptions provided for group life insurance in section one of article fourteen of this chapter) unless to one of the groups set forth in section two of this article and unless otherwise in compliance with this article.

Sec. 2. Eligible Groups.—Any insurer licensed to transact accident and sickness insurance in this State may issue group accident and sickness policies coming within any of the following classifications:

(a) A policy issued to an employer, who shall be deemed the policyholder, insuring at least ten employees of such employer, for the benefit of persons other than the employer, and conforming to the following requirements:

(1) If the premium is paid by the employer the group shall comprise all employees or all of any class or classes thereof determined by conditions pertaining to the employment, or

(2) If the premium is paid by the employer and employees jointly, or by the employees, the group shall comprise not less than seventy percent of all employees
of the employer or not less than seventy-five percent of
all employees of any class or classes thereof determined
by conditions pertaining to the employment.

(3) The term "employee" as used herein shall be deem-
ed to include the officers, managers, and employees of the
employer, the partners, if the employer is a partnership,
the officers, managers, and employees of subsidiary or
affiliated corporations of a corporation employer, and
the individual proprietors, partners and employees of
individuals and firms, the business of which is controlled
by the insured employer through stock ownership, con-
tract, or otherwise. The term "employer" as used herein
may be deemed to include any municipal or governmental
corporation, unit, agency or department thereof and the
proper officers, as such, of any unincorporated munici-
pality or department thereof, as well as private indi-
viduals, partnerships and corporations.

(b) A policy issued to an association which has a con-
stitution and by-laws and which has been organized and
is maintained in good faith for purposes other than that
of obtaining insurance, insuring at least ten members of
the association for the benefit of persons other than the
association or its officers or trustees, as such;

(c) A policy issued to a college, school or other institu-
tion of learning or to the head or principal thereof, insur-
ing at least ten students, or students and employees, of
such institution;

(d) A policy issued to or in the name of any volunteer
fire department, insuring all of the members of such de-
partment or all of any class or classes thereof against any
one or more of the hazards to which they are exposed by
reason of such membership but in each case not less than
ten such members;

(e) A policy issued to any person or organization to
which a policy of group life insurance may be issued or
delivered in this State, to insure any class or classes of
individuals that could be insured under such group life
policy.

Sec. 3. Required Policy Provisions.—Each such policy
hereafter delivered or issued for delivery in this State shall contain in substance the following provisions:
(a) A provision that the policy, the application of the policyholder, a copy of which shall be attached to such policy, and the individual applications, if any, submitted in connection with such policy by the employees or members, shall constitute the entire contract between the parties, and that all statements made by any applicant or applicants shall be deemed representations and not warranties, and that no such statement shall void the insurance or reduce benefits thereunder unless contained in a written application.
(b) A provision that the insurer will furnish to the policyholder, for delivery to each employee or member of the insured group, an individual certificate setting forth in substance the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit.
(c) A provision that all new employees or members, as the case may be, in the groups or classes eligible for insurance, shall from time to time be added to such groups or classes eligible to obtain such insurance in accordance with the terms of the policy.
(d) No provision relative to notice or proof of loss or the time for paying benefits or the time within which suit may be brought upon the policy shall be less favorable to the insured than would be permitted in the case of an individual policy by the provisions set forth in article fifteen of this chapter.

Sec. 4. Size of Type.—Every printed portion of every such policy shall be plainly printed in type of which the face shall be not smaller than ten point, and the exceptions shall be printed with the same prominence as the benefits to which they apply.

Sec. 5. Expense Reimbursement Permitted.—Any such policy may provide, in addition to such other indemnities, if any, as are provided in the policy on account of sickness or bodily injury or death of insured employees or
members by accident, for the payment of benefits or re-
imbursement for expenses with respect to any one or
more of the following contingencies: Hospitalization,
nursing care, medical or surgical examination or treat-
ment, or ambulance transportation, of insured employees
or members, or of their spouses or children, or of depend-
ents living with them.

Sec. 6. Rider Changing Individual Policy to Group
Policy Prohibited.—No endorsement or rider shall here-
after be used in this State to transform an individual
policy issued under article fifteen of this chapter into a
group policy.

Article 17. Fire and Marine Insurance

Section 1. Scope of Article.—This article shall apply to
fire insurance and marine insurance, except that it shall
not apply to reinsurance.

Sec. 2. Standard Fire Policy.—No policy of fire insur-
ance covering property located in West Virginia shall be
made, issued or delivered unless it conforms as to all pro-
visions and the sequence thereof with the basic policy
commonly known as the New York standard fire policy,
edition of one thousand nine hundred forty-three, which
is designated as the West Virginia standard fire policy;
except that with regard to multiple line coverages pro-
viding casualty insurance combined with fire insurance
this section shall not apply if the policy contains, with
respect to the fire portion thereof, language at least as
favorable to the insured as the applicable portions of the
standard fire policy and such multiple line policy has been
approved by the commissioner. As of the effective date
of this chapter, the commissioner shall file in his office,
and thereafter maintain on file in his office, a true copy of
such West Virginia standard fire policy, designated as
such and bearing the commissioner's authenticating certi-
ficate and signature and the date of filing. Provisions to
be contained on the first page of the policy may be re-
written, and rearranged to facilitate policy issuance and
to include matter which may otherwise properly be added
by endorsement. The standard fire insurance policy shall
not be required for casualty insurance, marine insurance
nor insurance on growing crops.

Sec. 3. Arrangement of Policy.—The pages of the stand-
ard fire insurance policy may be renumbered and the
format rearranged for convenience in the preparation of
individual contracts, and to provide space for the listing
of rates and premiums for coverages insured thereunder
or under endorsements attached or printed thereon, and
such other data as may be conveniently included for
duplication on daily reports for office records.

Sec. 4. Information as to Insurer.—There shall be
printed on such standard fire insurance policy the name
of the insurer or insurers issuing the policy, the location
of the home office or United States office of the insurer or
insurers, a statement whether such insurer or insurers be
stock corporations, mutual corporations, reciprocal insur-
ers, or otherwise, and there may be added thereto such
device or emblem as the insurer or insurers issuing such
policy may desire. If the policy is issued by a mutual or
reciprocal insurer having special regulations with respect
to the payment of assessments by the policyholder or sub-
scriber, such regulations shall be printed on the policy, and
any such insurer may print upon the policy such regula-
tions as may be appropriate to or required by its form of
organization. Any insurer organized under special charter
provisions may so indicate upon its policy, and may add a
statement of the plan under which it operates in this State.
There may be substituted for the word “company” a more
accurate descriptive term for the type of insurer. There
may also be added a statement of the group of insurers
with which the insurer is financially affiliated. In lieu of
the facsimile signatures of the president and secretary of
the insurer there may be used the name or names of such
officers or managers as are authorized to execute the con-
tract.

Sec. 5. Provisions Required by Charter or Laws of
Other States.—A domestic insurer may print in the stand-
ard fire policy any provisions which it is authorized or
required by law to insert therein; a foreign or alien
insurer may print in the policy any provision required by
its charter or deed of settlement, or by the laws of its
own state or country, not contrary to the laws of this
State.

Sec. 6. Riders, Endorsements, Additional Perils.—App-
propriate forms of additional contracts, riders or endorse-
ments, insuring against indirect or consequential loss or
damage, or against any one or more perils other than
those of fire and lightning, or providing coverage which
the insurer issuing the policy is authorized by the laws of
this State and by its license to assume or issue, may be
used in connection with the standard fire policy. Such
other perils or coverages may include those excluded in
the standard fire insurance policy, and may include any
of the perils or coverages permitted to be insured against
or issued by fire, marine and casualty insurers. Such
forms of contracts, riders and endorsements may contain
provisions and stipulations inconsistent with such stand-
ard fire insurance policy, if such provisions and stipula-
tions are applicable only to such additional coverage or
to the additional peril or perils insured against.

Sec. 7. Designation as Standard Policy, Agent's Name.—
There may be printed upon the standard fire policy the
words, “Standard Fire Insurance Policy for West Vir-
ginia”, and there may be inserted before and after the
words “West Virginia” a designation of any state or
states in which such form of policy is standard. There
may be endorsed on any such policy the name, with the
word “agent” or “agents” and place of business, of any
insurance agent or agents, either by writing, printing,
stamping or otherwise.

Sec. 8. Approval of Forms.—(a) No fire or marine
policy, rider, or endorsement to be attached to any policy,
covering any risk located or to be performed in West
Virginia shall be delivered or issued for delivery in this
State unless either (1) filed with and approved by the
commissioner, or (2) conforms to applicable rules ap-
proved by the commissioner or is identical as to language
to a policy, rider or endorsement approved by the com-
misstoner. If the use of any such form under the provisions of clause (2) above by any insurer or by the members and subscribers of any rating organization shall be so extensive that in the opinion of the commissioner the public interest requires, the commissioner may require that such form be filed with him by such insurer or by such rating organization on behalf of its members and subscribers.

(b) The procedure for filing and approval or disapproval of forms under this section shall be that provided in paragraphs (b), (c), (d), and (e) of section eight of article six of this chapter. Grounds for disapproval shall be those set forth in section nine of article six of this chapter. Such filings may be made on behalf of any insurer by a rating organization licensed as such under the provisions of article twenty of this chapter. This section shall not apply to ocean marine policies, riders or endorsements, or to forms on specially rated inland marine risks.

Sec. 9. Total or Partial Fire Loss.—All insurers issuing policies providing fire insurance on real property situate in West Virginia, shall be liable, in case of total loss by fire or otherwise, as stated in the policy, for the whole amount of insurance stated in the policy, upon such real property; and in case of partial loss by fire or otherwise, as aforesaid, of the real property insured, the liability shall be for the total amount of such partial loss, not to exceed the whole amount of insurance upon such real property as stated in the policy. This section shall not apply where such insurance has been procured from two or more insurers covering the same interest in such real property.

Sec. 10. Auditing and Stamping Office.—Every insurer licensed in West Virginia and effecting insurance against the risk of loss or damage by fire shall maintain or be a member or subscriber of an auditing and stamping office. Any insurance rating organization licensed under the provisions of article twenty of this chapter may establish and maintain such office and any advisory organization of the type described in section ten of article twenty of this chapter may establish and maintain such office, subject to the
provisions of this section. Each such office serving more than one insurer shall admit to membership or as a subscriber any licensed fire insurer applying therefor, and where such office is maintained by a rating organization or advisory organization any such insurer, whether or not a member or subscriber for other services of such rating organization or advisory organization, may subscribe to any of the services of such office for auditing and stamping separately, without being a member or subscriber of such rating organization or advisory organization for rate filings of the business to be audited and stamped. Every such insurer shall submit to such office daily reports of all policies written, and copies of binders, renewal certificates, endorsements or other evidence of insurance, containing any coverage against loss or damage by fire, or allied lines, including any type or kind of insurance written as a part of, or as an endorsement to, or in connection with, a fire insurance policy, and reports of the cancellation or termination thereof. Each such office shall examine all such documents so submitted and shall report all errors and omissions to the insurer and the representative or agent of the insurer to whom the error or omission is charged. In the event any such insurer shall fail to furnish to such auditing and stamping office within sixty days of receipt of a report of errors or omissions, satisfactory evidence that all errors or omissions so reported have been corrected, it shall be the duty of such office promptly to report such failure to the commissioner. Each such office shall promulgate rules governing the writing and examining of such coverages and shall distribute same to its members and subscribers. The expenses of such office shall be borne by its members and subscribers under reasonable rules and regulations of such office. Every such insurer shall, in its annual application for license, specify the auditing and stamping office of which it is, or will upon receiving such license become, a member. Each such office shall be subject to examination by the commissioner at such times as he deems necessary and if the commissioner finds that the operation of such office involves any act or practice which is unfair, unreasonable or discriminatory, he may issue a written order
specifying in what respects such operations are unfair, unreasonable or discriminatory and such office shall comply with all orders so issued. This section shall not apply to marine insurance or automobile or aircraft physical damage insurance.

Article 18. Casualty Insurance

Section 1. Article Reserved.—The number and location of this article in this chapter is reserved to accommodate future legislation governing casualty insurance.

Article 19. Surety Insurance

Section 1. Article Reserved.—The number and location of this article in this chapter is reserved to accommodate future legislation governing surety insurance.

Article 20. Rates and Rating Organizations

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

Sec. 2. Scope of Article.—(a) This article applies to fire, marine, casualty, and surety insurance, on risks or operations in this State.

(b) This article shall not apply:

(1) To reinsurance, other than joint reinsurance to the extent stated in section eleven of this article;

(2) To life or accident and sickness insurance;

(3) To insurance of vessels or craft, their cargoes, marine builders’ risks, marine protection and indemnity, or
other risks commonly insured under marine, as distinguished from inland marine, insurance policies:

(4) To insurance against loss of or damage to aircraft, including their accessories and equipment, or against liability, other than workmen's compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft;

(5) To title insurance.

(c) If any kind of insurance, subdivision or combination thereof, or type of coverage, is subject to both the provisions of this article expressly applicable to casualty and surety insurance and to those expressly applicable to fire and marine insurance, the commissioner may apply to filings made for such kind of insurance the provisions of this article which are in his judgment most suitable.

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

(a) Due consideration shall be given to past and prospective loss experience within and outside this State, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this State, and to all other relevant factors within and outside this State.

(b) Rates shall not be excessive, inadequate or unfairly discriminatory.

(c) Rates for casualty and surety insurance to which this article applies shall also be subject to the following provisions:

(1) The systems 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 combination thereof for which subdivision or combination separate expense provisions are applicable.

(2) Risks may be grouped by classifications for the
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.

(3) Due consideration shall be given to such factors as expense, management, individual experience, underwriting judgment, degree or nature of hazard or any other reasonable considerations, provided such factors apply to all risks under the same or substantially the same circumstances or conditions.

(d) Rates for fire and marine insurance to which this article applies shall also be subject to the following provisions:

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

(2) Due consideration shall be given to the conflagration hazard, and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five year period for which such experience is available.

(e) Except to the extent necessary to meet the provisions of paragraph (b) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

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

Sec. 4. Rate Filings.—(a) (1) 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 for casualty insurance to which this article applies.

(2) Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates
or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule and every modification of any of the foregoing which it proposes to use for fire and marine insurance to which this article applies. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(b) 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 shall 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 may 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.

(c) 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 organization.

(d) 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.

(e) Subject to the exceptions specified in paragraphs (f) and (g) of this section, each filing shall be on file for a waiting period of thirty days before it becomes
effective, which period may be extended by the commis-
ioner for an 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 before
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-
ioner within the waiting period or any extension thereof.

(f) Any special filing with respect to a surety 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.

(g) Specific inland marine rates on risks specially rated
by a rating organization 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.

(h) Under such rules and regulations as he shall adopt
the commissioner may, by written order, suspend or
modify the requirement of filing as to any kind of in-
surance, subdivision or combination thereof, or as to
classes of risks, the rates for which cannot practically be
filed before they are used. Such orders, rules and regu-
lations shall be made known to insurers and rating or-
ganizations 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-
ards set forth in paragraph (b) of section three of this
article.

(i) Upon the written application of the insured, stating
his reasons therefor, filed with and approved by the com-
missioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(j) No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for said insurer as provided in this article or in accordance with paragraphs (h) or (i) of this section. This paragraph shall not apply to contracts or policies for inland marine risks as to which filings are not required.

Sec. 5. Disapproval of Filings.—(a) If within the waiting period or any extension thereof as provided in paragraph (e) of section four of this article, 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 filing subject to paragraph (f) of section four of this article or if within thirty days after a specific inland marine rate on a risk specially rated by a rating organization subject to paragraph (g) of section four of this article has become effective, the commissioner finds that such filing does not meet the requirements of this article, he shall send to the 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 period provided for in paragraphs (a) or (b) of this section, the commissioner finds that a filing does not meet the requirements of this article, he shall, after notice and 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 reason-
able 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 demand a hearing thereon. 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. 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) Any insurer or rating organization, in respect to any filing made by it which is not approved by the commissioner, may demand a hearing thereon.

(f) No manual of classifications, rules, rating plans, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, in the case of casualty insurance to which this article applies and no manual, minimum, class rate, rating schedule, rating plan, rating rule, or any modification of any of the foregoing, in the case of fire insurance to which this article applies, 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. 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 casualty insurance or subdivisions thereof, or for such kinds of fire and marine insurance or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith (1) a copy of its constitution, its articles
or 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 subscribers, (3) the name and address of a resident of this State as attorney-in-fact upon whom notices or orders of the commissioner or process affecting such rating organization may be served and (4) a statement of its qualifications as a rating organization. If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within sixty days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the commissioner. The fee for said license shall be twenty-five dollars, and said fee shall be in lieu of all other fees, licenses or taxes to which a rating organization might otherwise be subject, all fees so collected to go into the fund provided and for the purposes specified in section thirteen of article three of this chapter. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after notice and hearing, in the event the rating organization ceases to meet the requirements of this article. 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 as attorney-in-fact 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
casualty insurance or subdivision thereof, or for any kind
of fire and marine insurance or subdivision or class of
risk or a part or combination thereof, or any kind of
surety insurance or subdivision thereof, for which it is
authorized to act as a rating organization. Notice of pro-
posed 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 in-
surer, be reviewed by the commissioner. If, after notice
and hearing, 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 subscriber-
ship within thirty days after it was made, the insurer
may request a review by the commissioner as if the ap-
plication had been rejected. If, after notice and hearing,
the commissioner finds that the insurer has been refused
admittance to the rating organization as a subscriber
without justification, he shall order the rating organiza-
tion 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 rule the
effect of which would be to prohibit or regulate the pay-
ment of dividends, savings or unabsorbed premium de-
posits allowed or returned by insurers to their policy-
holders, 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 co-
operation are subject to all the provisions of this article
which are applicable to filings generally. The commis-
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Sec. 7. Deviations.—(a) Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that:

(1) In the case of casualty and surety insurance to which this article applies any such insurer 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 subdivision of a kind of insurance (a) comprised of a group of manual classifications
which is treated as a separate unit for rate making purposes, or (b) for which separate expense provisions are included in the filings of the rating organization. Such application shall specify the basis for the modification 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; and

(2) In the case of fire and marine insurance to which this article applies any such insurer may make written application to the commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance or combination thereof. Such application shall specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization. In considering the application for permission to file such deviation the commissioner shall give consideration to the available statistics and the applicable principles for rate making as provided in section three of this article.

(b) The commissioner shall, after notice to such insurer and rating organization, and hearing, unless hearing is waived by such insurer and rating organization, 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 or 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. 8. Appeal by Minority.—(a) 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 notice and hearing, 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 re-
jecting a proposed addition to its filings, he may, in the
event he finds that such action or decision was unreason-
able, 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.

(b) In the case of casualty and surety insurance to
which this article applies, 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 subdivision (1) of paragraph
(c) of section three of this article, 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 re-
quested filing for use by the appellant. In deciding such
appeal the commissioner shall apply the standards set
forth in section three of this article.

Sec. 9. Information to be Furnished Insureds; Hearings
and Appeals of Insureds.—(a) 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.

(b) Every rating organization and every insurer which
makes its own rates shall provide within this State rea-
sonable means whereby any person aggrieved by the ap-
plication 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 notice and hearing, may affirm or reverse such action.

Sec. 10. Advisory Organizations.—(a) Every group, association 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 commissioner (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 activities, (2) a list of its members, (3) the name and address of a resident of this State as its attorney-in-fact upon whom notices or orders of the commissioner or process may be served, and (4) an agreement that the commissioner may examine such advisory organization in accordance with the provisions of section twelve of this article.

(c) If after notice and 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 paragraph (c) of this section. If the commissioner finds such insurer or rating organization to be in violation of this
Sec. 11. Joint Underwriting or Joint Reinsurance.—
(a) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, 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 section twelve of this article.

(b) If after notice and hearing the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects 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. 12. Examinations.—(a) The commissioner shall, at least once in five years, make or cause to be made an examination of each rating organization licensed under the provisions of section six of this article 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 ten of this article and of each group, association or other organization referred to in section eleven of this article. 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 officers, managers, 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 not less than ten days prior to filing same in his office. If such organi-
zation, group or association so requests in writing, within such ten-day period, the commissioner shall consider the objections, if any, to such report as proposed, and shall not file such report until such modifications, if any, have been made therein as the commissioner deems proper. The report when so filed shall be admissible 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 for such time as he may deem proper.

(b) 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. 13. Rate Administration.—(a) Recording the Reporting of Loss and Expense Experience. 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 experience, 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 of this article. Such rules and plans may also provide for the recording and reporting of loss and expense experience items which are specially applicable to this State and are not susceptible of determination by a prorating of countrywide experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems 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. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The com-
missioner may designate one or more rating organizations
or other agencies to assist him in gathering such experi-
ence and making compilations thereof, and such com-
pileations shall be made available, subject to reasonable
rules promulgated by the commissioner, to insurers and
rating organizations.

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

c) Consultation with Other States. In order to further
uniform administration of rate regulatory laws, the com-
missioner and every insurer and rating organization may
exchange information and experience data with insur-
ance supervisory officials, insurers and rating organiza-
tions in other states and may consult with them with
respect to rate making and the application of rating
systems.

Sec. 14. 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.

Sec. 15. Assigned Risks.—With respect to casualty in-
surance to which this article applies, agreements may be
made among insurers with respect to the equitable ap-
portionment 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 ordi-
nary methods and such insurers may agree among them-
selves on the use of reasonable rate modifications for such
insurance, such agreements and rate modifications to be
subject to the approval of the commissioner.

Sec. 16. Penalties.—(a) The commissioner may suspend,
revoke or refuse to renew the license of any rating orga-
nization which violates any provision of this article or
chapter or which fails to comply with an order of the
1 commissioner issued pursuant to this chapter, within the
time limited by such order, or any extension thereof
which the commissioner may grant. The commissioner
may determine when a suspension of license shall become
effective and it shall remain in effect for the period fixed
by him, unless he modifies or rescinds such suspension, or
until the order upon which such suspension is based is
modified, rescinded or reversed.

(b) No license shall be suspended or revoked except
upon a written order of the commissioner made after
notice and hearing. The commissioner shall not suspend
or revoke the license of any rating organization for failure
to comply with an order of the commissioner until the
time prescribed for an appeal therefrom has expired or,
if an appeal has been taken, until such order has been
affirmed.

Article 21. Reciprocal Insurers

Section 1. Scope of Article.—This article applies to
reciprocal insurers and reciprocal insurance. Foreign and
alien reciprocal insurers shall be governed by all pro-
visions of this article not expressly made applicable only
to domestic reciprocal insurers, and domestic reciprocal
insurers shall be governed by all the provisions of this
article.

Sec. 2. General Laws Applicable.—Except as otherwise
provided, and except where the context clearly requires
otherwise, all the provisions of this chapter relating to
insurers generally, and all the provisions of this chapter
relating to insurers transacting the same kinds of insur-
ance which reciprocal insurers are permitted to transact,
are applicable to reciprocal insurers, except that article
twelve of this chapter shall not apply to reciprocal in-
surers.

Sec. 3. Kinds of Insurance.—A reciprocal insurer, upon
being licensed therefor as provided in this article, when
possessed of and maintaining on deposit surplus funds
equal to the minimum capital required of a stock in-
surer to transact like kinds of insurance, may transact
fire, marine, casualty or surety insurance, and may pur-
chase reinsurance upon the risk of any subscriber, and may grant reinsurance as to any kind of insurance it is licensed to transact direct. No reciprocal insurer shall be licensed to transact, nor shall any reciprocal insurer transact, life or accident and sickness insurance.

Sec. 4. Name.—A reciprocal insurer shall have and use a business name, which shall include the word “reciprocal”, or “inter-insurer”, or “inter-insurance”, or “exchange”, or “underwriters”, or “underwriting”, in which name such insurer may sue and be sued.

Sec. 5. Attorney.—“Attorney”, as used in this article, refers to the attorney-in-fact of a reciprocal insurer, and such attorney may be an individual, firm or corporation.

Sec. 6. Application for License.—A reciprocal insurer desiring to transact insurance may apply to the commissioner for a license. The attorney shall execute under his oath and file with the commissioner such application setting forth:

(a) The name of the insurer;
(b) The location of the insurer’s principal office, which shall be the same as that of the attorney, and in the case of a domestic reciprocal insurer shall be maintained within this State;
(c) The kinds of insurance proposed to be transacted;
(d) The designation and appointment of the proposed attorney and a copy of the power of attorney;
(e) The names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;
(f) In the case of a domestic reciprocal insurer, the powers of the subscribers’ advisory committee, and in the case of domestic, foreign or alien reciprocal insurers, the names and terms of office of the members thereof;
(g) In the case of a domestic reciprocal insurer that all monies paid to the reciprocal shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers’ agreement;
(h) A copy of the subscribers’ agreement;
(i) A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by section three of this article is on hand;

(j) A copy of each policy, endorsement, and application form it then proposes to issue or use;

(k) In the case of a foreign or alien reciprocal insurer a statement from the insurance supervisory official of its state of domicile or entry that it is licensed in such state to transact the kinds of insurance it proposes to transact in West Virginia;

(l) In the case of a domestic reciprocal insurer, the names and addresses of the original subscribers who must number at least twenty-five;

(m) In the case of a domestic reciprocal insurer, a statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six months at an adequate rate theretofore filed with and approved by the commissioner;

(n) Such other information as the commissioner deems necessary.

Sec. 7. License.—The license of a reciprocal insurer shall be issued to its attorney in the name of the insurer and may be suspended, revoked or renewal refused in the same manner and upon the same grounds as other insurers.

Sec. 8. Power of Attorney.—(a) The rights and powers of the attorney of a reciprocal insurer shall be as provided in the power of attorney given it by the subscribers, which power of attorney must set forth:

(1) The powers of the attorney;

(2) That the attorney is empowered to accept service of process on behalf of the insurer;

(3) The general services to be performed by the attorney;

(4) The maximum amount to be deducted from advance premiums or deposits to be paid to the attorney and the general items of expense in addition to losses, to be paid by the insurer;
(5) Except as to nonassessable policies, a provision for a contingent several liability of each subscriber in a specified amount, which amount shall be not less than one nor more than ten times the annual premium or premium deposit stated in the policy.

(b) The power of attorney may:

(1) Provide for the right of substitution of the attorney and revocation of the power of attorney and rights thereunder;

(2) Impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;

(3) Provide for the exercise of any right reserved to the subscribers directly or through their advisory committee;

(4) Contain other lawful provisions deemed advisable.

(c) The terms of any power of attorney or agreement collateral thereto shall be reasonable and equitable.

Sec. 9. Modifications.—Modification of the terms of the subscribers' agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by the attorney and the subscribers' advisory committee. No modification of a domestic, foreign or alien reciprocal insurer's power of attorney or subscribers' agreement shall be effective retroactively, nor as to any insurance contract issued prior thereto, and such modification shall be reasonable and equitable, and shall be filed with the commissioner.

Sec. 10. Attorney's Bond.—(a) Concurrently with the filing of the application provided for in section six of this article, the attorney of a domestic reciprocal insurer shall file with the commissioner a bond in favor of the State of West Virginia for the benefit of all persons damaged as a result of breach by the attorney of the conditions of his bond as set forth in paragraph (b) of this section. The bond shall be executed by the attorney and by an authorized corporate surety, and shall be subject to the commissioner's approval.

(b) The bond shall be in the penal sum of twenty-five thousand dollars, aggregate in form, conditioned that the attorney will faithfully account for all monies and other
property of the insurer coming into his hands, and that he will not withdraw or appropriate to his own use from the funds of the insurer, any monies or property to which he is not entitled under the power of attorney.

(c) The bond shall provide that it is not subject to cancellation unless thirty days' advance notice in writing of cancellation is given both the attorney and the commissioner.

(d) In lieu of such bond, the attorney may maintain on deposit with the state treasurer through the office of the commissioner a like amount in cash or in value of securities qualified under this chapter as insurers' deposit investments, and subject to the same conditions as the bond.

(e) Action on the attorney's bond or to recover against any such deposit made in lieu thereof may be brought at any time by one or more subscribers suffering loss through a violation of its conditions, or by a receiver or liquidator of the insurer. Amounts recovered on the bond shall be deposited in and become part of the insurer's funds. The total aggregate liability of the surety shall be limited to the amount of the penalty of such bond.

Sec. 11. Annual Report.—(a) The annual report of a reciprocal insurer shall be made and filed by its attorney. (b) The report shall be supplemented by such information as may be required by the commissioner relative to the affairs and transactions of the attorney insofar as they pertain to the reciprocal insurer.

Sec. 12. Process and Venue.—(a) Concurrently with the filing of the application provided for by the terms of section six of this article, the attorney shall file with the commissioner an instrument in writing, executed by him for said subscribers, conditioned that upon the issuance of the license provided for in section seven of this article any action, suit or other proceeding arising out of any insurance contract or policy issued under such license, may be brought in the county of this State wherein the property insured was situated either at the date of the policy or at the time when the right of action accrued, or in the county of this State wherein the person insured had a legal residence at the date of his death or at the time
the right of action accrued, and that service of any process or notice may be had upon the auditor of this State in all actions, suits or other proceedings in this State arising out of such policies, contracts, agreements or other business of insurance transacted under such license, and that said auditor may accept service of any such process or notice. (b) Such service or acceptance of service shall be valid and binding upon such attorney and upon all subscribers exchanging at any time reciprocal or inter-insurance contracts through such attorney. Two copies of such process or notice, in addition to the original, shall be furnished the auditor, and he shall file one copy, forward one copy to said attorney and return the original with his acceptance of service or for return of service. But no process or notice shall be served on the auditor or accepted by him less than ten days before the return day thereof. Where the principal office of the attorney is located in this State, service of process may be had upon all subscribers by serving same upon the attorney at said office. Service of process shall not be had upon said subscribers or any of them in any suit or other proceeding in this State except in the manner provided in this section, and any action, suit, or other proceeding may be begun and prosecuted against or defended by them under the name or designation adopted by them. (c) The attorney shall pay to the auditor an annual fee of ten dollars.

Sec. 13. Fees and Taxes.—(a) The attorney for each reciprocal insurer shall pay on behalf of such insurer all fees and taxes prescribed by this chapter for other insurers transacting like kinds of insurance, except that the amount of the premium tax shall be computed upon the gross premiums on business transacted in this State less premiums returnable because of cancellation and less amounts returned to subscribers or credited to their accounts as savings. (b) In addition such attorney shall pay annually on behalf of such reciprocal insurer the fire marshal's tax provided by section twenty-four, article three, chapter twenty-nine of this Code, to the extent such tax is applic-
able to the kinds of insurance transacted in this state by
such reciprocal insurer.
(c) No reciprocal insurer shall be liable for any taxes
except those described in this section and property taxes
upon real and personal property, unless reciprocal in-
surers be specifically mentioned in the law imposing such
taxes.

Sec. 14. Who May be Subscribers.—Individuals, part-
nerships, and corporations of this State may make appli-
cation, enter into agreement for and hold policies or con-
tracts in or with and be a subscriber of any domestic,
foreign, or alien reciprocal insurer. Any public or private
corporation now or hereafter created by or organized
under the laws of this State shall, in addition to the rights,
powers, and franchises specified in its articles of incorpora-
tion, have full power and authority as a subscriber to
exchange insurance contracts through such reciprocal
insurance. The right to exchange such contracts is hereby
declared to be incidental to the purposes for which such
corporations are organized and to be as fully granted as
the rights and powers expressly conferred upon such
corporations. Any officer, representative, trustee, receiver,
or legal representative of any such subscriber shall be
recognized as acting for or on its behalf for the purpose
of such contract but shall not be personally liable upon
such contract by reason of acting in such representative
capacity.

Sec. 15. Subscriber's Advisory Committee.—(a) The
advisory committee of a domestic reciprocal insurer exer-
cising the subscribers’ rights shall be selected under such
rules as the subscribers adopt.
(b) Not less than two-thirds of such committee shall be
subscribers other than the attorney, or any person employ-
ed by, representing, or having a financial interest in the
attorney.
(c) The committee shall:
(1) Supervise the finances of the insurer;
(2) Supervise the insurer's operations to such extent
as to assure conformity with the subscribers' agreement
and power of attorney;
(3) Procure the audit of the accounts and records of
the insurer and of the attorney at the expense of the in-
surer;
(4) Have such additional powers and functions as may
be conferred by the subscribers' agreement.

Sec. 16. Subscriber's Liability.—(a) The liability of
each subscriber, other than as to a nonassessable policy,
for the obligations of the reciprocal insurer shall be an
individual, several, and proportionate liability, and not
joint.
(b) Except as to a nonassessable policy each subscriber
shall have a contingent assessment liability, in the amount
provided for in the power of attorney or in the subscribers'
agreement, for payment of actual losses and expenses
incurred while his policy was in force. Such contingent
liability may be at the rate of not less than one nor more
than ten times the premium or premium deposit stated in
the policy, and the maximum aggregate thereof shall be
computed in the manner set forth in section twenty of
this article.
(c) Each assessable policy issued by the insurer shall
contain a statement of the contingent liability, set in type
of the same prominence as the insuring clause.

Sec. 17. Subscriber's Liability on Judgments.—(a) No
action shall lie against any subscriber upon any obliga-
tion claimed against the insurer until a final judgment
has been obtained against the insurer and remains unsatis-
fied for thirty days.
(b) Any such judgment shall be binding upon each
subscriber only in such proportion as his interests may
appear and in amount not exceeding his contingent liabili-
ty, if any.

Sec. 18. Assessments.—(a) Assessments may from time
to time be levied upon subscribers of a domestic reciprocal
insurer liable therefor under the terms of their policies by
the attorney upon approval in advance by the subscribers'
advisory committee; or by the receiver, conservator, re-
habilitator or liquidator, in liquidation proceedings of the
insurer.
(b) Each such subscriber's share of a deficiency for which an assessment is made, but not exceeding in any event his aggregate contingent liability as computed in accordance with section twenty of this article, shall be computed by applying to the premium earned on the subscriber's policy or policies during the period to be covered by the assessment, the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment.

(c) In computing the earned premiums for the purposes of this section, the gross premium received by the insurer for the policy shall be used as a base, deducting therefrom only charges not recurring upon the renewal or extension of the policy.

(d) No such subscriber shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or losses payable.

Sec. 19. Time Limit for Assessment.—Every subscriber of a domestic reciprocal insurer having contingent liability shall be liable for, and shall pay his share of any assessment, as computed and limited in accordance with this article, if,

(a) While his policy is in force or within one year after its termination, he is notified by either the attorney or the receiver, conservator, rehabilitator or liquidator of his intentions to levy such assessment, or

(b) If an order to show cause why a receiver, conservator, rehabilitator, or liquidator of the insurer should not be appointed is issued while his policy is in force or within one year after its termination.

Sec. 20. Aggregate Liability.—In the case of a domestic reciprocal insurer no one policy or subscriber as to such policy, shall be assessed or charged with an aggregate of contingent liability as to obligations incurred by a reciprocal insurer in any one calendar year, in excess of the amount provided for in the power of attorney or in the subscribers' agreement, computed solely upon premium earned on such policy during that year.

Sec. 21. Nonassessable Policies.—(a) If a reciprocal in-
surer has a surplus of assets over all liabilities in an amount equal to the minimum capital stock generally required of a domestic stock insurer authorized to transact like kinds of insurance, upon application of the attorney and as approved by the subscribers' advisory committee, the commissioner may issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this State, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this State for so long as such surplus funds remain unimpaired.

(b) Upon impairment of such surplus, the commissioner may revoke such certificate. Such revocation shall not render subject to contingent liability any policy then in force and for the remainder of the period for which the premium has theretofore been paid; but after such revocation no policy shall be issued or renewed without providing for contingent assessment liability of the subscriber.

(c) The commissioner shall not authorize a reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish such liability of all its subscribers and in all such policies for all kinds of insurance transacted by it. Except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may acquire such policies in such state, and need not extinguish the contingent liability applicable to policies theretofore in force in such state.

(d) No reciprocal insurer shall deliver or issue for delivery in this State assessable policies imposing a contingent liability upon subscribers, if such reciprocal insurer is issuing for delivery to subscribers in this or any other state nonassessable policies insuring risks of substantially the same hazard and class.

Sec. 22. Distribution of Savings.—A reciprocal insurer may from time to time return to its subscribers any unused premiums, savings, or credits accruing to their accounts. Any such distribution shall not unfairly discriminate
between classes of risks, or policies, or between sub-
scribers, but such distribution may vary as to classes of
subscribers based upon the experience of such subscribers.

Sec. 23. Contributions.—The attorney or other parties
may advance to a reciprocal insurer upon reasonable
terms such funds as it may require from time to time in
its operations. Sums so advanced shall not be treated as
a liability of the insurer, and, except upon liquidation of
the insurer, shall not be withdrawn or repaid except out
of the insurer's realized earned surplus in excess of its
minimum required surplus.

Sec. 24. Financial Condition.—In determining the fi-
nancial condition of a reciprocal insurer the commissioner
shall apply the following rules:
(a) He shall charge as liabilities the same reserves as
are required of incorporated insurers issuing nonassessable
policies on a reserve basis.
(b) The surplus deposits of subscribers shall be allowed
as assets, except that any premium deposit delinquent for
ninety days shall first be charged against such surplus
deposit.
(c) The surplus deposits of subscribers shall not be
charged as a liability.
(d) All premium deposits delinquent less than ninety
days shall be allowed as assets.
(e) An assessment levied upon subscribers, and not
collected, shall not be allowed as an asset.
(f) The contingent liability of subscribers shall not be
allowed as an asset.
(g) The computation of reserves shall be based upon
premium deposits other than membership fees and with-
out any deduction for the compensation of the attorney.

Sec. 25. Subscriber's Share in Assets.—Upon the liquida-
tion of a domestic reciprocal insurer, its assets remaining
after discharge of its indebtedness and policy obligations,
the return of any contributions of the attorney or other
persons to its surplus made as provided in section twenty-
three of this article, and the return of any unused pre-
mium, savings, or credits then standing on subscribers'
accounts, shall be distributed to its subscribers who were
such within the twelve months prior to the last termina-
tion of its license, according to such reasonable formula
as the commissioner may approve.

Sec. 26. Merger or Conversion.—(a) A domestic recipro-
cal insurer upon affirmative vote of not less than two-
thirds of its subscribers who vote on such merger pursuant
to due notice and the approval of the commissioner of the
terms therefor, may merge with another reciprocal insurer
or be converted to a stock or mutual insurer.
(b) Such a stock or mutual insurer shall be subject to
the same capital requirements and shall have the same
rights as a like domestic insurer transacting like kinds of
insurance.
(c) The commissioner shall not approve any plan for
such merger or conversion which is inequitable to sub-
scribers, or which, if for conversion to a stock insurer,
does not give each subscriber preferential right to acquire
stock of the proposed insurer proportionate to his interest
in the reciprocal insurer as determined in accordance with
section twenty-five of this article and a reasonable length
of time within which to exercise such right.

Article 22. Farmers' Mutual Fire Insurance Companies

Section 1. Scope of Article.—Every farmers' mutual fire
insurance company, hereinafter called "company", orga-
nized under the laws of this State shall be governed by the
provisions of this article and by no other provisions of
this chapter except such provisions as are specifically
made applicable and referred to in this article. No law
hereafter enacted shall apply to such companies unless
such law shall declare that it is specifically applicable to
farmers' mutual fire insurance companies.

Sec. 2. Other Provisions Applicable.—Each such com-
pany to the same extent such provisions are applicable to
domestic mutual insurers shall be governed by and be
subject to the following articles of this chapter: article
one (definitions), article two (insurance commissioner),
article four (general provisions) except that section six-
teen of article four shall not be applicable thereto, article
ten (rehabilitation and liquidation) except that under the provisions of section thirty-two of said article ten no assessment shall be levied against any former member of a farmers' mutual fire insurance company who was no longer a member of such company at the time the order to show cause was issued, article eleven (unfair practices and frauds), and article twelve (agents, brokers and solicitors) except that the agents' license fee shall be one dollar; but only to the extent such provisions are not inconsistent with the provisions of this article.

Sec. 3. Incorporation.—Such company may be organized and incorporated without capital stock for the purpose of insuring property against loss or damage as hereinafter authorized, in the same manner as non-stock companies generally are organized and incorporated, except that the secretary of state of this State shall not issue a certificate of incorporation until the commissioner shall have examined the charter and approved same in writing upon being satisfied that the company is in a position to comply with the provisions of this article.

Sec. 4. License.—No such company shall transact insurance in West Virginia except as authorized by a license issued by the commissioner. Such company shall apply to the commissioner for such license and shall file with such application a certified copy of its charter and by-laws, together with applications from residents of this State for not less than one hundred thousand dollars of insurance of the type such companies are permitted to transact on property located in this State. The term of such license, renewal, refusal to license, revocation, suspension or penalty in lieu thereof, and reissuance, shall be governed by the provisions of sections eight, nine, ten, and eleven, of article three of this chapter, in the same manner that such sections are applicable to insurers generally, to the extent such provisions are not inconsistent with the provisions of this article.

Sec. 5. Corporate Organization and Procedure.—(a) The number of directors of any such company shall not be less than six nor more than fifteen, a majority of whom shall
constitute a quorum to do business, to be elected from the
incorporators by ballot, of whom one-third shall be elected
for one year, one-third for two years and one-third for
three years, until their successors are elected and qualified.
At all subsequent elections, except to fill vacancies, one-
third of such board of directors shall be elected for three
years, such election to be held at the annual meeting of
the company. In the election of the first board of directors
each incorporator shall be entitled to one vote. At every
subsequent election every member shall be entitled to one
vote and may cast the same in person or by proxy. Regular
meetings of the board of directors shall be held as often
as the by-laws may provide, and special meetings may be
held at the call of the president, secretary, or a majority
of the board of directors.

(b) The directors shall elect from their number a presi-
dent and a treasurer, and shall also employ a secretary,
who may or may not be a member of the company, all of
whom shall hold their office for one year and until their
successors are elected and qualified. Any two of the above
named offices except the office of president may be held
by the same person. The directors shall also prescribe the
duties of the officers and fix their compensation, not incon-
Sistent with the charter and by-laws.

(c) The treasurer and secretary shall give bonds to the
company for the faithful performance of their duties in
such amounts as shall be prescribed by the board of di-
rectors, only one bond being required where the office of
treasurer and secretary is held by the same person. Bonds
may be required of other employees and agents of the
company at the discretion of the board of directors.

(d) The board of directors shall notify all members of
the time and place of the annual meeting of such mem-
ers, either by printing the same on their policies or by
written notice.

(e) Each such company when so licensed to transact
insurance shall possess all the powers necessary to carry
out its corporate purposes and not inconsistent with this
article or the laws of this State. Amendments to the
charter or by-laws may be offered by the board or any
member at any regular or special meeting of the members
upon written notice to all members of the intention to
propose such amendments not less than thirty days prior
to such meeting, and such amendments may be adopted
by the approval of a majority of the members present and
voting in person or by proxy. No such amendment shall
be effective unless and until approved by the commis-

Sec. 6. Members.—(a) Each policyholder of such com-
pany is a member thereof and is entitled to all the rights
and privileges and is subject to all liabilities connected
with such membership.
(b) Whenever any public or private corporation, board
or association in this State holds a policy in any such
corporation, any officer, stockholder or trustee of any such
corporation, board or association may be recognized as
acting for or on its behalf for the purpose of such mem-
bership, but shall not be personally liable upon such con-
tract of insurance by reason of acting in such representa-
tive capacity. The right of any corporation organized
under the laws of this State to participate as a member of
such company is hereby declared to be incidental to the
purpose for which such corporation is organized and as
much granted as the rights and powers expressly con-
ferred.

Sec. 7. Policy Approval.—(a) No policy form shall be
issued or used by any such company unless such form has
been filed with and approved by the commissioner. The
filing, approval and disapproval of such forms shall be
governed by the provisions of sections eight and nine of
article six of this chapter in the same manner as form
filings of other insurers.
(b) All terms and conditions of such policies shall be
set forth in full in the policy or endorsements attached
thereto including the contingent liability, if any, of the
policyholder, and no provision purporting to make any portion of the charter, by-laws or other documents a part of the policy shall be valid unless such portion is set forth in full in the policy.

(c) Policies may limit the liability of the company to a fixed percent of the value of the property insured.

(d) Whenever the commissioner believes the public interest requires a standard form for a particular kind of coverage, the commissioner may prescribe a standard form of policy for such companies, or a standard specific provision to be inserted in such policies, and all policies thereafter issued by such companies shall conform to such standard forms or provisions.

Sec. 8. Insuring Powers.—(a) Every such company may issue policies of insurance on property located anywhere in this State, signed by its president and secretary, providing insurance against:

(1) Loss or damage to dwelling houses, stores and all kinds of buildings and household furniture, goods, merchandise and chattels of every description, and all other property by fire, and allied coverages, including lightning, aircraft, windstorm, tornado, cyclone, hail, frost or snow, smoke, weather or climatic conditions, including excess or deficiency of moisture, flood, rain or drought, business interruptions, riot attending a strike or civil commotion, riot, vehicle and by explosion whether fire ensues or not;

(2) Loss or damage by insects or disease to farm crops or products and loss of rental value of land used in producing such crops or products;

(3) Loss or damage by water or other fluid to any goods or premises arising from the breakage or leakage of sprinklers, pumps or other apparatus erected for extinguishing fires, or of other conduits or containers, or by water entering through leaks or openings in buildings and of water pipes, and against accidental injury to such sprinklers, pumps, apparatus, conduits, containers or water pipes;

(4) Loss or damage to domestic farm animals by dogs or wild animals.

(b) The commissioner may, for good cause shown or
on application of the company, limit the license of a
company to make insurance to any one or more of the
perils or coverages set forth in paragraph (a) of this
section.
(c) In addition any such company may apply to the
commissioner for an extension of its license, and upon
complying with reasonable standards established by the
commissioner to assure the solvency of such company
and the protection of its policyholders, may in the dis-
cretion of the commissioner be granted an extension of
its license to permit such company to issue policies of
insurance on risks located in this State insuring against
one or more of the following:
(1) Legal liability for the death, injury, or disability
of any human being, or for damage to property, excluding
liability resulting from the ownership, maintenance, or
use of vehicles or aircraft; and provisions for medical,
hospital, surgical and disability benefits to injured per-
sons and funeral and death benefits to dependents, bene-
ficiaries or personal representatives of persons killed, ir-
respective of legal liability of the insured, when issued
as an incidental coverage with or supplemental to such
liability coverage.
(2) Loss or damage to property by burglary, theft, lar-
ceny, robbery, vandalism, malicious mischief, or wrong-
ful conversion, or any attempt at any of the foregoing.
(3) Personal property floater insurance.

Sec. 9. *Premiums, Membership Fees, Assessments and
Dividends.*—(a) Such company shall collect from its
members such initial fees or charges as its by-laws pro-
vide.
(b) Any such company may levy assessments or collect
premiums for the purpose of paying losses and expenses
already incurred, or for estimated future losses and ex-
penses, and for reserve or surplus fund purposes. The
secretary of any such company shall notify every member
of the company of the amount due by a written or printed
notice, mailed to the last known address of each member,
stating the amount due the company from the member
and the time and place and to whom it shall be paid.
Such payment shall be made by the member within sixty
days from date of mailing such notice, or within a lesser
period, as the by-laws may provide. The company may
maintain an action against any member thereof to re-
cover all such assessments which he may neglect or re-
fuse to pay when legally due and payable.

(c) Any such company issuing policies at rates other
than uniform or class rates or levying assessments on
other than a uniform or class basis shall as to such policies
be a subscriber to a rating organization licensed under
the provisions of article twenty of this chapter.

(d) Such company may return to its members in the
form of dividends or otherwise savings or earnings of
such company.

Sec. 10. Contingent Liability of Member.—The contin-
gent liability of a member of such company may, with
the approval of the commissioner, be limited to one or
more times the annual premium as computed for the
policy, and the company may issue a policy without con-
tingent liability to the member if at the time of issuance
it has a surplus of not less than one hundred thousand
dollars and maintains unearned premium and other re-
gards on the same basis as that required of domestic
insurers transacting like kinds of insurance. In the ab-
sence of such limitation of contingent liability each
member shall be liable for his pro-rata share of losses
and expenses of the company, including a reasonable con-
tribution to a surplus fund.

Sec. 11. Reserves, Surplus or Emergency Fund.—(a)
Each such company is authorized to accumulate a surplus
or emergency fund in such amount as may be deemed
advisable by its board of directors.

(b) The first twenty-five thousand dollars of such ac-
cumulated surplus shall be in cash or invested in gov-
ernment securities described in section seven of article
eight of this chapter, and the balance of such surplus
may be invested in any of the other classes of investments
described in said article eight, subject to the limitations
as to each such class provided therein.

(c) All assets of such company other than such accu-
mulated surplus shall be in cash or invested in the government securities described in section seven of article eight of this chapter.

Sec. 12. Limit of Risk.—No such company shall insure any single risk comprising a building and contents or other property so located as to be subject to destruction by a single fire for a greater amount than one thousand dollars until its insurance in force shall be as much as five hundred thousand dollars, nor shall it then insure any such risks for an amount greater than one-fifth of one percent of the net insurance in force under its policies, or ten percent of its surplus, whichever is greater, unless the risks insured by the company in excess of the amounts above stipulated are simultaneously covered by reinsurance.

Sec. 13. Reinsurance; Joint Policies.—(a) Such company may procure reinsurance on any or all of its risks in licensed insurers transacting like kinds of insurance; and such company may issue policies of reinsurance to other licensed insurers transacting like kinds of insurance.

(b) Two or more such companies may issue policies jointly.

Sec. 14. Notices to Members.—All notices of cancellation of policies or reduction thereof and all other notices to members required by this article shall be delivered personally or mailed in a sealed envelope addressed to the last known address of the member and when so given they shall be deemed sufficient and binding upon the member so notified.

Sec. 15. Termination, Cancellation and Suspension of Membership.—(a) Any member of a company may withdraw therefrom upon written notice to the company. Every member so withdrawing shall immediately surrender his policy and pay to the extent of his liability as stated in the policy, all of his indebtedness legally due the company.

(b) No member shall be liable for losses or expenses
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9 occurring subsequent to the time of termination of his
10 membership.
11 (c) The company may cancel any policy upon at least
12 five days written notice to the holder.
13 (d) A company may, in its by-laws, provide for the
14 suspension of its liability for loss upon any policy from
15 the date when an unpaid assessment becomes due if notice
16 is given to the member five days before the suspension
17 is to become effective, and the payment of such assess-
18 ment shall only reinstate such policy from the date of
19 such payment, but no allowance shall be made in any
20 assessment because of such suspension.

Sec. 16. Fees.—Such company at the time of making
2 its annual report shall pay to the commissioner a filing
3 fee of five dollars, all fees so collected to go into the
4 fund for the purposes specified in section thirteen of
5 article three of this chapter. No other fees or taxes shall
6 be levied against such companies except the agent’s license
7 fee and the expenses of examination thereof by the com-
8 missioner.

Sec. 17. Dissolution, Member’s Share of Assets.—Upon
2 the liquidation of any such company, the share of each
3 member in the assets shall be computed and distributed
4 in the manner provided in section twenty-nine of article
5 five of this chapter for computing and distributing the
6 share of members of other types of domestic mutual in-
7 surers.

Sec. 18. Mergers and Consolidations.—(a) No farmers’
2 mutual fire insurance company shall merge or consolidate
3 with any stock insurer or with any other type of mutual
4 insurer.
5 (b) A farmers’ mutual fire insurance company may
6 merge or consolidate with another farmers’ mutual fire
7 insurance company in the manner provided in section
8 twenty-eight of article five of this chapter for the merger
9 or consolidation of other types of domestic mutual in-
10 surers.

Sec. 19. Conversion to Stock or Mutual Insurer.—(a) A
2 farmers’ mutual fire insurance company may become a
stock insurer in the manner provided in section twenty-four of article five of this chapter for converting other types of domestic mutual insurers to domestic stock insurers, or

(b) A farmers' mutual fire insurance company may become a domestic mutual insurer pursuant to such plan and procedure as may be approved in advance by the commissioner, subject to approval by vote of not less than three-fourths of the company's current members voting thereon in person, by proxy, or by mail at a meeting of members called for that purpose pursuant to such notice and procedure as may be approved by the commissioner, and subject to such company as reorganized complying with all requirements of this chapter relating to the initial organization and licensing of a domestic mutual insurer transacting like kinds of insurance as those proposed to be transacted by the reorganized company.

Article 23. Fraternal Benefit Societies

Section 1. Scope of Article.—Every fraternal benefit society shall be governed by the provisions of this article and by no other provisions of this chapter except such provisions as are specifically made applicable and referred to in this article.

Sec. 2. Other Provisions Applicable.—Every fraternal benefit society shall be governed and be subject, to the same extent as other insurers transacting like kinds of insurance, to the following articles of this chapter: article one (definitions), article two (insurance commissioner), article four (general provisions), article ten (rehabilitation and liquidation), and article eleven (unfair practices and frauds).

Sec. 3. Fraternal Benefit Societies Defined.—Any incorporated society, order or supreme lodge, without capital stock, including one exempted under the provisions of subparagraph (2) of paragraph (a) of section thirty-four of this article whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of
government, and which makes provision for the payment of benefits in accordance with this article, is hereby declared to be a fraternal benefit society. When used in this article the word "society", unless otherwise indicated, shall mean fraternal benefit society.

Sec. 4. Lodge System Defined.—A society having a supreme legislative or governing body and subordinate lodges or branches by whatever name known, into which members are elected, initiated or admitted in accordance with its constitution, laws, ritual and rules, which subordinate lodges or branches shall be required by the laws of the society to hold regular meetings at least once in each month, shall be deemed to be operating on the lodge system.

Sec. 5. Representative Form of Government Defined.—A society shall be deemed to have a representative form of government when:

(a) it provides in its constitution or laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members of such body as may be prescribed by the society's constitution and laws;
(b) the representatives elected constitute a majority in number and have not less than two-thirds of the votes nor less than the votes required to amend its constitution and laws;
(c) the meetings of the supreme legislative or governing body and the election of officers, representatives or delegates are held as often as once in four calendar years;
(d) each insured member shall be eligible for election to act or serve as a delegate to such meeting;
(e) the society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by such body and having powers and duties delegated to it in the constitution or laws of the society;
(f) such board of directors is elected by the supreme legislative or governing body, except in case of filling a
vacancy in the interim between meetings of such body;
(g) the officers are elected either by the supreme legis-
lative or governing body or by the board of directors;
and
(h) the members, officers, representatives or delegates
shall not vote by proxy.

Sec. 6. Organization.—The organization of a domestic
society shall be governed as follows:
(a) Seven or more citizens of the United States, a ma-
majority of whom are citizens of this State, who desire to
form a fraternal benefit society, may make, sign and
acknowledge before some officer, competent to take
acknowledgment of deeds, articles of incorporation, in
which shall be stated:
(1) the proposed corporate name of the society, which
shall not so closely resemble the name of any society or
insurance company as to be misleading or confusing;
(2) the purposes for which it is being formed and the
mode in which its corporate powers are to be exercised.
Such purposes shall not include more liberal powers than
are granted by this article: Provided, That any lawful,
social, intellectual, educational, charitable, benevolent,
moral, fraternal or religious advantages may be set forth
among the purposes of the society; and
(3) the names and residences of the incorporators and
the names, residences and official titles of all the officers,
trustees, directors, or other persons who are to have and
exercise the general control of the management of the
affairs and funds of the society for the first year or until
the ensuing election at which all such officers shall be
elected by the supreme legislative or governing body,
which election shall be held not later than one year from
the date of the issuance of the permanent certificate.
(b) Such articles of incorporation, duly certified copies
of the constitution, laws and rules, copies of all proposed
forms of certificates, applications therefor, and circulars
to be issued by the society and a bond conditioned upon
the return to applicants of the advanced payments if
the organization is not completed within one year, such
bond to be in an amount to be determined by the com-
missioner not to exceed the sum of twenty-five thousand dollars with sureties approved by the commissioner, shall be filed with the commissioner, who may require such further information as he deems necessary. All documents filed are to be in the English language. If the purposes of the society conform to the requirements of this article and all provisions of law have been complied with, the commissioner shall approve same in writing, whereupon the incorporators may file such approved articles with the secretary of state of this State and receive a certificate of incorporation in the same manner as such certificates are issued to other non-stock corporations.

(c) No certificate granted under the provisions of this section shall be valid after one year from its date or after such further period, not exceeding one year, as may be authorized by the commissioner upon cause shown, unless the five hundred applicants hereinafter required have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings thereunder shall become null and void in one year from the date of the certificate, or at the expiration of the extended period, unless the society shall have completed its organization and received a license as hereinafter provided.

(d) Upon receipt of the certificate of incorporation, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one regular monthly premium in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of such advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any death or disability benefit to any person until:

(1) actual bona fide applications for death benefits have been secured aggregating at least five hundred thousand dollars on not less than five hundred lives;

(2) all such applicants for death benefits shall have furnished evidence of insurability satisfactory to the society.
Certificates of examinations or acceptable declarations of insufficiency have been duly filed and approved by the chief medical examiner of the society; ten subordinate lodges or branches have been established into which the five hundred applicants have been admitted; there has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of such applicants, giving their names, addresses, date each was admitted, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted and premiums therefor; and it shall have been shown to the commissioner that at least five hundred applicants have each paid in cash at least one regular monthly premium as herein provided, which premiums in the aggregate shall amount to at least twenty-five hundred dollars, all of which shall have been shown to be held in trust during the period of organization and if the society has not qualified for a certificate of authority within one year, as herein provided, such premiums shall be returned to said applicants.

The commissioner may make such examination and require such further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the commissioner shall issue to the society a license to transact business.

The society has the power to adopt a constitution and laws for the government of the society, the admission of its members, the management of its affairs, and the prosecution of its business.
and the fixing and readjusting of the rates of its members from time to time. It shall have the power to change, alter, add to or amend such constitution and laws and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

Sec. 7. Corporate Powers Retained.—Any incorporated society licensed to transact insurance in this State at the time this article becomes effective may thereafter exercise all the rights, powers and privileges prescribed in this article and in its charter, articles of incorporation and license as far as consistent with this article. A domestic incorporated society shall not be required to re-incorporate.

Sec. 8. Existing Voluntary Associations.—(a) After one year from the effective date of this article, no unincorporated or voluntary association shall be permitted to transact business in this State.

(b) Any domestic voluntary association now licensed to transact insurance in this State may incorporate and shall receive from the commissioner a license as a fraternal benefit society when:

(1) it shall have completed its conversion to an incorporated society not later than one year from the effective date of this article;

(2) it has filed its articles of incorporation and has satisfied the other requirements described in section six of this article; and

(3) the commissioner shall have made such examination and procured whatever additional information he shall deem advisable.

(c) Every voluntary association so incorporated shall incur the obligations and enjoy the benefits thereof the same as though originally incorporated, and such corporation shall be deemed a continuation of the original voluntary association. The officers thereof shall serve through their respective terms as provided in its original articles of association, but their successors shall be elected and serve as provided in its articles of incorporation.
Incorporation of a voluntary association shall not affect existing suits, claims or contracts.

Sec. 9. Office and Meetings of Domestic Society.—The principal office of any domestic society shall be located in this State. The meetings of its supreme legislative or governing body may be held in any state, district, province or territory wherein such society has at least five subordinate branches and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this State.

Sec. 10. Consolidations and Mergers.—(a) A domestic society may make application to consolidate or merge with any other society by filing with the commissioner:

1. a certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;
2. a sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the commissioner but not earlier than December thirty-first, next preceding the date of the contract;
3. a certificate of such officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds vote of the supreme legislative or governing body of each society; and
4. evidence that at least sixty days prior to the action of the supreme legislative or governing body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official organ of each society.

(b) If the commissioner finds that the contract is in conformity with the provisions of this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, he shall approve the contract and issue his certificate to such effect. Upon such approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. In such event the consolidation or merger shall not become effective.
unless and until it has been approved as provided by the laws of such state or territory and a certificate of such approval filed with the commissioner or, if the laws of such state or territory contain no such provision, then the consolidation or merger shall not become effective unless and until it has been approved by the insurance supervisory official of such state or territory and a certificate of such approval filed with the commissioner.

(c) Upon the consolidation or merger becoming effective as herein provided, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds, and the title to any real estate or interest therein, vested under the laws of this State in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after such consolidation or merger.

(d) The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that such notice or document has been duly addressed and mailed, shall be prima facie evidence that such notice or document has been furnished the addressees.

Sec. 11. Conversion of Society to Mutual Life Insurer.—Any domestic fraternal benefit society may be converted and licensed as a mutual life insurance company by compliance with all the requirements of this chapter for the initial licensing of a domestic mutual life insurer, if such plan of conversion has been approved by the commissioner. Such plan shall be prepared in writing setting forth in full the terms and conditions thereof. The board of directors shall submit such plan to the supreme legislative or governing body of such society at any regular or special meeting thereof, by giving a full, true and complete copy
of such plan with the notice of such meeting. Such notice shall be given as provided in the laws of the society for the convocation of a regular or special meeting of such body, as the case may be. The affirmative vote of two-thirds of all members of such body shall be necessary for the approval of such agreement. No such conversion shall take effect unless and until approved by the commissioner who may give such approval if he finds that the proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.

Sec. 12. Qualifications for Membership.—(a) A society may admit to benefit membership any person not less than fifteen years of age, nearest birthday, who has furnished evidence of insurability acceptable to the society. Any such member who shall apply for additional benefits more than six months after becoming a benefit member shall pass an additional medical examination, or make an additional declaration of insurability, as required by the society.

(b) Any person admitted prior to attaining the full age of twenty-one years shall be bound by the terms of the application and certificate and by all the laws and rules of the society and shall be entitled to all the rights and privileges of membership therein to the same extent as though the age of majority had been attained at the time of application. A society may also admit general or social members who shall have no voice or vote in the management of its insurance affairs.

Sec. 13. Amendment of Articles of Incorporation, Constitution and Laws.—(a) A domestic society may amend its articles of incorporation, constitution or laws in accordance with the provisions thereof by action of its supreme legislative or governing body at any regular or special meeting thereof or, if its articles of incorporation, constitution or laws so provide, by referendum. Such referendum may be held in accordance with the provisions of its article of incorporation, constitution or laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members or by the vote of local lodges or branches. No amend-
ment submitted for adoption by referendum shall be adopted unless, within six months from the date of submission thereof, a majority of all of the voting members of the society shall have signified their consent to such amendment by one of the methods herein specified.

(b) No amendment to the articles of incorporation, constitution or laws of any domestic society shall take effect unless approved by the commissioner who shall approve such amendment if he finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this State or with the character, objects and purposes of the society. Unless the commissioner shall disapprove any such amendment within sixty days after the filing of same, such amendment shall be considered approved. The approval or disapproval of the commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case he disapproves such amendment, the reasons therefore shall be stated in such written notice.

(c) Within ninety days from the approval thereof by the commissioner, all such amendments, or a synopsis thereof, shall be furnished to all members of the society either by mail or by publication in full in the official organ of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis thereof, stating facts which show that same have been duly addressed and mailed, shall be prima facie evidence that such amendments or synopsis thereof, have been furnished the addressee.

(d) Every foreign or alien society authorized to do business in this State shall file with the commissioner a duly certified copy of all amendments of, or additions to, its articles of incorporation, constitution or laws within ninety days after the enactment of same.

(e) Printed copies of the constitution or laws as amended, certified by the secretary or corresponding officer of the society shall be prima facie evidence of the legal adoption thereof.

Sec. 14. Institutions.—(a) It shall be lawful for a society to create, maintain and operate charitable, benevolent or
educational institutions for the benefit of its members and
their families and dependents and for the benefit of children insured by the society. For such purpose it may own,
hold or lease personal property or real property located
within or without this State, with necessary buildings
thereon. Such property shall be reported in every annual
statement but shall not be allowed as an admitted asset of
such society.

(b) Maintenance, treatment and proper attendance in
any such institution may be furnished free or a reasonable
charge may be made therefor, but no such institution
shall be operated for profit. The society shall maintain a
separate accounting of any income and disbursements
under this section and report them in its annual statement.
No society shall own or operate funeral homes or under-
taking establishments.

Sec. 15. Benefits Other Than Insurance Benefits.—(a)
A society may pay benefits, other than insurance benefits
to its members from any special account or fund main-
tained for such purpose; provided that if such benefits
are of such a nature that they could constitute benefits
within the classes of insurance set forth in section seven-
teen of this article, a society making such payments may
not:

(1) make any separate charge therefor;

(2) issue any certificate, policy or other document
promising such payments;

(3) provide in its constitution, laws or any other docu-
ment that such payments may be received by the member
as a matter of right; or

(4) advertise such payments as insurance or as pay-
ments to which the member has any right.

(b) The society shall maintain a separate accounting
of all disbursements made under this section and report
them in its annual statement.

Sec. 16. No Personal Liability.—The officers and mem-
ers of the supreme, grand or any subordinate body of a
society shall not be personally liable for payment of any
benefits provided by a society.
Sec. 17. Benefits.—A society licensed in this State may provide for the payment of:
(a) death benefits in any form;
(b) endowment benefits;
(c) annuity benefits;
(d) temporary or permanent disability benefits as a result of disease occurring before age sixty-five or accident at any age;
(e) hospital, medical or nursing benefits due to sickness or bodily infirmity occurring before age sixty-five or accident at any age; and
(f) monument or tombstone benefits to the memory of deceased members not exceeding in any case the sum of three hundred dollars.

Sec. 18. Benefits on Lives of Children.—(a) A society may provide for benefits on the lives of children under the minimum age for adult membership but not greater than twenty-one years of age at time of application therefor, upon the application of some adult person, as its laws or rules may provide, which benefits shall be in accordance with the provisions of section seventeen of this article. A society may, at its option, organize and operate branches for such children. Membership and initiation in local lodges shall not be required of such children, nor shall they have a voice in the management of the society.
(b) Children insured under certificates issued pursuant to this section shall be transferred to and become members of the adult branch of the society upon attaining the minimum age for adult membership under the laws of the society.
(c) A society shall have power to provide for the designation and changing of designation of beneficiaries in the certificates providing for such benefits and to provide in all other respects for the regulation, government and control of such certificates and all rights, obligations and liabilities incident thereto and connected therewith.

Sec. 19. Nonforfeiture Benefits, Cash Surrender Values, Loans and Options.—(a) A society may grant paid-up nonforfeiture benefits, cash surrender values, certificate loans and such other options as its laws may permit. As
to certificates issued on and after the effective date of this article, a society shall grant at least one paid-up nonforfeiture benefit.

(b) In the case of certificates other than those for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table or the 1941 Standard Industrial Table, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the excess, if any, of (1) over (2) as follows:

(1) the reserve under the certificate determined on the basis specified in the certificate; and

(2) the sum of any indebtedness to the society on the certificate, including interest due and accrued, and a surrender charge equal to two and one-half percent of the face amount of the certificate, which, in the case of insurance on the lives of children, shall be the ultimate face amount of the certificate, if death benefits provided therein are graded.

(c) However, in the case of certificates issued on a substandard basis or in the case of certificates, the reserves for which are computed upon the American Men Ultimate Table of Mortality, the term of any extended insurance benefit granted including accompanying pure endowment, if any, may be computed upon the rates of mortality not greater than one hundred thirty percent of those shown by the mortality table specified in the certificate for the computation of the reserve.

(d) In the case of certificates for which reserves are computed on the Commissioners 1941 Standard Ordinary Mortality Table or the 1941 Standard Industrial Table, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the provisions of the laws of this State applicable to life insurance companies issuing policies containing like insurance benefits based upon such tables.

Sec. 20. Beneficiaries.—(a) The member shall have the right at all times to change the beneficiary or beneficiaries in accordance with the constitution, laws or rules of the
society. Every society by its constitution, laws or rules may limit the scope of beneficiaries and shall provide that no beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the insurance contract.

(b) A society may make provision for the payment of funeral benefits to the extent of such portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member, provided the portion so paid shall not exceed the sum of five hundred dollars.

(c) If, at the death of any member, there is no lawful beneficiary to whom the insurance benefits shall be payable, the amount of such benefits, except to the extent that funeral benefits may be paid as hereinbefore provided, shall be payable to the personal representative of the deceased member.

Sec. 21. Benefits Not Attachable.—No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

Sec. 22. The Contract.—(a) Every society licensed in this State shall issue to each benefit member a certificate specifying the amount of benefits provided thereby. The certificate, together with any riders or endorsements attached thereto, the charter or articles of incorporation, the constitution and laws of the society, the application for membership, and declaration of insurability, if any, signed by the applicant, and all amendments to each thereof, shall constitute the agreement, as of the date of issuance, between the society and the member, and the certificate shall so state. A copy of the application for membership and of the declaration of insurability, if any, shall be endorsed upon or attached to the certificate.
(b) All statements purporting to be made by the member shall be representations and not warranties. Any waiver of this provision shall be void.

(c) Any changes, additions or amendments to the charter or articles of incorporation, constitution or laws duly made or enacted subsequent to the issuance of the certificate, shall bind the member and the beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership, except that no change, addition, or amendment shall destroy or diminish benefits which the society contracted to give the member as of the date of issuance.

(d) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received as evidence of the terms and conditions thereof.

(e) A society shall provide in its constitution or laws and in its certificates that if its reserves as to all or any class of certificates become impaired its board of directors or corresponding body may require that there shall be paid by the member to the society the amount of the member's equitable proportion of such deficiency as ascertained by its board, and that if the payment be not made it shall stand as an indebtedness against the certificate and draw interest not to exceed five percent per annum compounded annually.

Sec. 23. Standard and Prohibited Provisions.—(a) No life benefit certificate shall be delivered or issued for delivery in this State unless a copy of the form shall have been filed with the commissioner and approved by him as conforming to the requirements of this section and not inconsistent with any other provisions of law applicable thereto. A certificate shall be deemed approved unless disapproved by the commissioner within sixty days of the date of such filing.

(b) The certificate shall contain in substance the following standard provisions or, in lieu thereof, provisions which are more favorable to the member:
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(1) title on the face and filing page of the certificate clearly and correctly describing its form;
(2) a provision stating the amount of rates, premiums or other required contributions, by whatever name known, which are payable by the insured under the certificate;
(3) a provision that the member is entitled to a grace period of not less than a full month (or thirty days at the option of the society) in which the payment of any premium after the first, may be made. During such grace period the certificate shall continue in full force, but in case the certificate becomes a claim during the grace period before the overdue payment is made, the amount of such overdue payment or payments may be deducted in any settlement under the certificate;
(4) a provision that the member shall be entitled to have the certificate reinstated at any time within three years from the due date of the premium in default, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, cash surrender value or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding six percent per annum compounded annually;
(5) except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts, or contracts of term insurance of uniform amount of fifteen years or less expiring before age sixty-six, a provision that, in the event of default in payment of any premium after three full years’ premiums have been paid or after premiums for a lesser period have been paid if the contract so provides, the society will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified in this article. The certificate may provide, if the society’s laws so specify or if the member shall so elect prior to the
expiration of the grace period of any overdue premium, that default shall not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate; (6) a provision that one paid-up nonforfeiture benefit as specified in the certificate shall become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than sixty days after the due date of the premium in default; (7) a statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate, and a brief general statement of the method used in calculating such benefits; (8) a table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first twenty certificate years or during the term of the certificate whichever is shorter; (9) a provision that the certificate shall be incontestable after it has been in force during the lifetime of the member for a period of two years from its date of issue except for nonpayment of premiums, violation of the provisions of the certificate relating to military, aviation, or naval service and violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent disability or hospitalization and provisions which grant additional insurance specifically against death by accident or accidental means, may also be excepted. The certificate shall be incontestable on the ground of suicide after it has been in force during the lifetime of the member for a period of two years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society shall have the right to contest a reinstated certificate within a period of two years from date of reinstatement with the same exceptions as herein provided; (10) a provision that in case the age of the member or of the beneficiary is considered in determining the prem-
ium and it is found at any time before final settlement
under the certificate that the age has been misstated, and
the discrepancy and premium involved have not been
adjusted, the amount payable shall be such as the premium
would have purchased at the correct age; but if the correct
age was not an insurable age under the society's charter
or laws, only the premium paid to the society, less any pay-
ments previously made to the member, shall be returned
or, at the option of the society, the amount payable under
the certificate shall be such as the premium would have
purchased at the correct age according to the society's
promulgated rates and any extension thereof based on
actuarial principles;
(11) a provision or provisions which recite fully, or
which set forth the substance of, all sections of the charter,
constitution, laws, rules or regulations of the society, in
force at the time of issuance of the certificate, the violation
of which will result in the termination of, or in the re-
duction of, the benefit or benefits payable under the cer-
tificate;
(12) if the constitution or laws of the society provide
for expulsion or suspension of a member, any member so
expelled or suspended, except for non-payment of a prem-
ium or within the contestable period for material mis-
representations in such member's application for member-
ship shall have the privilege of maintaining his insurance
in force by continuing payment of the required premium;
and
(13) in the case of a certificate issued by a foreign or
alien society, a provision that the rights or obligations of
the member or of any person rightfully claiming under
the certificate shall be governed by the laws of this State.
(c) Any of the foregoing provisions set forth in para-
graph (b) of this section, or portions thereof, not applic-
able by reason of the plan of insurance or because the
certificate is an annuity certificate may, to the extent in-
applicable, be omitted from the certificate.
(d) No life benefit certificate shall be delivered or
issued for delivery in this State containing in substance
any of the following provisions:
(1) any provision limiting the time within which any action at law or in equity may be commenced to less than two years after the cause of action shall accrue;

(2) any provision by which the certificate shall purport to be issued or to take effect more than six months before the original application for the certificate was made, except in case of transfer from one form of certificate to another in connection with which the member is to receive credit for any reserve accumulation under the form of certificate from which the transfer is made; or

(3) any provision for forfeiture of the certificate for failure to repay any loan thereon or to pay interest on such loan while the total indebtedness, including interest, is less than the loan value of the certificate.

e) The word "premiums" as used in this article means premiums, rates, or other required contributions by whatever name known.

Sec. 24. Filing and Approval of Accident and Sickness Insurance Certificates.—No domestic, foreign or alien society licensed in this State shall issue or deliver in this State any certificate or other evidence of any contract of accident and sickness insurance unless and until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the commissioner and approved by him as conforming to reasonable rules and regulations from time to time made by him and as not inconsistent with any other provisions of law applicable thereto. The commissioner shall, within a reasonable time after the filing of any such form, notify the society filing the same either of his approval or of his disapproval of such form. The commissioner may approve any such form which in his opinion contains provisions on any one or more of the several requirements made by him which are more favorable to the members than the one or ones so required. Pursuant to the foregoing provisions the commissioner shall have power, from time to time, to make, alter and supersede reasonable regulations prescribing the required, optional and prohibited provisions in such contracts, and such regulations shall conform, as far as practicable, to
the provisions of article fifteen (accident and sickness insurance) and article sixteen (group accident and sickness insurance) of this chapter. Where the commissioner deems inapplicable, either in part or in their entirety, the provisions of the foregoing articles, he may prescribe the portions or summary thereof of the contract to be printed on the certificate issued to the member. Any filing made hereunder shall be deemed approved unless disapproved within sixty days from the date of such filing.

Sec. 25. Waiver.—The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society. Such provision shall be binding on the society and every member and beneficiary of a member.

Sec. 26. Reinsurance.—A domestic society may, by an authorized reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer (other than another fraternal benefit society) having the power to make such reinsurance; but no such society may reinsure substantially all of its insurance in force without the written permission of the commissioner.

Sec. 27. Licensing of Foreign and Alien Societies.—(a) No foreign or alien society shall transact business in this State without a license issued by the commissioner. Any such society may be licensed to transact business in this State upon filing with the commissioner:

1. a duly certified copy of its charter or articles of incorporation;
2. a copy of its constitution and laws, certified by its secretary or corresponding officer;
3. a statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the commissioner;
4. a certificate from the proper official of its home
state, territory, province or country that the society is
legally incorporated and licensed to transact business
therein;
(5) copies of its certificate forms; and
(6) such other information as he may deem necessary;
and upon a showing that its assets are invested in accord-
ance with the provisions of this article.
(b) No license shall be issued to a foreign or alien
society desiring admission to this State unless such society
has the qualifications required of domestic societies orga-
nized under this article.

Sec. 28. Term of License, Renewal, Refusal to License,
Revocation or Suspension, Penalty in Lieu Thereof, Re-
issuance.—The term of license, renewal thereof, refusal
to license, revocation or suspension of license or penalty
in lieu thereof, and reissuance of license of all societies
shall be governed by the provisions of sections eight, nine,
ten, and eleven of article three of this chapter, to the same
extent that such sections are applicable to other insurers.

Sec. 29. Fees and Taxation.—(a) Each society shall pay
to the commissioner an annual license fee of twenty-five
dollars and a fee of ten dollars for filing the annual state-
ment of such society, all fees so collected to go into the
fund for the purposes specified in section thirteen of article
three of this chapter.
(b) Every society licensed under this article is hereby
declared to be a charitable and benevolent institution, and
all of its funds and assets shall be exempt from all state,
county, district and municipal taxes except taxes on real
property and office equipment.

Sec. 30. Funds.—(a) All assets shall be held, invested
and disbursed for the use and benefit of the society and
no member or beneficiary shall have or acquire individual
rights therein or become entitled to any apportionment
or the surrender of any part thereof, except as provided
in the contract.
(b) A society may create, maintain, invest, disburse
and apply any special fund or funds necessary to carry
out any purpose permitted by the laws of such society.
(c) Every society, the admitted assets of which are less than the sum of its accrued liabilities and reserves under all of its certificates when valued according to standards required for certificates issued after one year from the effective date of this article, shall, in every provision of the laws of the society for payments by members of such society, in whatever form made, distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions thereto shall be used for expenses.

Sec. 31. Investments.—(a) A domestic society shall invest its funds only in such investments as are authorized by article eight of this chapter for the investment of the assets of domestic insurers, except that paragraph (a) of section six of article eight of this chapter shall not apply to societies.

(b) Foreign and alien societies shall have investments of the same general quality as required of domestic societies, except that other investments authorized by the laws of such foreign or alien society's state or country of domicile may be recognized as assets in the discretion of the commissioner.

Sec. 32. Reports and Valuations.—In addition to the annual statement required by section fourteen of article four of this chapter, reports shall be filed and synopses of annual statements shall be published in accordance with the provisions of this section as follows:

(a) A synopsis of its annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society not later than the first day of June of each year, or, in lieu thereof, such synopsis may be published in the society's official publication.

(b) As a part of the annual statement required of each society, it shall, on or before the first day of March, file with the commissioner a valuation of its certificates in force on December thirty-first last preceding provided, the commissioner may, in his discretion for cause shown, extend the time for filing such valuation for not more
than two calendar months. Such report of valuation shall show, as reserve liabilities, the difference between the present mid-year value of the promised benefits provided in the certificates of such society in force and the present mid-year value of the future net premiums as the same are in practice actually collected, not including therein any value for the right to make extra assessments and not including any amount by which the present mid-year value of future net premiums exceeds the present mid-year value of promised benefits on individual certificates.

At the option of any society, in lieu of the above, the valuation may show the net tabular value. Such net tabular value as to certificates issued prior to one year after the effective date of this article shall be determined in accordance with the provisions of law applicable prior to the effective date of this article and as to certificates issued on or after one year from the effective date of this article shall not be less than the reserves determined according to the Commissioners' Reserve Valuation method as hereinafter defined. If the premium charged is less than the tabular net premium according to the basis of valuation used, an additional reserve equal to the present value of the deficiency in such premiums shall be set up and maintained as a liability. The reserve liabilities shall be properly adjusted in the event that the mid-year or tabular values are not appropriate.

(c) Reserves according to the Commissioners' Reserve Valuation method, for the life insurance and endowment benefits of certificates providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such certificates, over the then present value of any future modified net premiums therefor. The modified net premiums for any such certificate shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the certificate, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the certificate and the excess of (1) over (2), as follows:
(1) a net level premium equal to the present value, at the date of issue, of such benefits provided for after the first certificate year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such certificate on which a premium falls due: Provided, however, That such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such certificate; and

(2) a net one-year term premium for such benefits provided for in the first certificate year.

(d) Reserves according to the Commissioners' Reserve Valuation method for (1) life insurance benefits for varying amounts of benefits or requiring the payment of varying premiums, (2) annuity and pure endowment benefits, (3) disability and accidental death benefits in all certificates and contracts, and (4) all other benefits except life insurance and endowment benefits, shall be calculated by a method consistent with the principles of paragraph (c) of this section.

(e) The present value of deferred payments due under incurred claims or matured certificates shall be deemed a liability of the society and shall be computed upon mortality and interest standards prescribed in the following subsection.

(f) Such valuation and underlying data shall be certified by a competent actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(g) The minimum standards of valuation for certificates issued prior to one year from the effective date of this article shall be those provided by the law applicable immediately prior to the effective date of this article but not lower than the standards used in the calculating of rates for such certificates.

(h) The minimum standard of valuation for certificates issued after one year from the effective date of this article
shall be three and one-half percent interest and the fol-
lowing tables:

(1) for certificates of life insurance—American Men
Ultimate Table of Mortality, with Bowerman’s or Davis’
Extension thereof or with the consent of the commissioner,
the Commissioner’s 1941 Standard Ordinary Mortality
Table or the Commissioner’s 1941 Standard Industrial
Table of Mortality;

(2) for annuity certificates, including life annuities pro-
vided or available under optional modes of settlement in
such certificates—the 1937 Standard Annuity Table;

(3) for disability benefits issued in connection with
life benefit certificates—Hunter’s Disability Table, which,
for active lives, shall be combined with a mortality table
permitted for calculating the reserves on life insurance
certificates, except that the table known as Class III Dis-
ability Table (1926) modified to conform to the con-
tractual waiting period, shall be used in computing re-
serves for disability benefits under a contract which
presumes that total disability shall be considered to be
permanent after a specified period;

(4) for accidental death benefits issued in connection
with life benefit certificates—the Inter-Company Double
Indemnity Mortality Table combined with a mortality
table permitted for calculating the reserves for life insur-
ance certificates; and

(5) for non-cancellable accident and sickness benefits—
the Class III Disability Table (1926) with conference
modifications or, with the consent of the commissioner,
tables based upon the society’s own experience.

(i) The commissioner may, in his discretion, accept
other standards for valuation if he finds that the reserves
produced thereby will not be less in the aggregate than
reserves computed in accordance with the minimum valu-
atation standard herein prescribed. The commissioner may,
in his discretion, vary the standards of mortality applic-
able to all certificates of insurance on substandard lives
or other extra hazardous lives by any society authorized
to do business in this State. Whenever the mortality
experience under all certificates valued on the same mor-
tality table is in excess of the expected mortality accord-
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139 ing to such table for a period of three consecutive years, the commissioner may require additional reserves when deemed necessary in his judgment on account of such certificates.

140 (j) Any society, with the consent of the insurance supervisory official of the state of domicile of the society and under such conditions, if any, which he may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any insured member shall not be affected thereby.

Sec. 33. Agents.—Agents for societies shall not be required to be licensed, but every society shall employ or authorize only trustworthy and competent persons as their agents.

Sec. 34. Exemption of Certain Societies.—(a) Nothing contained in this article shall be so construed as to affect or apply to:

1. grand or subordinate lodges of societies, orders or associations now doing business in this State which provide benefits exclusively through local or subordinate lodges;

2. orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations, in the same or similar lines of business insuring only their own members, their families and descendants of members and the ladies' societies or ladies' auxiliaries to such orders, societies or associations;

3. domestic societies which limit their membership to employees of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than four hundred dollars or disability benefits of not more than three hundred fifty dollars to any person in any one year, or both;

4. domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than four hundred dollars or for disability benefits of not more than three hundred fifty dollars to any one person in any one year, or both.

(b) Any such society or association described in sub-
paragraphs (3) or (4) of paragraph (a) of this section which provides for death or disability benefits for which benefit certificates are issued, and any such society or association included in subparagraph (4) which has more than one thousand members, shall not be exempted from the provisions of this article but shall comply with all requirements thereof.

(c) No society which, by the provisions of this section, is exempt from the requirements of this article, except any society described in subparagraph (2) of paragraph (a) of this section, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

(d) Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits shall have all of the privileges and be subject to all the applicable provisions and regulations of this article except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to such society.

(e) The commissioner may require from any society or association, by examination or otherwise, such information as will enable him to determine whether such society or association is exempt from the provisions of this article.

(f) Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of this chapter.

Article 24. Hospital Service Corporations and Medical Service Corporations

Section 1. Declaration of Policy.—In view of the desirability of making available to the people of this State increased hospital, medical services and other health services, the declared policy of the legislature in the enactment of this article is to encourage the organization, promotion and expansion of hospital service corporations and medical service corporations by exempting them from the payment of all taxes and from the operation of the general insurance laws of this State, but at the same time
subjecting them to such regulation as may be necessary
for the adequate protection of those members of the pub-
lic who subscribe for the services offered by such cor-
porations.

Sec. 2. Definitions.—For the purposes of this article:
(a) "Corporation" shall mean either a hospital service
corporation or a medical service corporation.
(b) "Hospital service corporation" shall mean a non-
profit, nonstock corporation, organized in accordance with
the provisions of article one of chapter thirty-one of this
Code for the sole purpose of contracting with the public
and with hospitals and other health agencies for hospital
or other health services to be furnished to subscribers
under terms of their contract with the corporation.
(c) "Hospital service" shall mean only such hospital
or other health care, to be provided by hospitals or other
health agencies, or such payment therefor, as may be
specified in the contract made by the subscriber with the
corporation.
(d) "Medical service corporation" shall mean a non-
profit, nonstock corporation, organized in accordance with
the provisions of article one of chapter thirty-one of this
Code for the sole purpose of contracting with the public
and with duly licensed physicians for medical or surgical
services and with other health agencies for other health
services to be furnished to subscribers under terms of
their contracts with the corporation, and controlled by a
board of directors, the majority of whom are duly licensed
physicians.
(e) "Medical service" shall mean only such medical,
surgical or other health care, to be provided by duly
licensed physicians or other health agencies, or such pay-
ment therefor, as may be specified in the contract made
by the subscriber with the corporation.
(f) "Service" shall mean such hospital, medical or other
health service as shall be provided under the terms of
the contracts issued by the corporation to subscribers.
(g) "Commissioner" shall mean the insurance commis-
sioner of West Virginia.

Sec. 3. Corporations Affected; Eligibility of Hospitals
and Physicians.—(a) Every such corporation operating within this State shall be subject to the provisions of this article.

(b) Every hospital or other health agency in this State meeting the standards prescribed by the board of directors of each such corporation shall be eligible for participation in any hospital service plan operating in this State. Every duly licensed physician or other health agency in this State meeting the standards prescribed by the board of directors of each such corporation shall be eligible for participation in any medical service plan operating in this State. The board of directors of every such corporation may also prescribe standards for hospitals, physicians and other health agencies located in states adjoining this State, and all such hospitals, physicians and other health agencies meeting such standards shall be eligible for participation in such plans.

Sec. 4. Exemptions; Other Laws Applicable.—Every such corporation is hereby declared to be a scientific, nonprofit institution, and as such exempt from the payment of all property and other taxes. Every such corporation, to the same extent such provisions are applicable to insurers transacting similar kinds of insurance and not inconsistent with the provisions of this article, shall be governed by and be subject to the provisions of the following articles of this chapter: article two (insurance commissioner) except that under section nine of article two examinations shall be conducted at least once every four years, article four (general provisions) except that section sixteen of article four shall not be applicable thereto, article ten (rehabilitation and liquidation), article eleven (unfair practices and frauds), and article twelve (agents, brokers and solicitors) except that the agent’s license fee shall be one dollar; and no other provision of this chapter shall apply to such corporations unless specifically made applicable by the provisions of this article. If, however, any such corporation shall be converted into a corporation organized for a pecuniary profit, or if it shall transact business without having obtained a license as required by section five of this article, it shall thereupon forfeit its right to these exemptions.
Sec. 5. Licenses.—(a) No such corporation shall enter into any contract with a subscriber until it has obtained from the commissioner a license as provided in this section. Application for a license shall be made on forms to be prescribed and furnished by the commissioner.

(b) Such application shall be accompanied by a copy of the following documents: (1) Certificate of incorporation; (2) By-laws; (3) Contracts between the corporation and participating hospitals, physicians or other health agencies; (4) Proposed contracts to be issued to subscribers, setting forth the hospital or medical service to which subscribers are entitled, and the table of rates to be charged for such service; and (5) Financial statement, showing the amount of contributions paid, or agreed to be paid, to the corporation for working capital, the name or names of each contributor, and the terms of each contribution.

(c) Within thirty days after receipt of an application, the commissioner shall, upon payment to him of a license fee of one hundred dollars, issue a license authorizing the corporation to transact business in this State in the area to be served by it, if he is satisfied (1) that the applicant is incorporated in this State under the provisions of article one of chapter thirty-one of this Code as a bona fide nonprofit corporation, (2) that the contracts between the corporation and participating hospitals, physicians and other health agencies contain all the terms required by section seven of this article, (3) that the working capital available to the corporation will be sufficient to pay all operating expenses, other than payment for hospital or medical services, for a reasonable period after the issuance of the license, and (4) that the proposed plan will serve the best interests of all of the people of the area in which the corporation intends to operate, regardless of their race, color or economic status. Any license so issued may be renewed annually upon payment to the commissioner of a renewal fee of one hundred dollars.

(d) The term of such license, renewal, refusal to license, revocation, suspension, or penalty in lieu thereof, shall be governed by the provisions of sections eight, nine, ten,
and eleven, of article three of this chapter, in the same
manner that such sections are applicable to insurers gen-
erally.

(e) No such corporation shall include in its name the
words “insurance”, “casualty”, “surety”, “health and acci-
dent”, “accident and sickness”, “mutual”, or any other
words descriptive of the insurance business; nor shall
such name be so similar to that of any insurer which was
licensed to transact insurance in this State when such
corporation was formed, as to tend, in the opinion of the
commissioner, to confuse the public.

Sec. 6. Supervision by Commissioner; Approval of Con-
tracts, Forms, Rates and Fees.— (a) It shall be the duty
of the commissioner to enforce the provisions of this
article.

(b) No such corporation shall deliver or issue for de-
delivery any subscriber's contract, changes in the terms
of such contract, application, rider, or endorsement, until
a copy thereof and the rates pertaining thereto have been
filed with and approved by the commissioner. All such
forms filed with the commissioner shall be deemed ap-
proved after the expiration of thirty days from the date
of such filing unless the commissioner shall have disap-
proved the same, stating his reasons for such disapproval
in writing, except that such period may be extended for
an additional period not to exceed fifteen days upon writ-
ten notice thereof from the commissioner to the applicant.
Such forms may be used prior to the expiration of such
periods if written approval thereof has been received from
the commissioner.

(c) No rates to be charged subscribers shall be used or
established by any such corporation unless and until the
same have been filed with the commissioner and approved
by him. The procedure for such filing and approval shall
be the same as that prescribed in paragraph (b) of this
section for the approval of forms. The commissioner shall
approve all such rates which are not excessive, inadequate
or unfairly discriminatory.

(d) The commissioner shall pass upon the actuarial
Sec. 7. Required Provisions in Contracts Made by the Corporations with Hospitals, Physicians and Other Health Agencies.—Each contract made by the corporation with participating hospitals, physicians and other health agencies shall contain the following provisions:

(a) That the hospital, physician or other health agency will render to any subscriber such service as he may be entitled to under the terms and conditions of the contract issued to the subscriber by the corporation.

(b) That in submitting bills to the corporation for services rendered to subscribers under the terms of their contract, the hospitals, physicians and other health agencies will make only such charges as are set forth in an agreed schedule of fees to be paid by the corporation.

(c) That, in case of a deficit in available funds of the corporation, each participating hospital, physician or other health agency will, on the basis stated in this section, accept a pro rata share of available funds in full settlement of any bill submitted.

(d) That, in the event a surplus remains after an annual accounting of the financial condition of the corporation, such surplus may be used by the corporation, upon an affirmative vote of a majority of its board of directors, for the following purposes, in the order of priority stated below:

(1) To liquidate on a pro rata basis any losses incurred by hospitals, physicians or other health agency upon the settlement of bills in previous years.

(2) To return the original contributions for working capital, or any part thereof, on a pro rata basis.

(3) To reduce rates charged subscribers, or to expand the services rendered them.

Sec. 8. Contract or Certificate to be Furnished to Policyholders and Subscribers; Contracts with Needy Persons.—(a) Every such corporation shall deliver to each contract holder a copy of the contract and to each holder of a master group contract for delivery to each sub-
scriber to such group contract a certificate setting forth the essential terms of the contract to be performed. 

(b) A corporation may accept from governmental agencies payment of all or part of the cost of subscriptions for hospital, medical or other health care rendered needy persons, and may accept from private agencies, corporations, associations, groups or individuals, similar payment for such service to be rendered needy or other persons.

Sec. 9. Payroll Deduction of Governmental Employees. —The officer charged with the duty of preparing the payroll of any subscriber, who is an employee of the state government or of any of its political subdivisions, including state operated educational institutions, may upon request of the subscriber deduct from his payroll the amount of the fee owed by the subscriber to any hospital service corporation or medical service corporation, provided enrollment regulations of the particular corporation are satisfied, in which case the officer shall pay over such amount to the corporation.

Sec. 10. Investments: Bonds of Corporate Officers and Employees.—(a) The funds of any such corporation shall be invested only as follows:

1. Fifty percent of such funds shall be in cash or government securities of the type described in section seven of article eight of this chapter.

2. The balance of such funds may be in cash or invested in the classes of investments described in the following sections of article eight of this chapter: section eleven (corporate obligations), section twelve (building and savings and loan shares, international bank), section thirteen (preferred or guaranteed stock), section fourteen (common stock), section sixteen (real property) and section eighteen (revenue bonds). All such investments shall be subject to all the restrictions and conditions contained in said article eight as applying to similar investments of insurers generally.

(b) Every officer or employee of any such corporation, who is entrusted with the handling of its funds, shall furnish, in such amount as may with the approval of the
Sec. 11. Reciprocity with Other Service Plans Defined:

Payment Authorized.—Hospital and medical service corporations licensed and operating under provisions of this article are hereby authorized to promote and encourage reciprocity with other licensed hospital and medical plans, both within and without this State, in expanding their services to subscribers. In the event that a subscriber to a plan requires emergency hospital or medical service, or, in the event that the particular services that he receives are not available through the plan to which he subscribes, such plan is hereby authorized to make payment on behalf of such subscriber for such service on a basis not to exceed its schedule of fees to be paid hospitals or physicians, previously approved by the commissioner and on file in his office.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect Jan. 1, 1958 passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker, House of Delegates

The within approved this the 15th day of March, 1957.

Governor

Filed in the Office of the Secretary of State of West Virginia MAR 15 1957

D. Pitt O'Brien
SECRETARY OF STATE