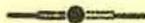


WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1957



ENROLLED

HOUSE BILL No. 126

(By Mr. Engelwood Whaley)



PASSED March 6 1957

In Effect Jan 1, 1958 Passage



ENROLLED

House Bill No. 126

(By MR. ENGLAND and MR. WHALEY)

[Passed March 6, 1957; in effect January 1, 1958.]

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thirteen of chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and that chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows: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
2 one undertakes to indemnify another or to pay a specified
3 amount upon determinable contingencies.

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

Sec. 3. *Person*.—Person includes an individual, com-
2 pany, insurer, association, organization, society, reciprocal,
3 partnership, syndicate, business trust, corporation or any
4 other legal entity.

Sec. 4. *Transacting Insurance*.—Transacting insurance
2 includes solicitation and inducement, preliminary nego-
3 tiations, effecting a contract of insurance and transaction
4 of matters subsequent to effecting the contract and arising
5 out of it.

2 Sec. 5. *Commissioner*.—Commissioner means the insur-
2 ance commissioner of West Virginia.

2 Sec. 6. *Domestic Insurer*.—A domestic insurer is an in-
2 surer formed under the laws of West Virginia.

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

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

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

2 Sec. 10. *Kinds of Insurance—Life; Accident and Sick-*
2 *ness; Fire; Marine; Casualty; Surety*.—The following
3 definitions of kinds of insurance are not mutually exclu-
4 sive and, if reasonably adaptable thereto, a particular
5 coverage may be included under one or more of such
6 definitions:

7 (a) *Life Insurance*—Life insurance is insurance on hu-
8 man lives including endowment benefits, additional bene-
9 fits in the event of death or dismemberment by accident
10 or accidental means, additional benefits for disability, and
11 annuities.

12 (b) *Accident and Sickness*—Accident and sickness in-
13 surance is insurance against bodily injury, disability or
14 death by accident or accidental means, or the expense
15 thereof, or against disability or expense resulting from
16 sickness, and insurance relating thereto.

17 (c) *Fire*—Fire insurance is insurance on real or per-
18 sonal property of every kind and interest therein, against
19 loss or damage from any or all hazard or cause, and
20 against loss consequential upon such loss or damage, other
21 than noncontractual liability for any such loss or damage.
22 Fire insurance shall also include miscellaneous insurance
23 as defined in paragraph (e) (11) of this section.

24 (d) *Marine*—Marine insurance is insurance:

25 (1) against any and all kinds of loss or damage to
26 vessels, craft, aircraft, cars, automobiles and vehicles of
27 every kind, as well as all goods, freight, cargoes, mer-
28 chandise, effects, disbursements, profits, moneys, bullion,
29 precious stones, securities, choses in action, evidences of
30 debt, valuable papers, bottomry and respondentia inter-
31 ests and all other kinds of property and interests therein,
32 in respect to, appertaining to or in connection with any
33 and all risks or perils of navigation, transit, or transpor-
34 tation, including war risks, on or under any seas or other
35 waters, on land (above or below ground), or in the air,
36 or while being assembled, packed, crated, baled, com-
37 pressed or similarly prepared for shipment or while
38 awaiting the same or during any delays, storage, trans-
39 shipment, or reshipment incident thereto, including
40 marine builders' risks and all personal property floater
41 risks;

42 (2) against any and all kinds of loss or damage to
43 person or to property in connection with or appertaining
44 to a marine, inland marine, transit or transportation in-
45 surance, including liability for loss of or damage to either,
46 arising out of or in connection with the construction, re-
47 pair, operation, maintenance or use of the subject matter
48 of such insurance (but not including life insurance or
49 surety bonds nor insurance against loss by reason of
50 bodily injury to the person arising out of the ownership,
51 maintenance or use of automobiles);

52 (3) against any and all kinds of loss or damage to
53 precious stones, jewels, jewelry, gold, silver and other
54 precious metals, whether used in business or trade or
55 otherwise and whether the same be in course of trans-
56 portation or otherwise;

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

64 (5) against any and all kinds of loss or damage to
65 piers, wharves, docks and slips, excluding the risks of

66 fire, windstorm, sprinkler leakage, hail, explosion, earth-
67 quake, riot and civil commotion and each of them;

68 (6) against any and all kinds of loss or damage to other
69 aids to navigation and transportation, including dry docks
70 and marine railways, dams and appurtenant facilities for
71 control of waterways;

72 (7) marine protection and indemnity insurance, which
73 is insurance against, or against legal liability of the in-
74 sured for, loss, damage or expense arising out of, or inci-
75 dent to, the ownership, operation, chartering, mainte-
76 nance, use, repair or construction of any vessel, craft or
77 instrumentality in use in ocean or inland waterways, in-
78 cluding liability of the insured for personal injury, illness
79 or death or for loss of or damage to the property of an-
80 other person.

81 (e) Casualty—Casualty insurance includes:

82 (1) Vehicle insurance, which is insurance against loss
83 of or damage to any land vehicle or aircraft or any draft
84 or riding animal or to property while contained therein
85 or thereon or being loaded therein or therefrom, from
86 any hazard or cause, and against any loss, liability
87 or expense resulting from or incident to ownership, main-
88 tenance or use of any such vehicle, aircraft or animal;
89 together with insurance against accidental death or acci-
90 dental injury to individuals, including the named insured,
91 while in, entering, alighting from, adjusting, repairing or
92 cranking, or caused by being struck by any vehicle, air-
93 craft or draft or riding animal, if such insurance is issued
94 as a part of insurance on the vehicle, aircraft or draft or
95 riding animal.

96 (2) Liability insurance, which is insurance against
97 legal liability for the death, injury, or disability of any
98 human being, or for damage to property; and provision
99 for medical, hospital, surgical, disability benefits to in-
100 jured persons and funeral and death benefits to depend-
101 ents, beneficiaries or personal representatives of persons
102 killed, irrespective of legal liability of the insured, when
103 issued as an incidental coverage with or supplemental to
104 liability insurance.

105 (3) Burglary and theft insurance, which is insurance
106 against loss or damage by burglary, theft, larceny, rob-

107 bery, forgery, fraud, vandalism, malicious mischief, con-
108 fiscation, or wrongful conversion, disposal, or concealment,
109 or from any attempt at any of the foregoing, including
110 supplemental coverages for medical, hospital, surgical, and
111 funeral benefits sustained by the named insured or other
112 person as a result of bodily injury during the commission
113 of a burglary, robbery, or theft by another; also insurance
114 against loss of or damage to moneys, coins, bullion, secu-
115 rities, notes, drafts, acceptances, or any other valuable
116 papers and documents, resulting from any cause.

117 (4) Personal property floater insurance, which is insur-
118 ance upon personal effects against loss or damage from
119 any cause.

120 (5) Glass insurance, which is insurance against loss
121 or damage to glass, including its lettering, ornamentation,
122 and fittings.

123 (6) Boiler and machinery insurance, which is insur-
124 ance against any liability and loss or damage to property
125 or interest resulting from accidents to or explosion of
126 boilers, pipes, pressure containers, machinery, or appa-
127 ratus, and to make inspection of and issue certificates of
128 inspection upon boilers, machinery, and apparatus of any
129 kind, whether or not insured.

130 (7) Leakage and fire extinguishing equipment insur-
131 ance, which is insurance against loss or damage to any
132 property or interest caused by the breakage or leakage
133 of sprinklers, hoses, pumps, and other fire extinguishing
134 equipment or apparatus, water mains, pipes and contain-
135 ers, or by water entering through leaks or openings in
136 buildings, and insurance against loss or damage to such
137 sprinklers, hoses, pumps and other fire extinguishing
138 equipment or apparatus.

139 (8) Credit insurance, which is insurance against loss
140 or damage resulting from failure of debtors to pay their
141 obligations to the insured.

142 (9) Malpractice insurance, which is insurance against
143 legal liability of the insured, and against loss, damage, or
144 expense incidental to a claim of such liability, and includ-
145 ing medical, hospital, surgical, and funeral benefits to
146 injured persons, irrespective of legal liability of the in-
147 sured, arising out of the death, injury, or disablement of

148 any person, or arising out of damage to the economic in-
149 terest of any person, as the result of negligence in render-
150 ing expert, fiduciary, or professional service.

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

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

164 (f) Surety—Surety insurance includes:

165 (1) Fidelity insurance, which is insurance guaranteeing
166 the fidelity of persons holding positions of public or pri-
167 vate trust.

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

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

187 (4) Title insurance, which is insurance of owners of
188 property or others having an interest therein, or liens or

189 encumbrances thereon, against loss by encumbrance, de-
190 fective title, invalidity or adverse claim to title.

Sec. 11. *Reinsurance*.—Reinsurance is a contract of in-
2 demnity against liability by which an insurer procures
3 another insurer to insure it against loss or liability by
4 reason of the original insurance.

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

Sec. 13. *Solicitor*.—An insurance solicitor is an indi-
2 vidual appointed and authorized by an agent to solicit
3 and receive applications for insurance as a representative
4 of such agent.

Sec. 14. *Broker*.—A broker is an individual who for
2 compensation in any manner solicits, negotiates or pro-
3 cures insurance or the renewal or continuance thereof on
4 behalf of insureds or prospective insureds.

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

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

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

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

Sec. 19. *Mutual Insurer*.—Mutual Insurer is an incorpor-
2 ated insurer without permanent capital stock and the
3 governing body of which is elected by the policyholders.

Article 2. Insurance Commissioner

Section 1. *Office of Insurance Commissioner; Appoint-
2 ment, Qualification and Term*.—There is hereby continued

3 in effect the state agency heretofore created and known as
4 the "Insurance Commissioner of West Virginia" which
5 agency shall consist of an insurance commissioner and
6 such employees as may be authorized by law. The term
7 of the present commissioner shall continue until July first,
8 one thousand nine hundred fifty-nine. All appointments
9 to said office made thereafter shall be for a period of six
10 years, except that in case of a vacancy the appointment
11 shall be made to fill the unexpired term. The commissioner
12 shall be a citizen and resident of this State and shall be
13 appointed by the governor, by and with the advice and
14 consent of the senate. Before taking the oath of office
15 the commissioner shall sever all connections either direct
16 or indirect with any and all insurers subject to his super-
17 vision and with any person representing any such insurer,
18 except as a policyholder or claimant.

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

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

Sec. 4. *Authority to Subpoena Witnesses and Records.*

2 —The commissioner, or any person conducting a hearing
3 or investigation by his authority, shall have power to take
4 depositions, subpoena witnesses and compel their attend-
5 ance, administer oaths, examine any person under oath,
6 compel any person to subscribe to his testimony after it
7 has been correctly reduced to writing and require the
8 production of any books, papers, records, correspondence
9 or other documents which he deems relevant to the in-
10 quiry.

Sec. 5. *Witness Fees.*—No person shall be excused from
2 attending and testifying in obedience to a subpoena issued
3 hereunder on the ground of failure of tender or payment
4 of a witness fee or mileage fee unless the witness makes
5 demand for such payment as a condition precedent to the
6 giving of testimony or the production of documents re-
7 quired by the subpoena, and unless such payment is not
8 thereupon made. No insurer, agent, broker, solicitor or
9 other person subject to the provisions of this chapter
10 whose conduct, condition or practices are being investi-
11 gated, and no officer, director or employee of any such
12 person, shall be entitled to witness or mileage fees. In
13 the event that witness or mileage fees are demanded and
14 paid, the amount of same shall be determined as ten
15 dollars for each day of attendance and ten cents per mile
16 for each mile necessarily traveled to the place of attend-
17 ance, and the same for returning. The sum to which a
18 witness is entitled shall be paid out of the treasury in any
19 case in which the attendance is for the commissioner. In
20 all other cases, it shall be paid by the person at whose
21 instance the summons is issued.

Sec. 6. *Service of Subpoena; Compelling Compliance.*—

2 The subpoena shall be served in the manner as if issued
3 from a circuit court unless otherwise provided. In case a
4 person refuses to obey any subpoena issued hereunder or
5 to testify with respect to any matter concerning which he
6 may be lawfully interrogated, the commissioner or his
7 representative may invoke the aid of any circuit court in
8 order that the testimony or evidence be produced. Upon
9 proper showing, such court shall issue a subpoena or order

10 requiring such person to appear before the commissioner
11 or his representative and produce all evidence and give all
12 testimony touching the matter in question. A person fail-
13 ing to obey such order may be punished by such court
14 as for contempt.

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

35 not be entitled to any immunity or privilege on account of
36 any testimony he may so give or evidence so produced.

Sec. 8. *Records of Insureds.*—Upon request of the com-
2 missioner any person in West Virginia who is the insured
3 under any policy issued by an insurer upon a subject of
4 insurance resident, located or to be performed in West Vir-
5 ginia, shall produce for examination all policies and other
6 documents evidencing and relating to such insurance, and
7 shall disclose the amount of the gross premiums paid or
8 agreed to be paid for the insurance, all persons through
9 whom such insurance was procured or who participated in
10 the transaction in any manner, and such other information
11 relative to the placing of such insurance as may reason-
12 ably be required.

Sec. 9. *Examination of Insurers and Others.*—(a) The
2 commissioner or his accredited examiners shall, at least
3 once each three years, visit each domestic insurer and
4 thoroughly examine its financial condition and methods of
5 doing business and ascertain whether it has complied with
6 all the laws and regulations of this State; all expenses of
7 such examination to be borne by such insurer. The com-
8 missioner at such times as he deems necessary may cause
9 an examination to be conducted of any foreign or alien
10 insurer licensed to transact insurance in this State; all
11 expenses of such examination to be borne by such insurer.
12 The commissioner shall make a full written report of each
13 such examination of an insurer, certified to by the com-
14 missioner or the examiner in charge of such examination.
15 The commissioner shall furnish a copy of the report to
16 the insurer examined not less than ten days prior to filing
17 the same in his office. If such insurer so requests in
18 writing, within such ten-day period, the commissioner
19 shall consider the objections of such insurer to the report
20 as proposed, and shall not so file the report until after
21 such modifications, if any, have been made therein as the
22 commissioner deems proper. The report, when filed, shall
23 be admissible in evidence in any action or proceeding
24 brought by the commissioner against the insurer ex-
25 amined, or its officers or agents, and shall be prima facie
26 evidence of the facts stated therein. The commissioner

27 or his examiners may at any time testify and offer other
28 proper evidence as to information secured during the
29 course of an examination, whether or not a written report
30 of the examination has at that time been either made,
31 served, or filed in the commissioner's office. The exami-
32 nation of an alien insurer shall be limited to its United
33 States business. In lieu of making his own examination,
34 the commissioner may accept a full report of the last
35 recent examination of a foreign or alien insurer, certified
36 to by the insurance supervisory official of the state of
37 domicile of a foreign insurer or the state of entry into the
38 United States of an alien insurer.

39 (b) The commissioner may also cause to be examined
40 at such times as he deems necessary the books, records,
41 papers, documents, correspondence and methods of doing
42 business of any agent, broker or solicitor licensed by this
43 State.

44 (c) For such purposes the commissioner, his deputies
45 and employees shall have free access to all books, records,
46 papers, documents and correspondence of all such insurers
47 (whether domestic, foreign or alien), agents, brokers and
48 solicitors wherever such books, records, papers, documents
49 and records are situate.

50 (d) The commissioner may revoke the license of any
51 such insurer, agent, broker or solicitor who refuses to
52 submit to such examination.

53 (e) The commissioner may withhold from public in-
54 spection any examination or investigation report for so
55 long as he deems prudent.

Sec. 10. *Rules and Regulations.*—The commissioner is
2 authorized to promulgate and adopt such rules and regu-
3 lations relating to insurance as are necessary to discharge
4 his duties and exercise his powers and to effectuate the
5 provisions of this chapter and to protect and safeguard the
6 interests of policyholders and the public of this State.

Sec. 11. *Enforcement of Orders; Revocation; Court
2 Action.*—In addition to examinations and investigations
3 expressly authorized by this chapter, the commissioner
4 may conduct such examinations and investigation of in-
5 surance matters as he may deem proper to determine

6 whether any person has violated any provision of this
7 chapter or to secure information useful in the lawful
8 administration of his duties. If the commissioner deter-
9 mines, after notice and hearing, that any person is trans-
10 acting insurance in an illegal, improper or unjust manner
11 or is failing to pay losses and obligations when they
12 become due, excepting claims to which there is a substan-
13 tial defense, he may order such person to discontinue such
14 illegal, improper or unjust manner of transacting insur-
15 ance or may order such person to adjust and pay his obli-
16 gations as they become due. If any person shall fail or
17 refuse within twenty days after notice to obey such order,
18 the commissioner may revoke any license issued by him
19 and held by such person and in addition may apply to the
20 circuit court, or the judge thereof in vacation, having
21 jurisdiction for an injunction or the appointment of a
22 receiver, or for both, and such court or judge may enforce
23 such order of the commissioner by injunction or by ap-
24 pointment of a receiver to take charge of the affairs and
25 property of such person, or both, and may make such
26 further orders as may be necessary and proper to effectu-
27 ate such injunction or receivership.

Sec. 12. *Notice.*—Whenever under the provisions of this
2 chapter the commissioner is required to give notice to any
3 person the service of such notice shall be deemed proper
4 and effective with regard to any licensee of the commis-
5 sioner (including insurers, agents, brokers and solicitors)
6 or any employee of such licensee when such notice directed
7 to such person to be notified shall have been deposited in
8 the United States mails, postage prepaid, addressed to
9 the principal place of business or residence of such licensee
10 as last of record in the commissioner's office. The verified
11 return of the person depositing such notice in the mails
12 as to the fact of such mailing shall be proof of service.
13 Notice to a person other than a licensee or employee of a
14 licensee shall be served in the manner provided by law
15 for service of process in civil actions and such manner of
16 service may also be used and shall constitute effective
17 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-

43 scribe new action within the scope of the notice of hearing,
44 and a copy thereof shall be mailed to all persons directly
45 affected by such hearing. In the discretion of the com-
46 missioner a rehearing may be granted to any party to a
47 hearing upon written request filed with the commissioner
48 within thirty days of the mailing of such order. Costs of
49 any hearing or rehearing for the attendance of witnesses,
50 service of subpoenas, and stenographic record and trans-
51 script may be taxed by the commissioner to any party or
52 parties against whom he shall find and may be recovered
53 in a civil action.

Sec. 14. *Judicial Review.*—An appeal from the com-
2 missioner shall be taken only from an order entered after
3 hearing or an order refusing a hearing. Any person
4 aggrieved by any such order may, within thirty days after
5 the order has been mailed or delivered to the persons
6 entitled to receive the same, or within thirty days after
7 an order denying rehearing has been so mailed or deliver-
8 ed, appeal to the circuit court of Kanawha County, or the
9 judge thereof in vacation, by presenting a written petition
10 to such court or judge and mailing a copy thereof to the
11 commissioner. Upon the receipt of such copy the com-
12 missioner shall forthwith transmit to the clerk of such
13 court the record of the proceedings before him. The court
14 or judge shall fix a time for hearing upon said petition at
15 his earliest convenience. Notice in writing of the time and
16 place of said hearing shall be given by petitioner to the
17 commissioner at least fifteen days prior thereto. The court
18 or judge shall, without a jury, hear and determine the
19 matter upon the record of proceedings before the com-
20 missioner, except that for good cause shown the court may
21 permit the introduction of additional evidence, and may
22 enter an order revising or reversing the order of the com-
23 missioner, or may affirm such order, or remand the action
24 to the commissioner for further proceedings. Pending
25 such appeal the order of the commissioner shall be in full
26 force and effect until final determination, unless the com-
27 missioner shall in his discretion have stayed the effect of
28 his order pending final determination of the appeal or
29 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

4 the provisions of this chapter and with its charter, and
5 must be an incorporated stock insurer, or an incorporated
6 mutual insurer or a reciprocal insurer.

7 (b) No license to transact insurance in this State shall
8 be issued, renewed or continued in effect to any domestic,
9 foreign or alien insurer which is owned, or financially
10 controlled, in whole or in part, by any state, or by a
11 foreign government, or any political subdivision, instru-
12 mentality or agency of either, or which is an agency of
13 any such state, government or subdivision, unless such
14 insurer was so owned, controlled or constituted prior to
15 the first day of January, one thousand nine hundred fifty-
16 five and licensed to transact insurance in this State prior
17 to the first day of January, one thousand nine hundred
18 fifty-five.

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

2 *Sec. 4. Charter and Statement to be Filed.*—Every in-
3 surer applying for an initial license shall file with the
4 commissioner accompanying its application:

5 (a) a certified copy of its charter with all amendments;
6 (b) a certified copy of its bylaws with all amendments;
7 (c) a copy of its annual statement as of December
8 thirty-first last preceding;

9 (d) a copy of report of last examination, if any, made
10 of the insurer, certified by the insurance supervisory
11 official of the state of domicile of a foreign insurer or
12 the state of entry into the United States of an alien in-
13 surer;

14 (e) if a foreign or alien insurer, a certificate of the
15 public official having supervision of insurance in the state
or country of domicile of such insurer showing that it is

16 authorized to transact the kinds of insurance proposed to
17 be transacted in West Virginia;

18 (f) if an alien insurer, a copy of the appointment and
19 authority of its United States manager;

20 (g) certificate of deposit where deposits are required
21 by this chapter;

22 (h) such other information and documents as the com-
23 missioner deems necessary for the protection of policy-
24 holders or to assure compliance with this chapter.

Sec. 5. *Capital or Surplus Required.*—To qualify for a
2 license to transact insurance, unless otherwise provided
3 in this chapter, an insurer shall possess paid-in capital
4 stock (if a stock insurer) or surplus (if a mutual insurer)
5 in the amount set forth below opposite the kinds of insur-
6 ance for which license is requested:

7 (a) Life	\$200,000.00
8 (b) Accident and Sickness	\$200,000.00
9 (c) Life and Accident and Sickness	\$300,000.00
10 (d) Fire and Marine	\$100,000.00
11 (e) Casualty	\$100,000.00
12 (f) Surety	\$600,000.00
13 (g) Accident and Sickness together with any 14 one or more of the following: Fire and 15 Marine, Casualty	\$300,000.00
16 (h) Fire and Marine, and Casualty	\$200,000.00
17 (i) Surety together with any one or more of 18 the following: Accident and Sickness, 19 Fire and Marine, Casualty	\$600,000.00

20 In addition the commissioner shall require of any insurer
21 additional expendable surplus funds in an amount equal
22 to one-half such minimum capital or surplus listed above
23 for the kinds of insurance for which license is requested:

24 *Provided*, That insurers duly licensed to transact insur-
25 ance in West Virginia on March thirtieth, one thousand
26 nine hundred fifty-seven shall have until March thirty-
27 first, one thousand nine hundred sixty-one to meet the
28 requirement of additional expendable surplus funds in
29 the amount herein specified.

Sec. 6. *Deposit Requirements.*—The commissioner shall
2 not issue a license to any insurer unless it has deposited

3 and maintained in trust with the state treasurer, for the
4 protection of its policyholders or its policyholders and
5 creditors, cash or government securities eligible for the
6 investment of capital funds of domestic insurers (of the
7 type described in section seven of article eight of this
8 chapter) under this chapter in the amount of one hundred
9 thousand dollars; except:

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

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

Sec. 7. *Issuance of License; Kinds of Insurance.*—Upon
2 receiving the application and supporting documents re-
3 quired by section four of this article, if the commissioner
4 is satisfied that an insurer has complied with the terms
5 of its charter and the provisions of this chapter and
6 other laws of this State and that such insurer is solvent
7 and will transact insurance in a legal, proper and just
8 manner, he may issue to such insurer a license authorizing
9 it to transact insurance in this State. Such license may
10 authorize an insurer which otherwise qualifies therefor
11 to transact life and/or accident and sickness insurance,
12 or an insurer other than a life insurer to transact any

13 of the kinds of insurance other than life for which it
14 otherwise qualifies. However, as to any life insurer which,
15 immediately prior to the effective date of this chapter,
16 lawfully held a license granting to it the right to trans-
17 act in West Virginia additional kinds of insurance other
18 than life and accident and sickness, the commissioner may
19 continue to license said insurer to transact the same kinds
20 of insurance as those specified in such prior license so
21 long as such insurer is otherwise in compliance with this
22 chapter.

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

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

Sec. 10. *Mandatory Revocation or Suspension.*—The
2 commissioner after notice and hearing shall refuse to
3 renew or shall revoke or suspend the license of any in-
4 surer:

5 (a) if such action is required by any provision of this
6 chapter;

7 (b) if the insurer no longer meets the requirements for
8 the license originally granted, because of deficiency of
9 assets or otherwise.

Sec. 11. *Discretionary Revocation or Suspension; Pen-
2 alty in Lieu Thereof; Reissuance.*—(a) The commissioner
3 may after notice and hearing refuse to renew, or may
4 revoke or suspend the license of an insurer, in addition
5 to other grounds therefor in this chapter, if the insurer:

- 6 (1) violates any provision of this chapter other than
7 those as to which refusal, suspension or revocation is man-
8 datory;
- 9 (2) fails to comply with any lawful rule, regulation
10 or order of the commissioner;
- 11 (3) is transacting insurance in an illegal, improper or
12 unjust manner;
- 13 (4) is found by the commissioner to be in an unsound
14 condition or in such condition as to render its further
15 transaction of insurance in West Virginia hazardous to its
16 policyholders or to the people of West Virginia;
- 17 (5) compels insureds under its policies to accept less
18 than the amount due them or to bring suit against it to
19 secure full payment when it has no substantial defense;
- 20 (6) refuses to be examined or to produce its accounts,
21 records and files for examination by the commissioner
22 when required;
- 23 (7) fails to pay any final judgment rendered against
24 it in West Virginia within thirty days after the judgment
25 became final or time for appeal expired, whichever is
26 later;
- 27 (8) fails to pay when due to the State of West Virginia
28 any taxes, fees, charges or penalties required by this
29 chapter.
- 30 (b) In lieu of refusing to renew, revoking or suspend-
31 ing the license of an insurer in any case except where
32 such action is mandatory, the commissioner may, by
33 order, require the insurer to pay to the State of West
34 Virginia a penalty in a sum not exceeding one thousand
35 dollars, and upon the failure of the insurer to pay such
36 penalty within thirty days after notice thereof, the com-
37 missioner may revoke or suspend the license of such
38 insurer.
- 39 (c) When any license has been revoked or suspended
40 or renewal thereof refused, the commissioner may reissue,
41 terminate the suspension or renew such license when he
42 is satisfied that the conditions causing such revocation,
43 suspension or refusal to renew have ceased to exist and
44 are unlikely to recur.

Sec. 12. *Name of Insurer.*—No insurer shall be licensed

2 to transact insurance in West Virginia which has or uses
3 a name so similar to that of any insurer already so licensed
4 as to cause uncertainty or confusion or which tends to
5 deceive or mislead as to the type of organization of the
6 insurer; except that in case of conflict of names between
7 two insurers the commissioner may permit or require
8 the newly licensed insurer to use in West Virginia such
9 supplementation or modification of its name as is reason-
10 ably necessary to avoid such conflict.

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

27 (b) The commissioner shall pay into the state treasury
28 all fees and charges collected by him under the provisions
29 of this section. Such fees and charges collected shall com-
30 prise a special fund designated "insurance commissioner's
31 fund" to be appropriated as provided by law for the use

32 of the commissioner in the administration of his office,
33 and any portion of such fund not used during a calendar
34 year shall be carried forward for such subsequent use.
35 The state treasurer shall, at the end of each fiscal year,
36 transfer any amount over and above the amount appro-
37 priated for the operation of the commissioner's office for
38 the ensuing year to the general fund.

Sec. 14. *Premium Tax.*—Every insurer transacting in-
2 surance in West Virginia shall make a return to the com-
3 missioner annually on a form prescribed by the commis-
4 sioner, on or before the first day of March, under the oath
5 of its president or secretary, of the gross amount of direct
6 premiums (whether designated as a premium or by some
7 other name) collected and received by it during the pre-
8 vious calendar year on policies covering risks resident,
9 located or to be performed in this State and stating the
10 amount of tax due hereunder, together with payment
11 to the commissioner in full for such tax due. Such tax
12 shall be a sum equal to two percent of such gross direct
13 premiums, including dividends (by whatever name called)
14 on participating policies applied in reduction of premiums,
15 less premiums returned to policyholders because of can-
16 cellation of policies. All such taxes received by the com-
17 missioner shall be paid by him into the state treasury
18 for the benefit of the state fund.

Sec. 15. *Annuity Tax.*—Every life insurer transacting
2 insurance in West Virginia shall make a return to the
3 commissioner annually on a form prescribed by the com-
4 missioner, on or before the first day of March, under the
5 oath of its president or secretary, of the gross amount
6 of annuity considerations collected and received by it
7 during the previous calendar year on business transacted
8 in this State and stating the amount of tax due hereunder,
9 together with payment in full for such tax due. Such tax
10 shall be a sum equal to one per centum of the gross
11 amount of such annuity considerations, less annuity con-
12 siderations returned and less termination allowances on
13 group annuity contracts. All such taxes received by the
14 commissioner shall be paid by him into the state treasury
15 for the benefit of the state fund.

Sec. 16. *Retaliation.*—(a) When by or pursuant to the
2 laws of any other state or foreign country any premium
3 or income or other taxes, or any fees, fines, penalties,
4 licenses, deposit requirements or other material obliga-
5 tions, prohibitions or restrictions are imposed upon West
6 Virginia insurers doing business, or that seek to do busi-
7 ness in such other state or country, or upon the agents
8 of such insurers, which in the aggregate are in excess of
9 such taxes, fees, fines, penalties, licenses, deposit require-
10 ments or other obligations, prohibitions or restrictions
11 directly imposed in the aggregate upon similar insurers
12 of such other state or foreign country or upon the agents
13 of such insurers under the statutes of this State, so long
14 as such laws continue in force or are so applied, the same
15 obligations, prohibitions and restrictions of whatever kind
16 shall be imposed in the same manner upon similar in-
17 surers of such other state or foreign country doing busi-
18 ness in West Virginia. Any tax, license or other obliga-
19 tion imposed by any city, county or other political sub-
20 division of a state or foreign country on West Virginia
21 insurers or their agents shall be deemed to be imposed
22 by such state or foreign country within the meaning of
23 this section. The provisions of this section shall not apply
24 to ad valorem taxes on real or personal property or to
25 personal income taxes.

26 (b) If an insurer domiciled in West Virginia is refused
27 authority to transact in another state insurance upon a
28 plan and in a manner which is permitted for domestic
29 insurers of such other state, notwithstanding that the
30 West Virginia insurer be fully qualified for such authority
31 in accordance with the applicable laws of such other state,
32 and if such refusal be not accompanied by a written state-
33 ment of the grounds therefor, then and thereafter, and
34 for so long as such refusal shall continue, the commis-
35 sioner may refuse to grant an initial license (but not a
36 renewal of an existing license) to any insurer domiciled
37 in such other state which may seek to transact in West
38 Virginia a like kind or kinds of insurance.

Article 4. General Provisions

Section 1. *Compliance Required.*—No person shall trans-

2 act insurance in West Virginia or relative to a subject of
3 insurance resident, located or to be performed in West
4 Virginia without complying with the applicable provi-
5 sions of this chapter.

Sec. 2. *Application to Particular Types of Insurers.*—

2 No provision of this chapter shall apply to:

3 (a) hospital service corporations and medical service
4 corporations except as stated in article twenty-four of this
5 chapter;

6 (b) fraternal benefit societies except as stated in article
7 twenty-three of this chapter;

8 (c) farmers' mutual fire insurance companies except as
9 stated in article twenty-two of this chapter.

Sec. 3. *Existing Licenses.*—The expiration dates of

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

Sec. 4. *Existing Contracts.*—No provision of this chapter

2 shall be deemed to modify or invalidate any insurance
3 policy heretofore lawfully in force.

Sec. 5. *Existing Forms and Filings.*—Every insurance

2 form and every rate or other filing lawfully in use imme-
3 diately prior to the effective date of this chapter shall
4 continue in effect until the commissioner otherwise pre-
5 scribes pursuant to this chapter.

Sec. 6. *Existing Actions, Violations.*—Repeal by this act

2 of any laws shall not affect or abate any right heretofore
3 accrued, action or proceeding heretofore commenced or
4 any unlawful act or violation heretofore committed under
5 such laws and punishment or deprivation of license as a
6 consequence thereof as provided by such laws. All such
7 laws shall be deemed to continue in force to the extent
8 made necessary by the foregoing provision.

Sec. 7. *Particular Provisions Prevail.*—Provisions of

2 this chapter relative to a particular kind of insurance

3 or a particular type of insurer or to a particular matter
4 shall prevail over provisions relating to insurance in gen-
5 eral or insurers in general or to such matter in general.

Sec. 8. *General Penalty.*—In addition to the refusal to
2 renew, suspension or revocation of a license, or penalty
3 in lieu of the foregoing, because of violation of any pro-
4 vision of this chapter, it is a misdemeanor for any person
5 to violate any provision of this chapter, and any person
6 convicted of a misdemeanor for the violation of any pro-
7 vision of this chapter shall be punished by a fine of not
8 more than one thousand dollars or by imprisonment for
9 not more than six months, or by both such fine and im-
10 prisonment.

Sec. 9. *Repeal.*—The provisions of all acts or parts of
2 acts, or of this Code, which are inconsistent with the pro-
3 visions of this chapter are hereby repealed to the extent
4 of such inconsistency. Repeal by this chapter or this act
5 of any provision of any act or parts of acts or of this
6 Code shall not have the effect of reviving any prior law
7 theretofore repealed or superseded by such repealed pro-
8 vision.

Sec. 10. *Severability.*—If any provision of this chapter
2 or the application of such provision to any circumstance
3 is held to be unconstitutional or otherwise invalid, the
4 remainder of this chapter or the application of the pro-
5 visions to other circumstances shall not be affected there-
6 by. The legislature hereby declares that it would have
7 passed the remainder of this chapter if it had known that
8 such provision, or its application to any circumstances,
9 would be declared unconstitutional or otherwise invalid.

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

Sec. 12. *Service of Process on Licensed Insurers.*—The
2 auditor of this State shall be, and is hereby constituted,
3 the attorney-in-fact of every licensed insurer, domestic,
4 foreign, or alien, transacting insurance in this State, upon
5 whom all legal process in any action, suit or proceeding

6 against it shall be served, and he may accept service of
7 such process. Such process shall be served upon the
8 auditor, or accepted by him, in the same manner as pro-
9 vided for service of process upon unlicensed insurers under
10 subparagraphs (2) and (3) of paragraph (b) of section
11 thirteen of this article. Each licensed insurer shall pay
12 to the auditor an annual fee of ten dollars for services as
13 authorized agent for service of process.

Sec. 13. *Service of Process on Unlicensed Insurers.*--

2 (a) The purpose of this section is to subject certain
3 insurers to the jurisdiction of the courts of this State in
4 suits by or on behalf of insureds or beneficiaries under
5 certain insurance contracts. The legislature declares that
6 it is a subject of concern that many residents of this State
7 hold policies of insurance issued or delivered in this State
8 by insurers while not licensed to transact insurance in this
9 State, thus presenting to such residents the often insuper-
10 able obstacle of resorting to distant forums for the purpose
11 of asserting legal rights under such policies. In further-
12 ance of such state interest, the legislature herein provides
13 a method of substituted service of process upon such
14 insurers and declares that in so doing it exercises its power
15 to protect its residents and to define, for the purpose of
16 this section, what constitutes transacting insurance in this
17 State, and also exercises powers and privileges available
18 to the State by virtue of public law number fifteen, seven-
19 ty-ninth congress of the United States, chapter twenty,
20 first session, senate number three hundred forty, as amend-
21 ed, which declares that the business of insurance and
22 every person engaged therein shall be subject to the laws
23 of the several states.

24 (b) (1) Any of the following acts in this State, effected
25 by mail or otherwise, by an unlicensed foreign or alien
26 insurer: (1) the issuance or delivery of contracts of in-
27 surance to residents of this State or to corporations author-
28 ized to do business therein, (2) the solicitation of appli-
29 cations for such contracts, (3) the collection of premiums,
30 membership fees, assessments or other considerations for
31 such contracts, or (4) any other transaction of business,
32 is equivalent to and shall constitute an appointment by

33 such insurer of the auditor of the State and his successor
34 in office, to be its true and lawful attorney, upon whom
35 may be served all lawful process in any action, suit, or
36 proceeding instituted by or on behalf of an insured or
37 beneficiary arising out of any such contract of insurance,
38 and any such act shall be signification of its agreement
39 that such service of process is of the same legal force and
40 validity as personal service of process in this State upon
41 such insurer.

42 (2) Such service of process upon any such insurer in
43 any such action or proceeding in any court of competent
44 jurisdiction of this State, may be made by serving the
45 auditor of the State or his chief clerk with two copies
46 thereof and the payment to him of a fee of two dollars.
47 The auditor shall forward a copy of such process by regis-
48 tered mail to the defendant at its last known principal
49 place of business, and shall keep a record of all process so
50 served upon him. Such service of process is sufficient,
51 provided notice of such service and a copy of the process
52 are sent within ten days thereafter by or on behalf of the
53 plaintiff to the defendant at its last known principal place
54 of business by registered mail with return receipt request-
55 ed. The plaintiff shall file with the clerk of the court in
56 which the action is pending, or with the judge or justice of
57 such court, in case there be no clerk, an affidavit of com-
58 pliance herewith, a copy of the process, and either a return
59 receipt purporting to be signed by the defendant or a
60 person qualified to receive its registered mail in accord-
61 ance with the rules and customs of the post office depart-
62 ment; or, if acceptance was refused by the defendant or
63 its agent, the original envelope bearing a notation by the
64 postal authorities that receipt was refused. Service of
65 process so made shall be deemed to have been made
66 within the territorial jurisdiction of any court in this
67 State.

68 (3) Service of process in any such action, suit or pro-
69 ceeding shall in addition to the manner provided in sub-
70 paragraph (2) of this paragraph (b) be valid if served
71 upon any person within this State who, in this State on
72 behalf of such insurer, is

73 A. Soliciting insurance, or

74 B. Making, issuing or delivering any contract of insur-
75 ance, or

76 C. Collecting or receiving any premium, membership
77 fee, assessment or other consideration for insurance; pro-
78 vided notice of such service and a copy of such process are
79 sent within ten days thereafter, by or on behalf of the
80 plaintiff to the defendant at the last known principal
81 place of business of the defendant, by registered mail with
82 return receipt requested. The plaintiff shall file with the
83 clerk of the court in which the action is pending, or with
84 the judge or justice of such court in case there be no clerk,
85 an affidavit of compliance herewith, a copy of the process,
86 and either a return receipt purporting to be signed by the
87 defendant or a person qualified to receive its registered
88 mail in accordance with the rules and customs of the post
89 office department; or, if acceptance was refused by the
90 defendant or its agent the original envelope bearing a
91 notation by the postal authorities that receipt was refused.

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

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

104 (c) (1) Before any unlicensed foreign or alien insurer
105 shall file or cause to be filed any pleading in any action,
106 suit or proceeding instituted against it, such unlicensed
107 insurer shall either (1) deposit with the clerk of the court
108 in which such action, suit or proceeding is pending, cash
109 or securities or file with such clerk a bond with good and
110 sufficient sureties, to be approved by the court, in an
111 amount to be fixed by the court sufficient to secure the pay-
112 ment of any final judgment which may be rendered in

113 such action: *Provided, however*, That the court may in its
114 discretion make an order dispensing with such deposit or
115 bond where the auditor of the State shall have certified
116 to such court that such insurer maintains within this
117 State funds or securities in trust or otherwise sufficient
118 and available to satisfy any final judgment which may be
119 entered in such action, suit or proceeding; or (2) procure
120 a license to transact insurance in this State.

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

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

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

153 deemed prima facie evidence that its failure to make pay-
154 ment was vexatious and without reasonable cause.

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

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

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

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

12 (c) No credit shall be allowed, as an asset or as a de-
13 duction from liability, to any ceding insurer for reinsur-
14 ance unless the reinsurance is in insurers either licensed
15 in West Virginia to transact insurance of the kind being
16 reinsured or which have been approved by the commis-
17 sioner in writing; nor unless the reinsurance is payable

18 by the assuming insurer on the basis of the liability of
19 the ceding insurer under the contracts reinsured without
20 diminution because of the insolvency of the ceding insurer
21 nor unless under the reinsurance contract the liability for
22 such reinsurance is assumed by the assuming insurer or
23 insurers as of the same effective date.

24 (d) Any licensed insurer may accept reinsurance for
25 the same kinds of insurance and within the same limits
26 as it is authorized to transact direct insurance.

27 (e) No insurer shall reinsure all or substantially all of
28 its risks on property or lives located in West Virginia, or
29 substantially all of a major class thereof, unless the rein-
30 surance agreement be filed with and approved by the
31 commissioner.

32 (f) This section shall not apply to insurance of ocean
33 marine risks or marine protection and indemnity risks.

Sec. 16. *Limit of Risk.*—(a) No insurer shall retain any
2 risk on any one subject of insurance, whether located or
3 to be performed in West Virginia or elsewhere, in an
4 amount exceeding ten percent of its surplus to policy-
5 holders.

6 (b) A “subject of insurance” for the purpose of this
7 section, as to insurance against fire and hazards other than
8 windstorm or earthquake, include all properties insured
9 by the same insurer which are customarily considered by
10 insurers to be subject to loss or damage from the same
11 fire or other such hazard insured against.

12 (c) Reinsurance in licensed or approved insurers as
13 authorized by section fifteen of this article shall be de-
14 ducted in determining risk retained. As to surety risk,
15 deduction shall also be made of the amount assumed by
16 any established incorporated co-surety and the value and
17 security deposited, pledged or held subject to the surety’s
18 consent and for the surety’s protection.

19 (d) “Surplus to policyholders” for the purpose of this
20 section shall be deemed to include any voluntary reserves
21 which are not required pursuant to law, and shall be
22 determined from the last sworn statement of the insurer
23 on file with the commissioner or by the last report of

24 examination by the commissioner, whichever is the more
25 recent at time of assumption of such risk.

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

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

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

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

13 (c) This section shall not prohibit such a director or
14 officer from becoming a policyholder of the insurer and
15 enjoying thereunder the rights customarily provided
16 therein for holders of such policies, nor shall this section
17 prohibit a director of an insurer other than a life insurer
18 from receiving his share of the commission earnings of a
19 stock exchange firm of which he is a partner, or a per-
20 centage of underwriting profits under a management con-
21 tract, provided such contract is subject to review and
22 termination by the board of directors, nor shall this sec-
23 tion prohibit the payment to a director of a fee for legal
24 services actually rendered to any such insurer provided
25 such compensation is not in excess of the amounts custom-
26 arily charged for the same type of service.

Sec. 18. *Representation of Unlicensed Insurers Pro-*
2 *hibited.*—(a) No person in West Virginia shall in any
3 manner, directly or indirectly, represent or assist any

4 insurer not then duly licensed to transact insurance in
5 West Virginia, in the soliciting, procuring, placing or
6 maintenance of any insurance coverage upon or with
7 relation to any subject of insurance resident, located, or
8 to be performed in West Virginia, or inspect or examine
9 any risk or collect or receive any premium on behalf of
10 such insurer.

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

15 (c) This section shall not apply to reinsurance procured
16 in accordance with this chapter, to excess line insurance
17 procured pursuant to the provisions of article twelve of
18 this chapter, to transactions exempt under the provisions
19 of section one of article three of this chapter, or to pro-
20 fessional 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
2 domestic mutual and stock insurers hereafter formed and
3 shall govern existing domestic mutual and stock insurers
4 to the extent applicable.

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

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

5 (a) the name of the corporation;

6 (b) the duration of its existence, which may be per-
7 petual;

8 (c) the kinds of insurance the corporation is formed
9 to transact according to the definitions thereof in this
10 chapter;

11 (d) if a stock insurer, its authorized capital, the classes
12 and number of shares into which divided, the par value

13 of each such share, and the respective rights of each such
14 class. Shares without par value shall not be authorized;

15 (e) if a mutual insurer, the maximum contingent lia-
16 bility of its members (other than as to nonassessable
17 policies) for payment of losses and expenses incurred,
18 which liability shall be as stated in the articles of in-
19 corporation but not less than one nor more than six times
20 the premium for the member's policy at the annual
21 premium rate for a term of one year;

22 (f) the number of directors, not less than five nor more
23 than fifteen, who shall conduct the affairs of the cor-
24 poration;

25 (g) the city or town in West Virginia in which is to be
26 located the principal place of business, and states and
27 countries in which business may be transacted;

28 (h) the limitations, if any, on the corporation's indebt-
29 edness;

30 (i) if a stock insurer, the extent, if any, to which its
31 stock shall be assessable;

32 (j) such other provisions, not inconsistent with law, as
33 are deemed appropriate.

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

Sec. 5. *Amendment of Articles of Incorporation.*—
2 (a) A stock insurer may amend its articles of incorpora-
3 tion in the same manner as other corporations, but no
4 such amendment shall reduce authorized capital below
5 the amount required by this chapter for the kinds of
6 insurance thereafter to be transacted and except that no
7 such amendment shall be filed with or accepted by the sec-
8 retary of state unless approved in writing by the com-
9 missioner.

10 (b) A mutual insurer may amend its articles of incor-
11 poration by the affirmative vote of two-thirds of its mem-
12 bers present in person or by proxy at a regular or special
13 meeting of members of which notice in writing setting

14 forth the proposed amendment was mailed to all members
15 at least thirty days in advance, except that no such amend-
16 ment shall reduce the surplus below the amount required
17 by this chapter for the kinds of insurance thereafter to be
18 transacted and except that no such amendment shall be
19 filed with or accepted by the secretary of state unless
20 approved in writing by the commissioner.

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

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

12 (c) All such applications shall provide that:

13 (1) Issuance of the policy is contingent upon comple-
14 tion of organization of the insurer and issuance to it of
15 a proper license;

16 (2) No insurance is provided until the license has been
17 so issued; and

18 (3) The prepaid premium or deposit, and membership
19 or policy fee, if any, shall be refunded in full to the ap-
20 plicant if the organization is not completed and license
21 issued before a specified reasonable date, which date shall
22 be not later than one year following date of issuance of
23 the certificate of incorporation.

24 (d) All qualifying premiums collected shall be in cash.

25 (e) Solicitation for such qualifying applications for in-
26 surance shall be by licensed agents of the insurer, and
27 the commissioner shall upon application therefor issue
28 temporary agent's licenses expiring on the date specified
29 pursuant to paragraph (3), above, to individuals appointed
30 by the insurer and qualified as for a resident agent's
31 license. The commissioner may suspend or revoke any
32 such license for any of the same causes and pursuant to
33 the same procedures as are applicable to suspension or

34 revocation of licenses of agents in general under article
35 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

23 may receive a dividend of not more than ten percent per
24 anual, which may be cumulative. The stock shall not be
25 a liability of the insurer, except that it shall be retired
26 as soon as the surplus of the insurer becomes sufficient to
27 pay it at its par value and leave a surplus not less than
28 the amount of the temporary capital so retired.

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

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

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

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

Sec. 11. *Mutual Membership.*—Each holder of one or

2 more insurance policies or contracts issued by a domestic
3 mutual insurer, other than a contract of reinsurance, is a
4 member of the insurer with all the rights and obligations
5 of such membership and each such policy or contract so
6 issued shall so specify. Any person, government or gov-
7 ernmental agency, state or political subdivision thereof,
8 public or private corporation, board, association, firm,
9 estate, trustee or fiduciary may be a member of a domestic,
10 foreign, or alien mutual insurer.

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

Sec. 13. *Contingent Liability of Mutual Members.*—
2 (a) Each member of a domestic mutual insurer shall,
3 except as otherwise hereinafter provided with respect to
4 nonassessable policies, have a contingent liability, pro
5 rata and not one for another, for the discharge of its
6 obligations, which contingent liability shall be in such
7 maximum amount as is stated in the insurer's articles of
8 incorporation.

9 (b) Each policy issued by the insurer shall contain a
10 statement of the contingent liability, if any, of its mem-
11 bers.

12 (c) Termination of the policy of any such member shall
13 not relieve the member of contingent liability for his pro-
14 portion, if any, of the obligations of the insurer which
15 accrued while the policy was in force.

16 (d) Unrealized contingent liability of members does
17 not constitute an asset of the insurer in any determination
18 of its financial condition.

Sec. 14. *Enforcement of Contingent Liability.*—(a) If
2 at any time the assets of a domestic mutual insurer are
3 less than its liabilities and the minimum amount of sur-
4 plus required of it by this chapter for authority to transact
5 the kinds of insurance being transacted, and the deficiency
6 is not cured from other sources, its directors shall levy an
7 assessment only upon its members who at any time within
8 the twelve months immediately preceding the date notice

9 of such assessment was mailed to them held policies pro-
10 viding for contingent liability, and such members shall be
11 liable to the insurer for the amount so assessed.

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

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

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

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

Sec. 15. *Mutual Nonassessable Policies.*—While a do-
2 mestic mutual insurer maintains the deposits and surplus
3 funds necessary for the kinds of insurance it is transact-
4 ing, and is otherwise in compliance with this chapter and
5 in a sound condition, it may extinguish the contingent
6 liability of its members as to all its policies in force and
7 may omit provisions imposing contingent liability in all
8 its policies currently issued upon receiving written ap-
9 proval by the commissioner. The commissioner shall re-
10 voke the authority of a domestic mutual insurer to issue
11 policies without contingent liability at any time the in-
12 surer's assets are less than the sum of its liabilities and

13 the surplus required for such authority, or if the insurer,
14 by resolution of its board of directors approved by a
15 majority of its members, requests that such authority be
16 revoked.

Sec. 16. *Participating Policies.*—(a) If so provided in
2 its articles of incorporation, a domestic stock or domestic
3 mutual insurer may issue any or all of its policies with
4 or without participation in profits, savings, or unabsorbed
5 portions of premiums, may classify policies issued on a
6 participating or nonparticipating basis, and may deter-
7 mine the right to participate and the extent of participa-
8 tion of any class or classes of policies. Any such classifi-
9 cation or determination shall be reasonable, and shall not
10 unfairly discriminate as between policyholders within the
11 same such classification. A life insurer may issue both
12 participating and nonparticipating policies only if the
13 right or absence of right to participate is reasonably re-
14 lated to the premium charged.

15 (b) No dividend, otherwise earned, shall be made con-
16 tingent upon the payment of renewal premium on any
17 policy.

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

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

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

Sec. 18. *Dividends to Mutual Members.*—(a) The direc-
2 tors of a domestic mutual insurer may from time to time
3 apportion and pay or credit to its members dividends
4 only out of that part of its surplus funds which represents

5 net realized savings and net realized earnings from its
6 business.

7 (b) A dividend otherwise proper may be payable out
8 of such savings and earnings even though the insurer's
9 total surplus is then less than the aggregate of its con-
10 tributed surplus.

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

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

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

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

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

21 (c) Such insurer in advance of any such loan shall file

22 with the commissioner a statement of the purposes of the
23 loan and a copy of the proposed loan agreement, which
24 shall be subject to the commissioner's approval. The loan
25 and agreement shall be deemed approved thirty days after
26 date of filing with the commissioner, unless within such
27 thirty day period the insurer is notified in writing of the
28 commissioner's disapproval and the reasons therefor. The
29 commissioner shall so disapprove any such proposed loan
30 or agreement if he finds that the loan is reasonably un-
31 necessary or excessive for the purpose intended, or that
32 the terms of the loan agreement are not fair and equitable
33 to the parties, and to other similar lenders, if any, to
34 the insurer, or is not fair to policyholders, or that the
35 information so filed by the insurer is inadequate.

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

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

Sec. 21. *Management and Exclusive Agency Contracts.*

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

16 (b) The commissioner shall disapprove any such con-
17 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 commis-
7 sioner 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

3 pursuant to such plan and procedure as may be approved
4 in advance by the commissioner.

5 (b) The commissioner shall not approve any such plan,
6 procedure, or mutualization unless:

7 (1) It is equitable to both stockholders and policy-
8 holders;

9 (2) It is subject to approval by a vote of the holders
10 of not less than three-fourths of the insurer's capital stock
11 having voting rights and by a vote of not less than two-
12 thirds of the insurer's policyholders who vote on such
13 plan in person, by proxy or by mail, pursuant to such
14 notice and procedure as may be approved by the com-
15 missioner;

16 (3) If a life insurer, the right to vote thereon is limited
17 to those policyholders whose policies have face amounts
18 of not less than one thousand dollars and have been in
19 force for one year or more;

20 (4) Mutualization will result in retirement of shares
21 of the insurer's capital stock at a price not in excess of the
22 fair market value thereof as determined by competent
23 disinterested appraisers;

24 (5) The plan provides for definite conditions to be ful-
25 filled by a designated early date upon which such mutuali-
26 zation will be deemed effective; and

27 (6) The mutualization leaves the insurer with surplus
28 funds reasonably adequate for the security of its policy-
29 holders and to continue successfully in business in the
30 states in which it is then authorized to transact insurance,
31 and for the kinds of insurance included in its license.

32 (c) This section shall not apply to mutualization under
33 order of court pursuant to rehabilitation or reorganiza-
34 tion of an insurer under article ten of this chapter.

Sec. 24. *Converting Mutual Insurer.*—(a) A domestic
2 mutual insurer may become a domestic stock insurer
3 pursuant to such plan and procedure as is approved in
4 advance by the commissioner.

5 (b) The commissioner shall not approve any such plan
6 or procedure unless:

7 (1) Equitable to the insurer's members;

8 (2) Subject to approval by vote of not less than three-

9 fourths of the insurer's current members voting thereon
10 in person, by proxy, or by mail at a meeting of members
11 called for the purpose pursuant to such notice and pro-
12 cedure as may be approved by the commissioner; if a life
13 insurer, the right to vote may be limited to members
14 whose policies have face amounts of not less than one
15 thousand dollars and have been in force one year or more;

16 (3) The equity of each policyholder in the insurer is
17 determinable under a fair formula approved by the com-
18 missioner, which such equity shall be based upon not less
19 than the insurer's entire surplus (after deducting con-
20 tributed or borrowed surplus funds) plus a reasonable
21 present equity in its reserves and in all nonadmitted
22 assets;

23 (4) The policyholders entitled to participate in the pur-
24 chase of stock or distribution of assets shall include all
25 current policyholders and all existing persons who had
26 been a policyholder of the insurer within three years
27 prior to the date such plan was submitted to the com-
28 missioner;

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

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

39 (7) The plan provides for payment to each policyholder
40 not electing to apply his equity in the insurer for or upon
41 the purchase price of stock to which preemptively en-
42 titled, of cash in the amount of not less than fifty percent
43 of the amount of his equity not so used for the purchase
44 of stock, and which cash payment together with stock so
45 purchased, if any, shall constitute full payment and dis-
46 charge of the policyholder's equity as an owner of such
47 mutual insurer; and

48 (8) The plan, when completed, would provide for the
49 converted insurer paid-in capital stock in an amount not

50 less than the minimum paid-in capital required of a do-
51 mestic stock insurer transacting like kinds of insurance,
52 together with surplus funds in amount not less than one-
53 half of such required capital.

Sec. 25. *Mergers and Consolidations of Stock Insurers.*—

2 (a) A domestic stock insurer of any kind may merge or
3 consolidate with another domestic or foreign stock insurer
4 by complying with the provisions of general law governing
5 the merger or consolidation of stock corporations formed
6 for profit, but subject to subsection (b), below.

7 (b) No such merger or consolidation shall be effectuated
8 unless in advance thereof the plan, agreement and other
9 supporting documents have been filed with and approved
10 in writing by the commissioner. The commissioner shall
11 give such approval within a reasonable time after such
12 filing unless he finds such plan or agreement:

13 (1) Is contrary to law; or

14 (2) Inequitable to the stockholders of any domestic
15 insurer involved; or

16 (3) Would substantially reduce the security of **and**
17 service to be rendered to policyholders of the domestic
18 insurer in West Virginia or elsewhere.

19 (c) If the commissioner does not approve any such plan
20 or agreement he shall so notify the insurer in writing
21 specifying his reasons therefor.

Sec. 26. *Reinsurance by Stock Insurers.*— (a) A domestic
2 stock insurer may accept reinsurance for the same kinds
3 of insurance and within the same limits as it is authorized
4 to transact direct insurance, unless such reinsurance is
5 prohibited by its articles of incorporation.

6 (b) A domestic stock insurer may reinsure all or sub-
7 stantially all its business in force, or substantially all of a
8 major class thereof, with another insurer by an agreement
9 of bulk reinsurance; but no such agreement shall become
10 effective unless filed with and approved in writing by the
11 commissioner.

12 (c) The commissioner shall approve such agreement
13 within a reasonable time after such filing unless he finds
14 that it is inequitable to the stockholders of the domestic
15 insurer or would substantially reduce the protection or

16 service to its policyholders. If the commissioner does not
17 approve the agreement he shall so notify the insurer in
18 writing specifying his reasons therefor.

Sec. 27. *Reinsurance by Mutual Insurers.*—(a) A domes-
2 tic mutual insurer may accept reinsurance for the same
3 kinds of insurance and within the same limits as it is
4 authorized to transact direct insurance unless such re-
5 insurance is prohibited by its articles of incorporation.

6 (b) A domestic mutual insurer may reinsure all or
7 substantially all its business in force, or all or substantially
8 all of a major class thereof, with another insurer, stock or
9 mutual, by an agreement of bulk reinsurance after com-
10 pliance with the following:

11 (1) In advance of such reinsurance the agreement
12 therefor shall be filed with and be subject to the approval
13 of the commissioner within a reasonable time after such
14 filing. The commissioner shall not approve the agree-
15 ment unless he finds it to be fair and equitable to each
16 domestic insurer involved, and that such reinsurance if
17 effectuated would not substantially reduce the protection
18 or service to its policyholders. If the commissioner does
19 not so approve, he shall so notify each insurer involved in
20 writing specifying his reasons therefor.

21 (2) The plan and agreement for such reinsurance must
22 be approved by vote of not less than two-thirds of each
23 domestic mutual insurer's members voting thereon at
24 meetings of members called for the purpose, pursuant to
25 such reasonable notice and procedure as the commissioner
26 may approve. If a life insurer, right to vote may be
27 limited to members whose policies have face amounts of
28 not less than one thousand dollars and have been in force
29 one year or more.

Sec. 28. *Mergers and Consolidations of Mutual Insurers.*

2 —(a) A domestic mutual insurer shall not merge or con-
3 solidate with a stock insurer.

4 (b) A domestic mutual insurer may merge or consoli-
5 date with another mutual insurer in accordance with
6 procedures prescribed by general laws applying to corp-
7 orations formed for profit, except as hereinbelow provided.

8 (c) The plan and agreement for merger or consolida-

9 tion shall be submitted to and approved by at least two-
10 thirds of the members of each mutual insurer involved
11 voting thereon at meetings called for the purpose pursuant
12 to such reasonable notice and procedure as has been ap-
13 proved by the commissioner. If a life insurer, right to
14 vote may be limited to members whose policies are in face
15 amount of not less than one thousand dollars and have
16 been in force one year or more.

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

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

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

28 If the commissioner does not approve such plan or agree-
29 ment he shall so notify the insurer in writing specifying
30 his reasons therefor.

Sec. 29. *Mutual Member's Share of Assets on Liquidation.*—
2 (a) Upon any liquidation of a domestic mutual
3 insurer, its assets remaining after discharge of its indebted-
4 ness, policy obligations, repayment of contributed or bor-
5 rowed surplus, if any, and expenses of administration,
6 shall be distributed to existing persons who were its mem-
7 bers at any time within thirty-six months next preceding
8 the date such liquidation was authorized or ordered, or
9 date of last termination of the insurer's license, whichever
10 date is the earliest.

11 (b) The distributive share of each such member shall
12 be in the proportion that the aggregate premiums earned
13 by the insurer on the policies of the member during the
14 combined periods of his membership, bear to the aggregate
15 of all premiums so earned on the policies of all such mem-
16 bers. The insurer may, and a life insurer shall, make a
17 reasonable classification of its policies so held by such
18 members and a formula based upon such classification for

19 determining the equitable distributive share of each such
20 member. Such classification and formula shall be subject
21 to the approval of the commissioner.

Article 6. The Insurance Policy

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

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

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

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

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

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

29 (3) An individual heretofore or hereafter party to a
30 contract or option for the purchase or sale of an interest
31 in a business partnership or firm, or of shares of stock of
32 a closed corporation or of an interest in such shares, has

33 an insurable interest in the life of each individual party
34 to such contract and for the purposes of such contract only,
35 in addition to any insurable interest which may otherwise
36 exist as to the life of such individual.

Sec. 3. *Insurable Interest in Property.*—(a) No insurance 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.

6 (b) “Insurable interest” as used in this section means
7 any actual, lawful, and substantial economic interest in
8 the safety or preservation of the subject of the insurance
9 free from loss, destruction, or pecuniary damage or impairment.
10

11 (c) The measure of an insurable interest in property is
12 the extent to which the insured might be damnified by loss,
13 injury, or impairment thereof.

Sec. 4. *Power of Minor to Contract.*—(a) Any person of competent legal capacity may contract for insurance.

3 (b) A minor not less than fifteen years of age as at
4 nearest birthday, may notwithstanding such minority,
5 contract for life or accident and sickness insurance on his
6 own life or body, for his own benefit or for the benefit of
7 his father or mother, spouse, child, brother, sister or grandparents. Such a minor shall, notwithstanding such minority, 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 payable 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 unperformed agreement to pay, by promissory note or otherwise, any premium on any such insurance contract.
20

Sec. 5. *Application Required.*—No life or accident and sickness insurance contract upon an individual, except a
2

3 contract of group life insurance or of group accident and
4 sickness insurance, shall be made unless at the time of the
5 making of the contract the individual insured, being of
6 competent legal capacity to contract, applies therefor or
7 consents thereto, except in the following cases:

8 (a) A spouse may procure such insurance upon the
9 other spouse.

10 (b) Any person having an insurable interest in the life
11 of a minor, or any person upon whom a minor is dependent
12 for support and maintenance, may procure insurance upon
13 the life of or pertaining to such minor.

Sec. 6. *Application as Evidence.*—(a) No application
2 for the issuance of any life or accident and sickness insur-
3 ance policy or contract shall be admissible in evidence in
4 any action relative to such policy or contract, unless a true
5 copy of the application was attached to or otherwise made
6 a part of the policy when issued. This paragraph shall not
7 apply to industrial life insurance policies.

8 (b) If any policy of life or accident and sickness insur-
9 ance delivered in this State is reinstated or renewed, and
10 the insured or the beneficiary or assignee of the policy
11 makes written request, together with in the case of a
12 beneficiary evidence of the beneficiary's vested interest
13 in the policy, to the insurer for a copy of the application,
14 if any, for such reinstatement or renewal, the insurer
15 shall, within thirty days after receipt of such request at
16 its home office or at any of its branch offices, deliver or
17 mail to the person making such request a copy of such
18 application. If such copy is not so delivered or mailed
19 after having been so requested, the insurer shall be pre-
20 cluded from introducing the application in evidence in any
21 action or proceeding based upon or involving the policy
22 or its reinstatement or renewal.

23 (c) As to kinds of insurance other than life and accident
24 and sickness insurance, no application for insurance signed
25 by or on behalf of the insured shall be admissible in evi-
26 dence in any action between the insured and the insurer
27 arising out of the policy so applied for, if the insurer has
28 failed, at expiration of thirty days after receipt by the
29 insurer of written demand therefor by or on behalf of the

30 insured, to furnish to the insured a copy of such applica-
31 tion reproduced by any legible means.

Sec. 7. *Representations in Applications.*—All statements
2 and descriptions in any application for an insurance policy
3 or in negotiations therefor, by or in behalf of the insured,
4 shall be deemed to be representations and not warranties.
5 Misrepresentations, omissions, concealments of facts, and
6 incorrect statements shall not prevent a recovery under
7 the policy unless:

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

Sec. 8. *Approval of Forms.*—(a) Except as provided in
2 section eight of article seventeen of this chapter (fire and
3 marine forms), no insurance policy form, no group certifi-
4 cate form, no insurance application form where written
5 application is required and is to be made a part of the
6 policy, and no rider, endorsement or other form to be
7 attached to any policy, shall be delivered or issued for
8 delivery in this State by an insurer unless it has been filed
9 with and approved by the commissioner, except that as
10 to group insurance policies delivered outside this State,
11 only the group certificates to be delivered or issued for
12 delivery in this State shall be filed with the commissioner
13 upon his request. This section shall not apply to policies,
14 riders, endorsements, or forms of unique character design-
15 ed for and used with relation to insurance upon a particu-
16 lar subject, or which relate to the manner of distribution
17 of benefits or to the reservation of rights and benefits
18 under life or accident and sickness insurance policies, and
19 are used at the request of the individual policyholder,
20 contract holder, or certificate holder, nor to surety bond
21 forms.

22 (b) Every such filing shall be made not less than thirty
23 days in advance of any such delivery. At the expiration of
24 such thirty days the form so filed shall be deemed approved
25 unless prior thereto it has been affirmatively approved or
26 disapproved by the commissioner. Approval of any such
27 form by the commissioner shall constitute a waiver of any
28 unexpired portion of such waiting period. The commis-
29 sioner may extend by not more than an additional thirty
30 days the period within which he may so affirmatively
31 approve or disapprove any such form, by giving notice of
32 such extension before expiration of the initial thirty day
33 period. At the expiration of any such period as so ex-
34 tended, and in the absence of such prior affirmative
35 approval or disapproval, any such form shall be deemed
36 approved. The commissioner may at any time, after notice
37 and for cause shown, withdraw any such approval.

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

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

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

Sec. 9. *Grounds for Disapproval.*—The commisstoner
2 shall disapprove any such form of policy, application,
3 rider, or endorsement or withdraw any previous approval
4 thereof:

8 intervals or termination, a statement of the basis and rates
7 exact amount of premium is determinable only at stated
6 which such coverage continues, the premium (or if the
5 ance coverage becomes effective and the term during
4 the insurance, the risks insured against, the time the insur-
3 parties to the contract, the insurer's name, the subject of
2 surety and group policies, shall specify the names of the
1 Sec. 11. *General Policy Contents*.—Every policy, except

17 to the standard fire insurance policy.
16 vision, otherwise required. This section shall not apply
15 than the standard provisions or optional standard pro-
14 favorable in any particular to the insured or beneficiary
13 any substitute provision which is, in his opinion, not less
12 required to be used, but the commissioner may approve
11 with or contradictory to any standard provision used or
10 (b) No policy shall contain any provision inconsistent
9 and the policy is otherwise approved by him.

8 insured and inconsistent with the purposes of the policy,
7 such provision unnecessary for the protection of the
6 vision in a particular insurance policy form, if he finds
5 may waive the required use of a particular standard pro-
4 tracts of particular kinds of insurance. The commissioner
3 the applicable provisions of this chapter pertaining to con-
2 shall contain such standard provisions as are required by

19 broad to be in the public interest.
18 (f) If the coverages provided therein are not sufficiently
17 in relation to the premium charged.

16 (e) If the benefits provided therein are unreasonable
15 deceptive advertising.

14 (d) If the purchase of such policy is being solicited by
13 provisions which is misleading.

12 (c) If it has any title, heading, or other indication of its
11 tract.

10 ported to be assumed in the general coverage of the con-
9 tions and conditions which deceptively affect the risk pur-
8 consistent, ambiguous, or misleading clauses, or excep-
7 (b) If it contains or incorporates by reference any in-
6 comply with this chapter.

5 (a) If it is in any respect in violation of or does not

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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

19 voidance shall not affect the validity of the other pro-
20 visions of the policy. This section shall not apply to the
21 standard fire insurance policy.

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

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

7 (b) Two or more insurers may, with the approval of the
8 commissioner, issue a combination policy which shall con-
9 tain provisions substantially as follows:

10 (1) That the insurers executing the policy shall be
11 severally liable for the full amount of any loss or damage,
12 according to the terms of the policy, or for specified per-
13 centages or amounts thereof, aggregating the full amount
14 of insurance under the policy, and

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

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

Sec. 17. *Validity of Noncomplying Forms.*—Any insur-
2 ance policy, rider, or endorsement hereafter issued and
3 otherwise valid which contains any condition or provision
4 not in compliance with the requirements of this chapter,

5 shall not be thereby rendered invalid but shall be con-
6 strued and applied in accordance with such conditions
7 and provisions as would have applied had such policy,
8 rider, or endorsement been in full compliance with this
9 chapter.

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

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

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

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

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

Sec. 20. *Assignment of Policies.*—Whenever the insured
2 in a policy owned by him has reserved to himself the right
3 to change the beneficiary thereunder, the insured shall
4 have the right to and may assign said policy to the extent
5 permitted by the terms thereof as collateral security for

6 a loan or loans, or for any other purpose without any
7 beneficiary thereunder joining therein or assenting there-
8 to, and such assignmmt shall subordinate the rights and
9 interests of any beneficiary in the proceeds of the policy
10 to the rights and interests of the assignee as created and
11 defined by such assignment.

Sec. 21. *Annulment of Liability Policies.*—No insurance
2 policy insuring against loss or damage through legal
3 liability for the bodily injury or death by accident of any
4 individual, or for damage to the property of any person,
5 shall be retroactively annulled by any agreement between
6 the insurer and the insured after the occurrence of any
7 such injury, death, or damage for which the insured may
8 be liable, and any such attempted annulment shall be void.

Sec. 22. *Payment Discharges Insurer.*—Whenever the
2 proceeds of or payments under a life or accident and sick-
3 ness policy or annuity contract heretofore or hereafter
4 issued become payable in accordance with the terms of
5 such policy or contract, or the exercise of any right or
6 privilege thereunder, and the insurer makes payment
7 thereof in accordance with the terms of the policy or con-
8 tract or in accordance with any written assignment there-
9 of, the person then designated in the policy or contract or
10 by such assignment as being entitled thereto shall be
11 entitled to receive such proceeds or payments and to give
12 full release therefor, and such payments shall fully dis-
13 charge the insurer from all claims under the policy or
14 contract unless, before payment is made, the insurer has
15 received at its home office written notice by or on behalf
16 of some other person that such other person claims to be
17 entitled to such payment or some interest in the policy or
18 contract.

Sec. 23. *Release by Minor.*—Any minor domiciled in this
2 State who has attained the age of eighteen years shall be
3 deemed competent to receive and to give full acquittance
4 and discharge for a payment or payments in aggregate
5 amount not exceeding \$2,000 in any one year made by a
6 life insurer as benefits payable to such minor in com-
7 pliance with the provisions of an insurance policy, annuity

8 contract or settlement agreement. No such minor shall
9 be deemed competent to alienate the right to or to antici-
10 pate such payments. This section shall not be deemed to
11 restrict the rights of minors set forth in paragraph (b) of
12 section four of this article.

Sec. 24. *Simultaneous Deaths.*—Where the individual
2 insured or the annuitant and the beneficiary designated
3 in a life policy or policy insuring against accidental death
4 or in an annuity contract have died and there is not suffi-
5 cient evidence that they have died otherwise than simul-
6 taneously, the proceeds of the policy or contract shall be
7 distributed as if the insured or annuitant had survived
8 the beneficiary, unless otherwise specifically provided in
9 the policy or contract.

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

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

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

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

12 (c) Investigating any loss or claim under any policy
13 or engaging in negotiations looking toward a possible set-
14 tlement of any such loss or claim.

Sec. 27. *Life Insurance Proceeds Exempt From Credi-*
2 *tors.*—(a) If a policy of insurance, whether heretofore
3 or hereafter issued, is effected by any person on his own
4 life or on another life, in favor of a person other than
5 himself, or, except in cases of transfer with intent to
6 defraud creditors, if a policy of life insurance is assigned
7 or in any way made payable to any such person, the

8 lawful beneficiary or assignee thereof, other than the
9 insured or the person so effecting such insurance or exec-
10 utors or administrators of such insured or the person so
11 effecting such insurance, shall be entitled to its proceeds
12 and avails against the creditors and representatives of
13 the insured and of the person effecting the same, whether
14 or not the right to change the beneficiary is reserved or
15 permitted, and whether or not the policy is made payable
16 to the person whose life is insured if the beneficiary or
17 assignee shall predecease such person.

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

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

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

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

Sec. 29. *Policies to Cover Injuries to Guest Passengers.*
2 —No insurer shall issue any policy of bodily injury or

3 property damage liability insurance which excludes cov-
4 erage to the owner or operator of a motor vehicle on
5 account of bodily injury or property damage to any guest
6 or invitee who is a passenger in such motor vehicle.

Sec. 30. *Construction of Policies.*—Every insurance con-
2 tract shall be construed according to the entirety of its
3 terms and conditions as set forth in the policy and as
4 amplified, extended, or modified by any rider, endorse-
5 ment, or application attached to and made a part of the
6 policy.

Article 7. Assets and Liabilities

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

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

8 (b) Investments, securities, properties and loans ac-
9 quired or held in accordance with this chapter, and in
10 connection therewith the following items:

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

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

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

19 (4) Interest due or accrued on deposits in solvent banks
20 and trust companies, and interest due or accrued on other
21 assets, if such interest is in the judgment of the commis-
22 sioner a collectible asset.

23 (5) Interest due or accrued on a mortgage loan, in an
24 amount not exceeding in any event the amount, if any,
25 of the excess of the value of the property less delinquent
26 taxes thereon over the unpaid principal; but in no event
27 shall interest accrued for a period in excess of eighteen
28 months be allowed as an asset.

29 (6) Rent due or accrued on real property if such rent
30 is not in arrears for more than three months, and rent
31 more than three months in arrears if the payment of such
32 rent be adequately secured by property held in the name
33 of the tenant and conveyed to the insurer as collateral.

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

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

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

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

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

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

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

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

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

68 (k) All assets, whether or not consistent with the pro-

69 visions of this section, as may be allowed pursuant to
70 the annual statement form approved by the commissioner
71 for the kinds of insurance to be reported upon therein.

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

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

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

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

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

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

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

26 (e) The amount, if any, by which the aggregate book

27 value of investments as carried in the ledger assets of
28 the insurer exceeds the aggregate value thereof as de-
29 termined under this chapter.

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

Sec. 5. *Liabilities.*—In any determination of the finan-
2 cial condition of an insurer, capital stock and liabilities
3 to be charged against its assets shall include:

4 (a) The amount of its capital stock outstanding, if any;

5 (b) The amount, estimated consistent with the pro-
6 visions of this chapter, necessary to pay all of its unpaid
7 losses and claims incurred on or prior to the date of
8 statement, whether reported or unreported, together with
9 the expenses of adjustment or settlement thereof;

10 (c) With reference to life and accident and sickness
11 insurance and annuity contracts:

12 (1) The amount of reserves on life insurance policies
13 and annuity contracts in force, valued according to the
14 tables of mortality, rates of interest, and methods adopted
15 pursuant to this chapter which are applicable thereto,

16 (2) Reserves for disability benefits, for both active and
17 disabled lives,

18 (3) Reserves for accidental death benefits, and

19 (4) Any additional reserves which may be reasonably
20 required by the commissioner on account of such insur-
21 ance.

22 (d) With reference to insurance other than specified
23 in paragraph (c) of this section, the amount of reserves
24 equal to the unearned portions of the gross premiums
25 charged on policies in force, computed in accordance with
26 this article.

27 (e) Taxes, expenses and other obligations due or ac-
28 crued at the date of the statement.

2 Sec. 6. *Unearned Premium Reserve.*—(a) With refer-
3 ence to insurance against loss or damage to property
4 (except as provided in paragraph (e) of this section)
5 and with reference to all general casualty insurance, and
6 surety insurance, every insurer shall maintain an un-
7 earned premium reserve on all policies in force.

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

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

17 (d) After adopting a method for computing such re-
18 serve, an insurer shall not change methods without ap-
19 proval of the commissioner.

20 (e) With reference to marine insurance, premiums on
21 trip risks not terminated shall be deemed unearned, and
22 the commissioner may require the insurer to carry a re-
23 serve thereon equal to one hundred percent on trip risks
24 written during the month ended as of the date of state-
25 ment.

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

2 Sec. 8. *Increased Reserves.*—(a) If the commissioner
3 determines that an insurer's unearned premium reserve,
4 however computed, is inadequate, he may require the
5 insurer to compute such reserve or any part thereof ac-
6 cording to such other method or methods as are pre-
7 scribed in this article.

8 (b) If the loss experience of an insurer shows that its
9 loss reserves, however estimated, are inadequate, the

9 commissstoner shall require the insurer to maintain loss
10 reserves in such increased amount as is needed to make
11 them adequate.

Sec. 9. *Standard Valuation Law for Life Policies.*—

2 (1) The commissioner shall annually value, or cause to
3 be valued, the reserve liabilities (hereinafter called re-
4 serves) for all outstanding life insurance policies and an-
5 nuity and pure endowment contracts of every life insurer
6 transacting insurance in this State, except that in the case
7 of an alien insurer such valuation shall be limited to its
8 United States business, and may certify the amount of any
9 such reserves, specifying the mortality table or tables,
10 rate or rates of interest and methods (net level premium
11 method or other) used in the calculation of such reserves.

12 All valuations made by him or by his authority shall
13 be made upon the net premium basis.

14 In every case the standard of valuation employed shall
15 be stated in his annual report.

16 In calculating such reserves, he may use group methods
17 and approximate averages for fractions of a year or other-
18 wise. In lieu of the valuation of the reserves herein re-
19 quired of any foreign or alien insurer, he may accept any
20 valuation made, or caused to be made, by the insurance
21 supervisory official of any state or other jurisdiction when
22 such valuation complies with the minimum standard
23 herein provided and if the official of such state or juris-
24 diction accepts as sufficient and valid for all legal pur-
25 poses the certificate of valuation of the commissioner
26 when such certificate states the valuation to have been
27 made in a specified manner according to which the aggre-
28 gate reserves would be at least as large as if they had
29 been computed in the manner prescribed by the law of
30 that state or jurisdiction.

31 Any such insurer which at any time shall have adopted
32 any standard of valuation producing greater aggregate
33 reserves than those calculated according to the minimum
34 standard herein provided may, with the approval of the
35 commissioner, adopt any lower standard of valuation, but
36 not lower than the minimum herein provided.

37 (2) This subsection shall apply to only those policies

38 and contracts issued prior to the original operative date
39 of the Standard Nonforfeiture Law (now section thirty
40 of article thirteen of this chapter). All valuations shall
41 be according to the standard of valuations adopted by the
42 insurer for the obligations to be valued. Any insurer
43 may adopt different standards for obligations of different
44 dates or classes, but if the total value determined by any
45 such standard for the obligations for which it has been
46 adopted shall be less than that determined by the legal
47 minimum standard hereinafter prescribed, or if the in-
48 surer adopts no standard, said legal minimum standard
49 shall be used.

50 The legal minimum standard for contracts issued before
51 the first day of January, in the year one thousand nine
52 hundred one, shall be actuaries' or combined experience
53 table of mortality with interest at four percent per annum,
54 and for contracts issued on or after said date shall be the
55 "American Experience Table" of mortality with interest
56 at three and one-half percent per annum. Policies issued
57 by insurers doing business in this State may provide for
58 not more than one year preliminary term insurance: *Pro-*
59 *vided, however,* That if the premium charged for term
60 insurance under a limited payment life preliminary term
61 policy providing for the payment of all premiums thereof
62 in less than twenty years from the date of the policy, or
63 under an endowment preliminary term policy, exceeds
64 that charged for like insurance under twenty payment
65 life preliminary term policies of the same insurer, the
66 reserve thereon at the end of any year, including the first,
67 shall not be less than the reserve on a twenty payment
68 life preliminary term policy issued in the same year and
69 at the same age, together with an amount which shall be
70 equivalent to the accumulation of a net level premium
71 sufficient to provide for a pure endowment at the end
72 of the premium payment period, equal to the difference
73 between the value at the end of such period of such a
74 twenty payment life preliminary term policy and a full
75 reserve at such time of such a limited payment life or
76 endowment policy.

77 The commissioner may vary the standards of interest
78 and mortality in the case of alien insurers and in par-

79 ticular cases of invalid lives and other extra hazards.

80 Reserves for all such policies and contracts may be cal-
81 culated, at the option of the insurer, according to any
82 standards which produce greater aggregate reserves for
83 all such policies and contracts than the minimum reserves
84 required by this subsection.

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

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

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

97 (ii) For all industrial life insurance policies issued on
98 the standard basis, excluding any disability and accidental
99 death benefits in such policies,—the 1941 Standard In-
100 dustrial Mortality Table.

101 (iii) For annuity and pure endowment contracts, ex-
102 cluding any disability and accidental death benefits in
103 such policies,—the 1937 Standard Annuity Mortality
104 Table.

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

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

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

117 (b) Reserves according to the commissioner's reserve
118 valuation method, for the life insurance and endowment

159 and rate or rates of interest used in calculating nonfor-
160 feiture benefits for such policies.

161 (d) Reserves for any category of policies, contracts or
162 benefits as established by the commissioner may be cal-
163 culated, at the option of the insurer, according to any
164 standards which produce greater aggregate reserves for
165 such category than those calculated according to the
166 minimum standard herein provided, but the rate or rates
167 of interest used shall not be higher than the correspond-
168 ing rate or rates of interest used in calculating any non-
169 forfeiture benefits provided for therein: *Provided, how-*
170 *ever,* That reserves for participating life insurance poli-
171 cies may, with the consent of the commissioner, be cal-
172 culated according to a rate of interest lower than the rate
173 of interest used in calculating the nonforfeiture benefits
174 in such policies, with the further proviso that if such
175 lower rate differs from the rate used in the calculation
176 of the nonforfeiture benefits by more than one-half per-
177 cent the insurer issuing such policies shall file with the
178 commissioner a plan providing for such equitable in-
179 creases, if any, in the cash surrender values and non-
180 forfeiture benefits in such policies as the commissioner
181 shall approve.

182 (e) If the gross premium charged by any life insurer
183 on any policy or contract is less than the net premium
184 for the policy or contract according to the mortality table,
185 rate of interest and method used in calculating the re-
186 serve thereon, there shall be maintained on such policy
187 or contract a deficiency reserve in addition to all other
188 reserves required by law. For each such policy or con-
189 tract the deficiency reserve shall be the present value,
190 according to such standard of an annuity of the differ-
191 ence between such net premium and the premium charged
192 for such policy or contract, running for the remainder of
193 the premium-paying period.

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

5 (1) If purchased at par, at the par value.

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

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

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

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

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

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

Sec. 12. *Valuation of Real Property.*—(a) Real property
2 acquired pursuant to a mortgage loan or contract for sale,
3 in the absence of a recent appraisal deemed by the com-
4 missioner to be reliable, shall not be valued at an amount
5 greater than the unpaid principal of the defaulted loan or
6 contract at the date of such acquisition, together with any
7 taxes and expenses paid or incurred in connection with
8 such acquisition, and the cost of improvements thereafter
9 made by the insurer and any amounts thereafter paid by

10 the insurer on assessments levied for improvements in
11 connection with the property.

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

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

Article 8. Investments

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

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

Sec. 3. *General Qualifications.*—(a) No security or in-
2 vestment (other than real property acquired pursuant to
3 section sixteen of this article) shall be eligible for acquisi-
4 tion unless it is interest bearing or interest accruing or
5 dividend or income paying, is not then in default in any
6 respect, and the insurer is entitled to receive for its ex-
7 clusive account and benefit, the interest or income accruing
8 thereon. Defaults in interest or income occurring sub-

9 sequent to acquisition of an investment shall not affect
10 allowance thereof as an asset.

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

13 (c) No provision of this article shall prohibit the ac-
14 quisition by an insurer of other or additional securities or
15 property if received as a dividend or as a lawful distribu-
16 tion of assets, or if acquired pursuant to a lawful and bona
17 fide agreement of bulk reinsurance, merger, or consolida-
18 tion. Any investment so acquired through bulk reinsur-
19 ance, merger, or consolidation, which is not otherwise
20 eligible under this article, shall be disposed of pursuant
21 to section seventeen of this article if securities, or pur-
22 suant to section sixteen of this article if real property.

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

Sec. 5. *Limitation of Investments in One Person.*—An
2 insurer shall not, except with the consent of the commis-
3 sioner, have at one time any combination of investments
4 in or loans upon the security of the obligations, property, or
5 securities of any one person, institution or corporation,
6 aggregating an amount exceeding five percent of the
7 insurer's assets. This restriction shall not apply to invest-
8 ments in or loans upon the security of general obligations
9 of the United States or fully guaranteed by the United
10 States or the District of Columbia or any state of the
11 United States or of political subdivisions of the State of
12 West Virginia or other states of the United States, made
13 pursuant to section seven of this article, or include policy
14 loans made under section nineteen of this article or invest-
15 ments in foreign securities pursuant to section eight of
16 this article.

Sec. 6. *Class Limitations on Investments.*—(a) Every
2 insurer shall invest and maintain invested funds to the
3 amount of the minimum paid-in capital or surplus re-
4 quired under this chapter to transact like kinds of insur-
5 ance only in cash and the securities described in section
6 seven of this article (government obligations).

7 (b) The remaining assets of any insurer may be invest-
8 ed in the classes of securities described in the following
9 sections of this article, and subject to restrictions or limi-
10 tations contained in such sections: section seven (govern-
11 ment securities), section eight (foreign securities) for
12 those insurers who qualify under said section, section nine
13 (bills of exchange, etc.), section eleven (corporate obli-
14 gations), section twelve (building and loan shares, etc.),
15 section thirteen (preferred or guaranteed stock), section
16 fifteen (real property mortgages), section sixteen (real
17 property), section eighteen (revenue bonds), and, subject
18 to the limitations of paragraph (c) of this section, section
19 ten (loans upon pledge of securities) and section fourteen
20 (common stocks).

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

Sec. 7. *Government Obligations.*—An insurer may in-
2 vest any of its funds in:

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

11 (b) Bonds or evidences of indebtedness which are direct

12 general obligations of any county, district, city, town,
13 village, school district, park district, or other political
14 subdivision of this State or any other state or territory
15 of the United States, or the District of Columbia, which
16 shall not be in default in the payment of any of its general
17 obligation bonds, either principal or interest, at the date
18 of such investment; where they are payable from ad
19 valorem taxes levied on all the taxable property located
20 therein and the total indebtedness after deducting sink-
21 ing funds and all debts incurred for self-sustaining public
22 works does not exceed ten per centum of the actual value
23 of all taxable property therein on the basis of which the
24 last assessment was made before the date of such invest-
25 ment.

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

9 (b) An insurer may invest any of its funds, in an ag-
10 gregate amount not exceeding five percent of its assets,
11 in addition to any amount permitted pursuant to para-
12 graph (a) of this section, in obligations of the govern-
13 ments of Canadian provinces or municipalities, and in
14 obligations of Canadian corporations which are otherwise
15 of equal quality to like United States public or corporate
16 securities as prescribed in this article.

Sec. 9. *Certificates, Acceptances and Bills of Exchange.*
2 —Subject to the limit set forth in sections five and six of
3 this article, an insurer may invest in bank certificates of
4 deposit and bankers' acceptances, and other bills of ex-
5 change of the kind and maturities made eligible by law
6 for purchase in the open market by federal reserve banks.

Sec. 10. *Loans Upon Pledge of Securities.*—An insurer
2 may invest in loans upon the pledge of bonds, mortgages,
3 preferred or guaranteed stocks, debentures, securities or

4 evidence of indebtedness acceptable as investments for
5 the lending insurer under the provisions of this article
6 and subject to the same limits as to each security as is
7 provided in this article for investment therein, if the face
8 or current market value, whichever is less, of such mort-
9 gages is more than the amount loaned thereon, and the
10 current market value of such bonds, preferred or guar-
11 anteed stocks, debentures, securities or evidences of in-
12 debtedness is at least twenty per centum more than the
13 amount loaned thereon. These restrictions do not apply
14 to loans on the pledge of bonds or securities of or guar-
15 anteed by the United States.

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

Sec. 12. *Building and Savings and Loan Shares, Inter-*
2 *national Bank.*—Subject to the limits set forth in sections
3 five and six of this article, an insurer may invest in shares
4 of insured state chartered building and loan associations
5 and federal savings and loan associations, if such shares
6 are insured by the Federal Savings and Loan Insurance
7 Corporation and may invest in obligations issued or guar-
8 anteed by the International Bank for Reconstruction and
9 Development.

Sec. 13. *Preferred or Guaranteed Stock.*—Subject to the
2 limits set forth in sections five and six of this article,
3 an insurer may invest in preferred or guaranteed stock
4 issued or guaranteed by any solvent corporation or cor-
5 porations created under the laws of the United States or
6 any state, if such stock is not in default as to payment of
7 any current dividends.

Sec. 14. *Common Stocks.*—Subject to the limits set
2 forth in sections five and six of this article, an insurer
3 may invest in the nonassessable shares of capital stock
4 of any solvent corporation created under the laws of the
5 United States or of any state if such corporation has paid
6 cash dividends of not less than four percent per annum
7 on the average market price of such common stock for a
8 period of five fiscal years next preceding the date of
9 acquisition by such insurer or shall have earned, during
10 such period, an aggregate sum applicable to dividends on
11 its common stock equal at least to an aggregate sum which
12 would have been sufficient to pay dividends of four per-
13 cent per annum on the average market price of all its
14 common stocks outstanding during such period.

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

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

18 (c) Real property shall not be deemed to be encum-
19 bered within the meaning of this section by reason of
20 the existence of instruments reserving or excepting min-
21 eral rights and interests, rights-of-way, sewer rights and
22 rights in walls or easements, nor by reason of building
23 restrictions or other restrictive covenants, nor by reason
24 of the fact that it is subject to lease under which rents
25 or profits are reserved to the owners: *Provided*, That the
26 security for such investment is a full and unrestricted

27 first lien upon such real property and that there is no
28 condition nor right of re-entry or forfeiture under which
29 such investments can be cut off, subordinated or other-
30 wise disturbed.

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

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

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

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

3 (1) Such as shall be requisite for the convenient ac-
4 commodation of the transaction of its own business; the
5 amount invested in such real property shall not exceed

6 ten per centum of the investing insurer's assets but the
7 commissioner may grant permission to the insurer to
8 invest in real property for such purpose, in such increased
9 amount as he may deem proper on the showing made if,
10 upon a hearing held before him, he shall find that the
11 amount represented by such percentage of the insurer's
12 assets is insufficient to provide convenient accommoda-
13 tions for the insurer's business;

14 (2) Such as shall have been mortgaged to it in good
15 faith by way of security for loans previously contracted
16 or for monies due;

17 (3) Such as shall have been conveyed to it in satis-
18 faction of debts previously contracted in course of its
19 dealings;

20 (4) Such as shall have been purchased at sales or judg-
21 ments, decrees or mortgages obtained or made for such
22 debts; and

23 (5) Such unencumbered real property as shall have
24 been acquired in whole or in part, in exchange for real
25 property of approximately the same value theretofore
26 legally acquired and held by it;

27 (6) Such as shall be held as security for contracts for
28 deeds;

29 (7) (A) Such as may be acquired for the purpose of
30 leasing the same to any person, firm, or corporation, or
31 real estate already leased under the following conditions:

32 a. Where there has already been erected on said prop-
33 erty a building or other improvements satisfactory to the
34 purchaser, or where the lessee shall at its own cost erect
35 thereon, free of liens, a building or other improvements
36 satisfactory to the lessor, or where the lessor under the
37 terms and conditions of a lease executed and entered into
38 simultaneously with the purchaser of the property agrees
39 to erect a building or other improvements on said prop-
40 erty.

41 b. That the said improvements shall remain on the said
42 property during the period of the lease, and in cases where
43 the said improvements are put upon said property at the
44 cost of the lessee the said improvements at the termina-

45 tion of the lease shall vest, free of liens, in the owner of
46 the real estate.

47 c. That during the term of the lease the lessee shall
48 keep and maintain the said improvements in good repair.
49 Real estate acquired pursuant to the provisions of this
50 part (A) shall not be valued in any amount exceeding
51 the amount actually invested reduced each year by equal
52 decrements sufficient to write off at least seventy-five per-
53 cent of the investment at the normal termination of the
54 lease or at the end of thirty years should the term of
55 the lease be for a longer period. The total investments
56 of any insurer under this part (A) shall not exceed five
57 percent of its assets, nor more than the sum of its capital
58 and surplus, whichever is less.

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

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

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

Sec. 17. *Disposal of Ineligible Securities.*—(a) Secu-
2 rities or other assets not proper investments under this
3 article, but lawfully acquired through merger or consoli-
4 dation with any other insurer or through a reinsurance

5 agreement, if such assets when originally acquired consti-
6 tuted legal investments for the merging, consolidating or
7 ceding insurer which acquired them, and securities, obli-
8 gations or other assets incident to the adjustment of any
9 debt or investment when deemed by the board of directors
10 or investment committee to be in the best interests of the
11 insurer, shall not be considered to be acquired in viola-
12 tion of this article; but all such securities, obligations or
13 other assets so acquired or accepted shall be disposed of
14 not later than five years after the date of such acquisition
15 or acceptance.

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

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

Sec. 18. *Revenue Bonds.*—Any insurer may invest, sub-
2 ject to the limits prescribed by sections five and six of
3 this article, in revenue bonds issued by any state or the
4 United States, or any agency or instrumentality thereof,
5 or any county, city, town, village or district of any state,
6 if by statutory or other legal requirements applicable
7 thereto such revenue bonds are payable as to both prin-
8 cipal and interest from special revenues pledged or other-
9 wise appropriated or by law required to be provided for
10 the purpose of such payment (but not including any ob-
11 ligations payable solely out of special assessments on
12 properties benefited by local improvements): *Provided,*
13 That such revenue bonds constitute a first and paramount
14 lien upon such special revenues and that such bonds are
15 not in default as to any payment of principal or interest.
16 No insurer shall invest in more than five percent of any
17 one issue of such revenue bonds, nor more than two per-
18 cent of its assets in such revenue bonds payable from any
19 one public project, nor shall any insurer invest in such
20 revenue bonds in the aggregate exceeding ten percent of
21 its assets, except that any insurer holding a valid license
22 in this State on the first day of January, one thousand

23 nine hundred fifty-six, and on such date possessed of such
24 revenue bonds in excess of such limits, may apply to the
25 commissioner for an extension of time for such period as
26 the commissioner deems proper for the disposal of such
27 bonds under the provisions of section seventeen of this
28 article.

Sec. 19. *Policy Loans.*—A life insurer may lend to its
2 policyholders upon pledge of the policy as collateral se-
3 curity a sum not exceeding the applicable cash surrender
4 value specified in the policy.

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

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

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

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

9 (b) A foreign insurer domiciled in a state that requires
10 West Virginia domiciled insurers to invest in the secu-

11 rities of such state a stipulated percentage or amount of
12 its reserves under its policies in force in such state, shall
13 likewise be required to invest in similar securities of
14 West Virginia a like percentage or amount of its reserves
15 under its policies in force in West Virginia.

Article 9. Administration of Deposits

Section 1. *Deposits of Insurers.*—The state treasurer of
2 West Virginia shall accept and hold in trust, when made
3 through the commissioner, deposits of securities or funds
4 by insurers as follows:

5 (a) Deposits required for a license to transact insurance
6 in West Virginia.

7 (b) Deposits of domestic, foreign, or alien insurers
8 when made pursuant to the laws of other states, provinces,
9 and countries as prerequisite for authority to transact in-
10 surance in such state, province, or country.

11 (c) Deposits in such additional amounts as are permit-
12 ted to be made by section six of this article.

Sec. 2. *Purpose of Deposits.*—Such deposits shall be held
2 for purposes as follows:

3 (a) When the deposit is required for authority to trans-
4 act insurance in West Virginia the deposit shall be held
5 for the protection of all the insurer's policyholders and
6 creditors within the United States.

7 (b) When the deposit is required pursuant to the laws
8 of another state, province, or country, the deposit shall
9 be held for such purposes as is required by such laws, and
10 as specified by the commissioner at the time the deposit
11 is made.

12 (c) When the deposit is required pursuant to the re-
13 taliatory provisions, section sixteen of article three of this
14 chapter, the deposit shall be held for purposes as specified
15 in the commissioner's order requiring the deposit.

Sec. 3. *Assets Eligible for Deposit.*—(a) All such de-
2 posits required for a license to transact insurance in West
3 Virginia shall consist of cash or any combination of the
4 government obligations described in section seven of
5 article eight of this chapter.

6 (b) All such deposits required pursuant to the laws of

7 another state, province, or country, or pursuant to the
8 retaliatory provision, section sixteen of article three of
9 this chapter, shall consist of such assets as are required or
10 permitted by such laws, or as required pursuant to such
11 retaliatory provision.

Sec. 4. *Trust Companies as Depositories; State of West*
2 *Virginia Responsible.*—(a) Upon request of the insurer,
3 the state treasurer may designate any solvent trust com-
4 pany or other solvent financial institution having trust
5 powers domiciled in this State as the treasurer's deposi-
6 tory to receive and hold any such deposit. Any such
7 deposit so held shall be at the expense of the insurer.
8 (b) The State of West Virginia shall be responsible for
9 the safekeeping and return of all funds and securities
10 deposited pursuant to this chapter with the state treasurer
11 or in any depository so designated by him.

Sec. 5. *Rights of Insurer During Solvency.*—So long as
2 the insurer remains solvent and complies with this chap-
3 ter it may:
4 (a) Demand, receive, sue for and recover the income
5 from the securities or cash deposited,
6 (b) Exchange and substitute for the deposited cash or
7 securities, or any part thereof, cash or eligible securities
8 of equivalent or greater value, and
9 (c) Inspect, at reasonable times, any such deposit.

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

Sec. 7. *Release of Deposits.*—Any deposit made in this
2 State under this chapter shall be released and returned:
3 (a) To the insurer upon extinguishment by authorized
4 reinsurance or otherwise of substantially all liability of
5 the insurer for the security of which the deposit is held;

6 (b) To the insurer to the extent such deposit is in
7 excess of the amount required; or

8 (c) Upon proper order of a court of competent jurisdic-
9 tion to the receiver, conservator, rehabilitator or liquidator
10 of the insurer, or to any other properly designated official
11 or officials who succeed to the management and control of
12 the insurer's assets.

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

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

Article 10. Rehabilitation and Liquidation

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

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

12 (b) "Insurer" means any person, firm, corporation,
13 association or aggregation of persons doing an insurance
14 business and subject to the insurance supervisory author-
15 ity of, or to liquidation, rehabilitation, reorganization or
16 conservation by the commissioner or the equivalent in-
17 surance supervisory official of another state.

18 (c) "Delinquency proceeding" means any proceeding
19 commenced against an insurer pursuant to this article for

20 the purpose of liquidating, rehabilitating, reorganizing or
21 conserving such insurer.

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

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

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

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

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

45 (i) "General assets" means all property, real, personal
46 or otherwise, not specifically mortgaged, pledged, de-
47 posited or otherwise encumbered for the security or bene-
48 fit of specified persons or a limited class or classes of per-
49 sons, and as to such specifically encumbered property the
50 term includes all such property or its proceeds in excess
51 of the amount necessary to discharge the sum or sums
52 secured thereby. Assets held in trust and assets held on
53 deposit for the security or benefit of all policyholders or
54 all policyholders and creditors in the United States shall
55 be deemed general assets.

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

59 (k) "Special deposit claim" means any claim secured

60 by a deposit made pursuant to statute for the security or
61 benefit of a limited class or classes of persons, but not
62 including any general assets.

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

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

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

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

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

20 (d) An appeal shall lie to the supreme court of appeals
21 from an order granting or refusing rehabilitation, liquidat-
22 tion, or conservation, and from every other order in de-
23 linquency proceedings having the character of a final
24 order as to the particular portion of the proceedings em-
25 braced therein.

Sec. 3. *Commencement of Delinquency Proceedings.*—
2 The insurance commissioner shall commence any such

3 proceeding by an application to the court for an order
4 directing the insurer to show cause why the commissioner
5 should not have the relief prayed for. On the return of
6 such order to show cause, and after a full hearing, the
7 court shall either deny the application or grant the appli-
8 cation, together with such other relief as the nature of
9 the case and the interests of policyholders, creditors,
10 stockholders, members, subscribers, or the public may
11 require.

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

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

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

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

6 (a) Is impaired or insolvent.

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

9 (c) Has failed to comply with an order of the commis-
10 sioner to make good an impairment of capital or surplus
11 or both.

12 (d) Has transferred or attempted to transfer substan-
13 tially its entire property or business, or has entered into
14 any transaction the effect of which is to merge substan-
15 tially its entire property or business in that of any other
16 insurer without having first obtained the written approval
17 of the commissioner.

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

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

29 (g) Has been the subject of an application for the
30 appointment of a receiver, trustee, custodian, or sequestra-
31 tor of the insurer or its property otherwise than pursuant
32 to the provisions of this chapter, but only if such appoint-
33 ment has been made or is imminent and its effect is or
34 would be to oust the courts of this State of jurisdiction
35 hereunder.

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

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

Sec. 6. *Grounds for Liquidation.*—The commissioner
2 may apply to the court for an order appointing him as
3 receiver (if his appointment as receiver shall not be then
4 in effect) and directing him to liquidate the business of a
5 domestic insurer or of the United States branch of an
6 alien insurer having trusted assets in this State, regard-
7 less of whether or not there has been a prior order direct-

8 ing him to rehabilitate such insurer, upon any of the
9 grounds specified in section five of this article, or if such
10 insurer:

11 (a) Has ceased transacting business for a period of one
12 year, or

13 (b) Is an insolvent insurer and has commenced volun-
14 tary liquidation or dissolution, or attempts to commence
15 or prosecute any action or proceeding to liquidate its
16 business or affairs, or to dissolve its corporate charter, or
17 to procure the appointment of a receiver, trustee, cus-
18 todian, or sequestrator under any law except this chapter.

Sec. 7. *Grounds for Conserving Assets of Foreign In-*
2 *surers.*—The commissioner may apply to the court for an
3 order appointing him as receiver or ancillary receiver, and
4 directing him to conserve the assets within this State, of
5 a foreign insurer upon any of the following grounds:

6 (a) Upon any of the grounds specified in sections five
7 or six of this article, or

8 (b) Upon the ground that its property has been seques-
9 trated in its domiciliary sovereignty or in any other
10 sovereignty.

Sec. 8. *Grounds for Conserving Assets of Alien Insurers.*
2 —The commissioner may apply to the court for an order
3 appointing him as receiver or ancillary receiver, and
4 directing him to conserve the assets within this State, of
5 any alien insurer upon any of the following grounds:

6 (a) Upon any of the grounds specified in sections five
7 or six of this article.

8 (b) Upon the ground that the insurer has failed to
9 comply, within the time designated by the commissioner,
10 with an order made by him to make good an impairment
11 of its trusted funds, or

12 (c) Upon the ground that the property of the insurer
13 has been sequestrated in its domiciliary sovereignty or
14 elsewhere.

Sec. 9. *Grounds for Ancillary Liquidation of Foreign In-*
2 *surers.*—The commissioner may apply to the court for an
3 order appointing him as ancillary receiver of and directing
4 him to liquidate the business of a foreign insurer having

5 assets, business, or claims in this State upon the appoint-
6 ment in the domiciliary state of such insurer of a receiver,
7 liquidator, conservator, rehabilitator or other officer by
8 whatever name called for the purpose of liquidating the
9 business of such insurer.

Sec. 10. *Order of Rehabilitation.*—(a) An order to re-
2 habilitate a domestic insurer shall direct the commissioner
3 forthwith to take possession of the property of the insurer
4 and to conduct the business thereof, and to take such steps
5 toward removal of the causes and conditions which have
6 made rehabilitation necessary as the court may direct.

7 (b) If at any time the commissioner deems that further
8 efforts to rehabilitate the insurer would be useless, he
9 may apply to the court for an order of liquidation.

10 (c) The commissioner, or any interested person upon
11 due notice to the commissioner, at any time may apply to
12 the court for an order terminating the rehabilitation pro-
13 ceedings and permitting the insurer to resume possession
14 of its property and the conduct of its business, but no such
15 order shall be granted except when, after a full hearing,
16 the court has determined that the purposes of the pro-
17 ceeding have been fully accomplished.

Sec. 11. *Order of Liquidation of Domestic Insurers.*—

2 (a) An order to liquidate the business of a domestic in-
3 surer shall direct the commissioner forthwith to take
4 possession of the property of the insurer, to liquidate its
5 business, to deal with the insurer's property and business
6 in his own name as insurance commissioner or in the name
7 of the insurer, as the court may direct, and to give notice
8 to all creditors who may have claims against the insurer
9 to present such claims.

10 (b) The commissioner may apply for and secure an
11 order dissolving the corporate existence of a domestic
12 insurer upon his application for an order of liquidation of
13 such insurer or at any time after such order has been
14 granted.

Sec. 12. *Order of Liquidation of Alien Insurers.*—An
2 order to liquidate the business of a United States branch
3 of an alien insurer having trusteed assets in this State shall

4 be in the same terms as those prescribed for domestic
5 insurers, save and except only that the assets of the busi-
6 ness of such United States branch shall be the only assets
7 included therein.

Sec. 13. *Order of Conservation or Ancillary Liquidation*
2 *of Foreign or Alien Insurers.*—(a) An order to conserve
3 the assets of a foreign or alien insurer shall require the
4 commissioner forthwith to take possession of the property
5 of the insurer within this State and to conserve it, subject
6 to the further direction of the court.

7 (b) An order to liquidate the assets in this State of a
8 foreign insurer shall require the commissioner forthwith
9 to take possession of the property of the insurer within
10 this State and to liquidate it subject to the orders of the
11 court and with due regard to the rights and powers of the
12 domiciliary receiver, as provided in this article.

Sec. 14. *Conduct of Delinquency Proceedings Against*
2 *Domestic and Alien Insurers.*—(a) Whenever under this
3 article a receiver is to be appointed in delinquency pro-
4 ceedings for a domestic or alien insurer, the court shall
5 appoint the insurance commissioner as such receiver. The
6 court shall order the commissioner forthwith to take pos-
7 session of the assets of the insurer and to administer the
8 same under the orders of the court.

9 (b) As domiciliary receiver, the commissioner shall be
10 vested by operation of law with the title to all of the
11 property, contracts, and rights of action and all of the
12 books and records of the insurer, wherever located, as of
13 the date of entry of the order directing him to rehabilitate
14 or liquidate a domestic insurer or to liquidate the United
15 States branch of an alien insurer domiciled in this State,
16 and he shall have the right to recover the same and reduce
17 the same to possession; except that ancillary receivers in
18 reciprocal states shall have, as to assets located in their
19 respective states, the rights and powers which are herein
20 prescribed for ancillary receivers appointed in this State
21 as to assets located in this State.

22 (c) The recording of a certified copy of the order direct-
23 ing possession to be taken in the office of the clerk of the
24 county court of the county where the proceedings are

25 pending and in the office of the clerk of the county court
26 of any county wherein the insurer has property or other
27 assets, recorded in the same manner as deeds to real
28 property are recorded, shall impart the same notice as
29 would be imparted by a deed, bill of sale, or other evi-
30 dence of title duly recorded or filed.

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

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

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

Sec. 15. *Conduct of Delinquency Proceedings Against*
2 *Foreign Insurers.*—(a) Whenever under this article an
3 ancillary receiver is to be appointed in delinquency pro-
4 ceedings for an insurer not domiciled in this State, the
5 court shall appoint the insurance commissioner as ancil-
6 lary receiver. The commissioner shall file a petition re-
7 questing the appointment on the grounds set forth in sec-
8 tion nine of this article if he finds that there are sufficient
9 assets of the insurer located in this State to justify the

10 appointment of an ancillary receiver, or if ten or more
11 persons resident in this State having claims against such
12 insurer file a petition with the commissioner requesting
13 the appointment of such ancillary receiver.

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

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

Sec. 16. *Claims of Nonresidents Against Domestic In-*
2 *surers.*—(a) In a delinquency proceeding begun in this
3 State against a domestic insurer, claimants residing in
4 reciprocal states may file claims either with the ancillary
5 receivers, if any, in their respective states, or with the
6 domiciliary receiver. All such claims must be filed on or
7 before the last date fixed for the filing of claims in the
8 domiciliary delinquency proceedings.

9 (b) Controverted claims belonging to claimants resid-
10 ing in reciprocal states may either be proved in this State,
11 or if ancillary proceedings have been commenced in such
12 reciprocal states, may be proved in those proceedings. In
13 the event a claimant elects to prove his claim in ancillary
14 proceedings, if notice of the claim and opportunity to
15 appear and be heard is afforded the domiciliary receiver
16 of this State as provided in section seventeen of this
17 article with respect to ancillary proceedings in this State,
18 the final allowance of such claim by the courts in the
19 ancillary state shall be accepted in this State as conclusive
20 as to its amount and shall also be accepted as conclusive
21 as to its priority, if any, against special deposits or other
22 security located within the ancillary state.

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

9 (b) Controverted claims belonging to claimants resid-
10 ing in this State may either be proved in the domiciliary
11 state as provided by the law of that state, or if ancillary
12 proceedings have been commenced in this State, be proved
13 in those proceedings. In the event that any such claimant
14 elects to prove his claim in this State, he shall file his claim
15 with the ancillary receiver and shall give notice in writing
16 to the receiver in the domiciliary state, either by registered
17 mail or by personal service at least forty days prior to the
18 date set for hearing. The notice shall contain a concise
19 statement of the amount of the claim, the facts on which
20 the claim is based, and the priorities asserted, if any. If the
21 domiciliary receiver within thirty days after the giving
22 of such notice shall give notice in writing to the ancillary
23 receiver and to the claimant, either by registered mail or
24 by personal service, of his intention to contest such claim,
25 he shall be entitled to appear or to be represented in any
26 proceeding in this State involving adjudication of the

27 claim. The final allowance of the claim by the courts of
28 this State shall be accepted as conclusive as to its amount
29 and shall also be accepted as conclusive as to its priority,
30 if any, against special deposits or other security located
31 within this State.

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

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

15 (c) Within ten days of the receipt of any claim, or
16 within such further period as the court may, for good
17 cause shown, fix, the receiver shall report the claim to
18 the court, specifying in such report his recommendation
19 with respect to the action to be taken thereon. Upon
20 receipt of such report, the court shall fix a time for hear-
21 ing the claim and shall direct that the claimant or the
22 receiver, as the court shall specify, shall give such notice
23 as the court shall determine to such persons as shall
24 appear to the court to be interested therein. All such
25 notices shall specify the time and place of the hearing
26 and shall concisely state the amount and nature of the
27 claim, the priorities asserted, if any, and the recommenda-
28 tion of the receiver with reference thereto.

29 (d) At the hearing, all persons interested shall be en-
30 titled to appear and the court shall enter an order allow-
31 ing, allowing in part, or disallowing the claim. Any such
32 order shall be deemed to be an appealable order.

Sec. 19. *Priority of Certain Claims.*—(a) In a delin-
2 quency proceeding against an insurer domiciled in this
3 State, claims owing to residents of ancillary states shall

4 be preferred claims if like claims are preferred under
5 the laws of this State. All such claims owing to residents
6 or nonresidents shall be given equal priority of payment
7 from general assets regardless of where such assets are
8 located.

9 (b) In a delinquency proceeding against an insurer
10 domiciled in a reciprocal state, claims owing to residents
11 of this State shall be preferred if like claims are preferred
12 by the laws of that state.

13 (c) The owners of special deposit claims against an in-
14 surer for which a receiver is appointed in this or any
15 other state shall be given priority against their several
16 special deposits in accordance with the provisions of the
17 statutes governing the creation and maintenance of such
18 deposits. If there is a deficiency in any such deposit so
19 that the claims secured thereby are not fully discharged
20 therefrom, the claimants may share in the general assets,
21 but such sharing shall be deferred until general creditors,
22 and also claimants against other special deposits who
23 have received smaller percentages from their respective
24 special deposits, have been paid percentages of their
25 claims equal to the percentage paid from the special de-
26 posit.

27 (d) The owner of a secured claim against an insurer
28 for which a receiver has been appointed in this or any
29 other state may surrender his security and file his claim
30 as a general creditor, or the claim may be discharged
31 by resort to the security, in which case the deficiency, if
32 any, shall be treated as a claim against the general assets
33 of the insurer on the same basis as claims of unsecured
34 creditors. If the amount of the deficiency has been adju-
35 dicated in ancillary proceedings as provided in this ar-
36 ticle or if it has been adjudicated by a court of competent
37 jurisdiction in proceedings in which the domiciliary re-
38 ceiver has had notice and opportunity to be heard, such
39 amounts shall be conclusive; otherwise the amount shall
40 be determined in the delinquency proceeding in the domi-
41 ciliary state.

2 Sec. 20. *Attachment or Garnishment of Assets.*—Dur-
ing the pendency of delinquency proceedings in this or

3 any reciprocal state, no action or proceeding in the nature
4 of an attachment, garnishment or execution shall be com-
5 menced or maintained in the courts of this State against
6 the delinquent insurer or its assets. Any lien obtained
7 by any such action or proceeding within four months
8 prior to the commencement of any such delinquency pro-
9 ceeding or at any time thereafter shall be void as against
10 any rights arising in such delinquency proceeding.

Sec. 21. *Uniform Insurers Liquidation Act.*—(a) Para-
2 graphs (b) to (m), inclusive, of section one of this article,
3 together with sections three, four, and fourteen to twenty,
4 inclusive, of this article constitute and may be referred
5 to as the uniform insurers liquidation act.

6 (b) The uniform insurers liquidation act shall be so
7 interpreted and construed as to effectuate its general pur-
8 pose to make uniform the law of those states that enact
9 it. To the extent that its provisions when applicable con-
10 flict with other provisions of this article the provisions of
11 such act shall control.

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

Sec. 23. *Exemption From Fees.*—The commissioner shall
2 not be required to pay any fee to any public officer in
3 this State for filing, recording, issuing a transcript or cer-
4 tificate or authenticating any paper or instrument per-
5 taining to the exercise by the commissioner of any of
6 the powers or duties conferred upon him under this ar-
7 ticle, whether or not such paper or instrument be exe-
8 cuted by the commissioner or his deputies, employees or
9 attorneys of record and whether or not it is connected

10 with the commencement of any action or proceeding by
11 or against the commissioner, or with the subsequent con-
12 duct of such action or proceeding.

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

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

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

10 (b) Every director, officer, employee, stockholder,
11 member, subscriber, and any other person acting on be-

12 half of such insurer who shall be concerned in any such
13 act or deed and every person receiving thereby any
14 property of such insurer or the benefit thereof shall be
15 personally liable therefor and shall be bound to account
16 to the insurance commissioner.

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

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

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

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

7 (b) No offset shall be allowed in favor of any such
8 person where (1) the obligation of the insurer to such
9 person would not at the date of the entry of any liquida-
10 tion order or otherwise, as provided in section twenty-

11 five of this article, entitle him to share as a claimant
12 in the assets of the insurer, or (2) the obligation of the
13 insurer to such person was purchased by or transferred
14 to such person with a view of its being used as an offset,
15 or (3) the obligation of such person is to pay an assess-
16 ment levied against the members of a mutual insurer, or
17 against the subscribers of a reciprocal insurer, or is to
18 pay a balance upon the subscription to the capital stock
19 of a stock insurer.

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

7 (1) Such claim becomes absolute against the insurer
8 on or before the last day for filing proof of claims against
9 the assets of such insurer, or

10 (2) There is a surplus and the liquidation is thereafter
11 conducted upon the basis that such insurer is solvent.

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

19 (1) If it may be reasonably inferred from the proof
20 presented upon such claim that such person would be
21 able to obtain a judgment upon such cause of action
22 against such insured, and

23 (2) If such person shall furnish suitable proof, unless
24 the court for good cause shown shall otherwise direct,
25 that no further valid claim against such insurer arising
26 out of his cause of action other than those already pre-
27 sented can be made, and

28 (3) If the total liability of such insurer to all claimants
29 arising out of the same act of its insured shall be no
30 greater than its maximum liability would be were it not
31 in liquidation.

32 (c) No judgment against such an insured taken after

33 the date of entry of the liquidation order shall be con-
34 sidered in the liquidation proceedings as evidence of lia-
35 bility, or of the amount of damages, and no judgment
36 against an insured taken by default or by collusion prior
37 to the entry of the liquidation order shall be considered
38 as conclusive evidence in the liquidation proceedings,
39 either of the liability of such insured to such person upon
40 such cause of action or of the amount of damages to
41 which such person is therein entitled.

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

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

18 (b) Proofs of claim may be filed subsequent to the
19 date specified, but no such claim shall share in the dis-
20 tribution of the assets until all allowed claims, proofs of
21 which have been filed before said date, have been paid
22 in full with interest.

Sec. 31. *Report for Assessment.*—Within three years
2 from the date an order of rehabilitation or liquidation of
3 a domestic mutual insurer or a domestic reciprocal in-
4 surer was entered in the office of the clerk of the court
5 by which such order was made, the commissioner may
6 make a report to the court setting forth:

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

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

10 (b) Such assessment or assessments shall cover the
11 excess of the probable liabilities over the reasonable value
12 of the assets, together with estimated cost of collection
13 and percent of uncollectibility thereof. The total of all
14 assessments against any member or subscriber with re-
15 spect to any policy, whether levied pursuant to this ar-
16 ticle or pursuant to any other provision of this chapter,
17 shall be for no greater amount than that specified in the
18 policy or policies of the member or subscriber and as
19 limited under this chapter, except that if the court finds
20 that the policy was issued at a rate of premium below
21 the minimum rate lawfully permitted for the risk insured,
22 the court may determine the upper limit of such assess-
23 ment upon the basis of such minimum rate.

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

Sec. 33. *Order to Pay Assessment.*—After levy of assess-
2 ment as provided in section thirty-two of this article, upon
3 the filing of a further detailed report by the commissioner

4 the court shall issue an order directing each member (if
5 a mutual insurer) or each subscriber (if a reciprocal
6 insurer), if he shall not pay the amount assessed against
7 him to the commissioner on or before a day to be specified
8 in the order, to show cause why he should not be held
9 liable to pay such assessment, together with costs as pro-
10 vided in section thirty-five of this article, and to show
11 cause why the commissioner should not have judgment
12 therefor.

Sec. 34. *Publication and Service of Assessment Order.*—

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

Sec. 35. *Judgment Upon the Assessment.*—(a) Upon

2 the return day of the order to show cause provided for
3 in section thirty-three of this article, if the member or
4 subscriber does not appear and serve duly verified objec-
5 tions upon the commissioner, the court shall make an
6 order adjudging that such member or subscriber is liable
7 for the amount of the assessment against him, together
8 with costs, and that the commissioner may have judgment
9 against the member or subscriber therefor.

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

15 (c) Any such order shall have the same force and
16 effect, shall be entered and docketed and may be ap-
17 pealed from, as if it were a judgment in an original ac-
18 tion brought in the court in which the proceeding is
19 pending.

Article 11. Unfair Practices and Frauds

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

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

Sec. 3. *Misrepresentations and False Advertising of
2 Policies.*—No person shall make, issue, circulate, or cause
3 to be made, issued or circulated, any estimate, illustra-
4 tion, circular or statement misrepresenting the terms of
5 any policy issued or to be issued or the benefits or ad-
6 vantages promised thereby or the dividends or share of
7 the surplus to be received thereon, or make any false or
8 misleading statement as to the dividends or share of sur-
9 plus previously paid on similar policies, or make any mis-
10 leading representation or any misrepresentation as to the
11 financial condition of any insurer, or as to the legal reserve
12 system upon which any life insurer operates, or use any
13 name or title of any policy or class of policies misrep-
14 resenting the true nature thereof, or make any misrep-
15 resentation to any policyholder insured in any company
16 for the purpose of inducing or tending to induce such
17 policyholder to lapse, forfeit, or surrender his insurance.

Sec. 4. *False Information and Advertising Generally.*—
2 No person shall make, publish, disseminate, circulate, or
3 place before the public or cause, directly or indirectly, to
4 be made, published, disseminated, circulated or placed
5 before the public, in a newspaper, magazine or other pub-
6 lication, or in the form of a notice, circular, pamphlet,

7 letter or poster, or over any radio or television station,
8 or in any other way, an advertisement, announcement
9 or statement containing any assertion, representation or
10 statement with respect to the business of insurance or
11 with respect to any person in the conduct of his insurance
12 business, which is untrue, deceptive or misleading.

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

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

7 (b) No person engaged in the business of financing the
8 purchase of real or personal property or of lending money
9 on the security of real or personal property, nor any agent,
10 servant or employee of such person, shall directly or in-
11 directly impose or require as a condition of any such
12 financing or loaning of money, whether the financing or
13 the security to be taken shall be in the form of a mortgage,
14 deed of trust, contract, pledge or otherwise, or as a con-
15 dition to the renewal or extension of any such loan or
16 financing or to the performance of any other act in con-
17 nection therewith, that the purchaser or borrower, or his
18 successors, shall negotiate for or procure any policy of
19 insurance or renewal thereof covering the property in-
20 volved in the transaction from or through a particular
21 insurer, agent, solicitor, broker or other person; but the
22 foregoing shall not be deemed to prevent such lender
23 from reasonably exercising the right to approve or dis-
24 approve the sufficiency of any policy or renewal thereof
25 or insurer issuing same tendered in connection with such

26 transaction by the person seeking or obtaining such financ-
27 ing or loan.

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

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

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

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

15 (c) As to kinds of insurance other than life and acci-
16 dent and sickness, no person shall make or permit any
17 unfair discrimination in favor of particular persons, or
18 between insureds or subjects of insurance having sub-
19 stantially like insuring, risk, and exposure factors, or
20 expense elements, in the terms or conditions of any in-
21 surance contract, or in the rate or amount of premium

22 charged therefor. This subsection shall not apply as to
23 any premium or premium rate in effect pursuant to ar-
24 ticle twenty of this chapter (rate laws).

Sec. 9. *Rebates on Life or Accident and Sickness Poli-*
2 *cies.*—Except as otherwise expressly provided by law,
3 no person shall knowingly permit or offer to make or
4 make any contract of life insurance, life annuity, or ac-
5 cident and sickness insurance, or agreement as to such
6 contract other than as plainly expressed in the contract
7 issued thereon, or pay or allow, or give or offer to pay,
8 allow, or give, directly or indirectly, as an inducement
9 to such insurance or annuity, any rebate of premiums
10 payable on the contract, or any special favor or advan-
11 tage in the dividends or other benefits thereon, or any
12 valuable consideration or inducement whatever not speci-
13 fied in the contract.

Sec. 10. *Exceptions to Discrimination and Rebate Pro-*
2 *visions for Life and Accident and Sickness Policies.*—
3 Nothing in sections eight or nine of this article shall be
4 construed as including within the definition of discrimi-
5 nation or rebates any of the following practices:

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

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

18 (c) Readjustment of the rate of premium for a group
19 insurance policy based on the loss or expense experience
20 thereunder, at the end of the first or any subsequent policy
21 year of insurance thereunder, which may be made retro-
22 active only for such policy year.

23 (d) Issuing life or accident and sickness policies on a
24 salary savings or payroll deduction plan at a reduced rate

25 commensurate with the savings made by the use of such
26 plan.

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 suretyship and the word "policy" includes bond.

except, directly or

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by
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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:

- 7 (a) Any employment.
- 8 (b) Any shares of stock or other securities issued or

9 at any time to be issued or any interest therein or rights
10 thereto.

11 (c) Any advisory board contract, or any similar con-
12 tract, agreement or understanding, offering, providing
13 for, or promising any special profits.

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

16 (e) Any loans except those made solely for the pur-
17 pose of paying policy premiums, or policy loans pursuant
18 to section nineteen of article eight of this chapter.

Sec. 13. *Interlocking Ownership or Management; Mul-
2 tiple Directorship.*—(a) Any insurer may retain, invest
3 in or acquire the whole or any part of the capital stock
4 of any other insurer or insurers, or have a common man-
5 agement with any other insurer or insurers, unless such
6 retention, investment, acquisition or common management
7 is inconsistent with any other provision of this chapter,
8 or unless by reason thereof the business of such insurers
9 with the public is conducted in a manner which substan-
10 tially lessens competition generally in the insurance busi-
11 ness or tends to create a monopoly therein.

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

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

Sec. 15. *Undefined Acts or Practices.*—If, after notice

2 and hearing, the commissioner determines that any per-
3 son transacting insurance is engaging in this State in any
4 method of competition or act or practice in the transac-
5 tion of such insurance which is not defined in this article,
6 and that such method of competition is unfair or such act
7 or practice is unfair or deceptive, the commissioner shall
8 issue an order directing such person to cease and desist
9 from engaging in such method of competition, act or
10 practice.

Article 12. Agents, Brokers, Solicitors and Excess Line

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

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

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

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

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

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

12 (c) Is, in the case of an agent applicant, appointed as
13 agent by a licensed insurer for the kind or kinds of insur-
14 ance for which application is made, subject to issuance of
15 license, or, in the case of a solicitor applicant, appointed as

16 solicitor by a licensed resident agent, subject to issuance
17 of license.

18 (d) Does not intend to use the license principally for
19 the purpose, in the case of life or accident and sickness
20 insurance, of procuring insurance on himself, members of
21 his family or his relatives; or, as to insurance other than
22 life and accident and sickness, upon his property or in-
23 surable interests or those of his family or his relatives or
24 those of his employer, employees, or firm, or corporation
25 in which he owns a substantial interest, or of the em-
26 ployees of such firm or corporation, or on property or
27 insurable interests for which the applicant or any such
28 relative, employer, firm or corporation is the trustee, bailee
29 or receiver. For the purposes of this provision, a vendor's
30 or lender's interest in property sold or being sold under
31 contract or which is the security for any loan, shall not
32 be deemed to constitute property or an insurable interest
33 of such vendor or lender.

34 (e) Satisfies the commissioner that he is trustworthy
35 and competent.

Sec. 3. *Application.*—(a) Application for an agent's,
2 broker's or solicitor's license or renewal thereof shall be
3 made to the commissioner upon a form prescribed by him
4 and shall contain such information and be accompanied
5 by such supporting documents as the commissioner may
6 require, and the commissioner may require such applica-
7 tion to be made under the applicant's oath.

8 (b) If for an agent's license, the application shall show
9 the kinds of insurance to be transacted, and shall be ac-
10 companied by the written appointment of the applicant as
11 agent by at least one licensed insurer for each kind of
12 insurance for which application is made.

13 (c) If for a solicitor's license, the application shall be
14 accompanied by written appointment of the applicant as
15 solicitor by a licensed agent.

16 (d) If for a broker's license, the application shall be
17 accompanied by a statement upon a form prescribed by the
18 commissioner as to the trustworthiness and competency
19 of the applicant, signed by at least three licensed resident
20 agents of this State.

21 (e) Wilful misrepresentation of any fact in any such
22 application or any documents in support thereof is a
23 violation of this chapter.

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

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

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

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

27 (e) A licensed broker lawfully soliciting, negotiating,
28 making or procuring outside this State, or aiding in solicit-
29 ing, negotiating, making or procuring outside this State,
30 insurance contracts covering subjects of insurance resi-
31 dent, located, or to be performed in this State, shall place
32 all such contracts only with licensed resident agents of
33 this State for insurers licensed in this State.

Sec. 5. *Issuance of License.*—The commissioner may
2 issue a license to any individual as agent, broker or solici-
3 tor who complies with the applicable provisions of this

4 chapter and who in the opinion of the commissioner is
5 trustworthy and competent.

Sec. 6. *Fees.*—The fee for an agent's license shall be
2 five dollars as provided in section thirteen of article three
3 of this chapter, the fee for a solicitor's license shall be five
4 dollars, and the fee for a broker's license shall be ten
5 dollars, except that when any other state imposes a tax,
6 bond, fine, penalty, license fee or other obligation or pro-
7 hibition on agents resident in this State, the same tax,
8 bond, fine, penalty, license fee or other obligation or pro-
9 hibition shall be imposed upon agents (where licensing
10 of non-resident agents is permitted under this article) or
11 brokers of such other state licensed or seeking a license
12 in this State. All fees and monies so collected shall be
13 deposited in the fund for the purposes set forth in section
14 thirteen of article three of this chapter.

Sec. 7. *Countersignature.*—No contract of insurance
2 covering a subject of insurance, resident, located, or to be
3 performed in this State, shall be executed, issued or de-
4 livered by any insurer unless the contract, or in the case
5 of an interstate risk a countersignature endorsement carry-
6 ing full information as to the West Virginia risk, is signed
7 or countersigned in writing by a licensed resident agent
8 of the insurer, except that excess line insurance shall be
9 countersigned by a duly licensed excess line broker. This
10 section does not apply to: reinsurance; credit insurance;
11 any contract of insurance covering the rolling stock of any
12 railroad or covering any vessel, aircraft or motor carrier
13 used in interstate or foreign commerce, or covering any
14 liability or other risks incident to the ownership, mainte-
15 nance or operation thereof; any contract of insurance cov-
16 ering any property in interstate or foreign commerce, or
17 any liability or risks incident thereto. Countersignature
18 of a duly licensed resident agent of the company originat-
19 ing a contract of insurance participated in by other com-
20 panies as co-sureties or co-indemnitors shall satisfy all
21 counted signature requirements in respect to such contract
22 of insurance.

Sec. 8. *Non-Resident Life and Accident and Sickness*

2 *Agents.*—(a) Non-residents otherwise complying with the
3 provisions of this chapter may be licensed as a life agent
4 but all policies issued as a result of solicitation on the part
5 of such non-resident in this State shall be reported, placed,
6 countersigned, and consummated by and through a duly
7 licensed resident agent of the issuing insurer.

8 (b) Individuals otherwise complying with the pro-
9 visions of this chapter, who are residents of a county in
10 another state adjoining a county in this State, and a
11 licensed accident and sickness agent of such state, may be
12 licensed as a non-resident accident and sickness agent in
13 this State, if the state of residence of such non-resident
14 has established, by law or regulation, like requirements
15 for licensing of residents of counties in this State adjoin-
16 ing a county in such state as non-resident accident and
17 sickness agents. All policies issued as a result of solicita-
18 tion by such non-resident accident and sickness agents
19 shall be reported, placed, countersigned and consummated
20 by and through a duly licensed resident agent of the
21 issuing insurer.

Sec. 9. *Agent Resident in Contiguous Municipalities.*—

2 An agent who has his residence in an urban community
3 composed of two immediately contiguous municipal corp-
4 orations not separated by a river or other stream, one of
5 which is located in this State and the other located in
6 another state, shall be considered a resident of this State
7 for the purposes of this article if his residence is in any
8 part of such urban community and the state wherein the
9 other municipal corporation is located has established by
10 law or regulation like requirements as to residence of
11 agents in such urban community.

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

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

9 (b) The insurance coverage must not be procurable,

10 after diligent effort has been made to do so, from licensed
11 insurers authorized to transact that kind of insurance in
12 this State, or has been procured to the full extent such
13 insurers are willing to insure, and the placing of insurance
14 with an unlicensed insurer must not be for the purpose of
15 securing advantages either as to premium rate or terms of
16 the insurance contract.

Sec. 11. *Excess Line Broker's Affidavit and Report.*—

2 At the time of procuring any excess line insurance, the
3 excess line broker shall execute and file with the com-
4 missioner his report thereof in duplicate and under oath,
5 setting forth facts from which it may be determined
6 whether the requirements of section ten of this article
7 have been met, and in addition thereto the following:

- 8 (a) Name and address of the insurer.
- 9 (b) Number of the policy issued.
- 10 (c) Name and address of the insured.
- 11 (d) Nature and amount of liability assumed by the
12 insurer.
- 13 (e) Premium, and premium rate if applicable.
- 14 (f) Other information reasonably required by the com-
15 missioner.

Sec. 12. *Excess Line Insurance Valid.*—Insurance con-

2 tracts procured as excess line coverage from unlicensed
3 insurers in accordance with this article shall be fully valid
4 and enforceable as to all parties, and shall be given recog-
5 nition in all matters and respects to the same effect as like
6 contracts issued by licensed insurers.

Sec. 13. *Licensing of Excess Line Brokers.*—(a) Any

2 licensed insurance agent deemed by the commissioner to
3 be competent and trustworthy for the purpose, may be
4 licensed as an excess line broker.

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

8 (c) Prior to issuance of the license, the applicant there-
9 for shall file with the commissioner and thereafter main-
10 tain in force for so long as the license or any renewal
11 thereof remains in effect, a bond in favor of the State of

12 West Virginia in the penal sum of two thousand dollars,
13 with an authorized corporate surety approved by the com-
14 missioner, conditioned that he will conduct business un-
15 der the license in accordance with this article, that he will
16 promptly remit the taxes provided by section sixteen of
17 this article, and that he will properly account to the person
18 entitled thereto for funds received by him through trans-
19 actions under the license. No such bond shall be termi-
20 nated unless at least thirty-days' prior written notice
21 thereof is filed with the commissioner.

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

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

- 7 (a) Name and address of the insurer,
- 8 (b) Name and address of the insured,
- 9 (c) Amount of insurance,
- 10 (d) Gross premium charged,
- 11 (e) Return premium paid, if any,
- 12 (f) Rate of premium charged on the several items of
13 coverage,
- 14 (g) Effective date of the contract and the terms thereof,
15 and
- 16 (h) Brief general description of the risks insured
17 against and the property insured.

Sec. 16. *Annual Return of and Tax on Excess Line*
2 *Brokers.*—Every excess line broker licensed pursuant to
3 the provisions of this article shall make a return annually,
4 under oath, on or before the first day of March to the com-

5 missioner of the gross amount of premiums charged the
6 insureds by the insurers for insurance procured by such
7 licensee, pursuant to such license during the previous
8 calendar year, together with the amount of tax due there-
9 on. The annual tax required to be paid, under the pro-
10 visions of this section, shall be a sum equal to two percent
11 of the gross premiums received on the gross business pro-
12 cured by such licensee on subjects of insurance, resident,
13 located or to be performed in this State and obtained
14 pursuant to the provisions of this article, including any
15 so-called dividends on participating insurance policies
16 applied in reduction of premiums, less premiums return-
17 able for cancellation. All such taxes paid to the commis-
18 sioner shall be paid by him into the state treasury for the
19 benefit of the state fund.

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

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

Sec. 19. *Agent to Deal Only With Licensed Insurer,*
2 *Broker or Solicitor.*—(a) No agent shall accept any risk,
3 place any insurance or issue any policy except with an
4 insurer licensed in this State and for which insurer such
5 agent has been appointed and licensed.

6 (b) No agent shall accept any contract of insurance
7 from any broker not licensed in this State.

8 (c) No agent shall employ or accept the services of any
9 solicitor not duly appointed and licensed as solicitor for
10 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

7 licensed agent or broker: *Provided*, That the portion of
8 such commission paid to any licensed broker or brokers
9 shall not exceed ten percent of the gross policy premium
10 or fifty percent of the commission payable by the insurer
11 as provided herein, whichever is the lesser amount. The
12 term "commission" as used herein shall include engineer-
13 ing fees, service fees or any other compensation incident
14 to the issuance of a policy payable by or to any insurer,
15 agent or broker. It shall be unlawful for any insurer or
16 agent to pay, and any person to accept, directly or indi-
17 rectly, any commission except as provided in this section.

18 (b) This section shall not apply to reinsurance, accident
19 and sickness insurance, or life insurance; nor to excess line
20 insurance procured in accordance with the provisions of
21 this article relating thereto; nor to credit insurance, any
22 contract of insurance covering the rolling stock of any
23 railroad or covering any vessel, aircraft or motor carrier
24 used in interstate or foreign commerce, any liability or
25 other risks incident to the ownership, maintenance or op-
26 eration thereof, any contract of insurance covering any
27 property in interstate or foreign commerce, or any lia-
28 bility or risks incident thereto.

Sec. 25. *Revocation, Suspension or Refusal to Renew*
2 *License; Fine in Lieu Thereof.*—Whenever, after notice
3 and hearing, the commissioner is satisfied that any agent,
4 solicitor, broker or excess line broker has violated any
5 provision of this chapter, or is incompetent or untrust-
6 worthy, he shall revoke, suspend, or, if renewal of license
7 is pending, refuse to renew the license of such agent,
8 solicitor, broker or excess line broker. In lieu of revoking,
9 suspending or refusing to renew such license, the com-
10 missioner may in his discretion order such licensee to pay
11 to the State of West Virginia a penalty in a sum not to
12 exceed one hundred dollars and upon the failure of such
13 licensee to pay such penalty by delivery of such sum to
14 the commissioner within thirty days of notice thereof, the
15 commissioner shall revoke, suspend or refuse to renew
16 such license.

Sec. 26. *Insurance Vending Machines.*—(a) A licensed
2 resident agent may solicit applications for and issue poli-

3 cies for trip accident insurance by means of mechanical
4 vending machines supervised by him, if:

5 (1) The commissioner finds that the kind of insurance
6 and form of policy to be so sold is reasonably suited for
7 sale and issuance through vending machines and other-
8 wise complies with this chapter, and that use of such
9 machines therefor would be of convenience to the public,
10 and

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

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

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

Article 13. Life Insurance

Section 1. *Scope of Article.*—This article applies to life
2 insurance (including annuities), other than reinsurance

3 and group life insurance (including group annuities);
4 except that sections sixteen (contestability as to excluded
5 or restricted coverage), twenty-five (limitation of liabili-
6 ty), twenty-six (incontestability after reinstatement),
7 twenty-nine (dual pay policies), thirty (standard non-
8 forfeiture law) and sections thirty-one to forty-six, inclu-
9 sive (which specifically relate only to industrial life insur-
10 ance), shall be the only sections of this article which apply
11 to industrial life insurance.

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

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

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

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

Sec. 5. *Entire Contract.*—There shall be a provision that

2 the policy, or the policy and the application therefor if
3 a copy of such application is endorsed upon or attached
4 to the policy when issued, shall constitute the entire con-
5 tract between the parties, and that all statements con-
6 tained in the application shall, in the absence of fraud, be
7 deemed representations and not warranties.

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

Sec. 7. *Dividends.*—There shall be a provision in parti-
2 cipating policies that, beginning not later than the end of
3 the third policy year, the insurer shall annually ascertain
4 and apportion the divisible surplus, if any, that will
5 accrue on the policy anniversary or other dividend date
6 specified in the policy provided the policy is in force and
7 all premiums to that date are paid. Except as hereinafter
8 provided, any dividend so apportioned shall at the option
9 of the party entitled to elect such option be either (a)
10 payable in cash or (b) applied to any one of such other
11 dividend options as may be provided by the policy. If any
12 such other dividend options are provided, the policy shall
13 further state which option shall be automatically effective
14 if such party shall not have elected some other option.
15 If the policy specifies a period within which such other
16 dividend option may be elected, such period shall be not
17 less than thirty days following the date on which such
18 dividend is due and payable. The annually apportioned
19 dividend shall be deemed to be payable in cash within
20 the meaning of (a) above even though the policy provides
21 that payment of such dividend is to be deferred for a
22 specified period, provided such period does not exceed six
23 years from the date of apportionment and that interest
24 will be added to such dividend at a specified rate. If a
25 participating policy provides that the benefit under any
26 paid-up nonforfeiture provision is to be participating, it
27 may provide that any divisible surplus apportioned while
28 the insurance is in force under such nonforfeiture pro-

29 vision shall be applied in the manner set forth in the
30 policy.

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

30 (b) This section shall not apply to term policies nor to
31 term insurance benefits provided by rider or supple-
32 mented policy provision.

Sec. 9. *Nonforfeiture Benefits.*—There shall be pro-
2 visions for nonforfeiture benefits and cash surrender
3 values as required by section thirty of this article.

Sec. 10. *Table of Values.*—There shall be a table show-
2 ing in figures the loan value and the options available
3 under the policy each year upon default in premium pay-

4 ments, during the first twenty years or during the term
5 of the policy, whichever is shorter.

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

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

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

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

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

Sec. 16. *Excluded or Restricted Coverage.*—A clause in
2 any policy of life insurance providing that such policy
3 shall be incontestable after a specified period shall pre-
4 clude only a contest of the validity of the policy, and
5 shall not preclude the assertion at any time of defenses
6 based upon provisions in the policy which exclude or

7 restrict coverage, whether or not such restrictions or
8 exclusions are excepted in such clause.

Sec. 17. *Standard Provisions of Annuity Contracts.*--

2 (a) No annuity or pure endowment contract, other than
3 reversionary annuities, survivorship annuities or group
4 annuities and except as stated herein, shall be delivered
5 or issued for delivery in this State unless it contains in
6 substance each of the provisions specified in sections
7 eighteen to twenty-three, inclusive, of this article. Any
8 of such provisions not applicable to single premium an-
9 nuities or single premium pure endowment contracts shall
10 not, to that extent, be incorporated therein.

11 (b) This section shall not apply to contracts for de-
12 ferred annuities included in, or upon the lives of bene-
13 ficiaries under, life insurance policies.

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

Sec. 19. *Annuity Incontestability.*—If any statements,
2 other than those relating to age, sex and identity are
3 required as a condition to issuing an annuity or pure
4 endowment contract, other than a reversionary, survivor-
5 ship, or group annuity, and subject to section twenty-one
6 of this article, there shall be a provision that the contract
7 shall be incontestable after it has been in force during

8 the lifetime of the person or of each of the persons as
9 to whom such statements are required, for a period of
10 two years from its date of issue, except for nonpayment
11 of stipulated payments to the insurer; and at the option
12 of the insurer such contract may also except any pro-
13 visions relative to benefits in the event of disability and
14 any provisions which grant insurance specifically against
15 death by accident or accidental means.

Sec. 20. *Annuity Entire Contract.*—In an annuity or
2 pure endowment contract, other than a reversionary, sur-
3 vivorship, or group annuity, there shall be a provision
4 that the contract shall constitute the entire contract be-
5 tween the parties or, if a copy of the application is en-
6 dorsed upon or attached to the contract when issued, a
7 provision that the contract and the application therefor
8 shall constitute the entire contract between the parties.

Sec. 21. *Annuity Misstatement of Age or Sex.*—In an
2 annuity or pure endowment contract, other than a re-
3 versionary, survivorship, or group annuity, there shall
4 be a provision that if the age or sex of the person or
5 persons upon whose life or lives the contract is made,
6 or of any of them, has been misstated, the amount pay-
7 able or benefits accruing under the contract shall be such
8 as the stipulated payment or payments to the insurer
9 would have purchased according to the correct age or
10 sex; and that if the insurer shall make or has made any
11 overpayment or overpayments on account of any such
12 misstatement, the amount thereof with interest at the
13 rate to be specified in the contract but not exceeding six
14 percent per annum, may be charged against the current
15 or next succeeding payment or payments to be made by
16 the insurer under the contract.

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

Sec. 23. *Annuity Reinstatement.*—In an annuity or pure
2 endowment contract, other than a reversionary, survivor-

3 ship, or group annuity, there shall be a provision that the
4 contract may be reinstated at any time within one year
5 from the default in making stipulated payments to the
6 insurer, unless the cash surrender value has been paid,
7 but all overdue stipulated payments and any indebtedness
8 to the insurer on the contract shall be paid or reinstated
9 with interest thereon at a rate to be specified in the con-
10 tract but not exceeding six percent per annum payable
11 annually, and in cases where applicable the insurer may
12 also include a requirement of evidence of insurability
13 satisfactory to the insurer.

Sec. 24. *Standard Provisions of Reversionary Annuities.*—(a) Except as stated herein, no contract for a re-
2 versionary annuity shall be delivered or issued for de-
3 livery in this State unless it contains in substance each
4 of the following provisions:
5

6 (1) Any such reversionary annuity contract shall con-
7 tain the provisions specified in sections eighteen, nine-
8 teen, twenty, twenty-one and twenty-two of this article,
9 except that under said section eighteen the insurer may
10 at its option provide for an equitable reduction of the
11 amount of the annuity payments in settlement of an
12 overdue or deferred payment in lieu of providing for de-
13 duction of such payments from an amount payable upon
14 settlement under the contract.

15 (2) In such reversionary annuity contracts there shall
16 be a provision that the contract may be reinstated at
17 any time within three years from the date of default in
18 making stipulated payments to the insurer, upon produc-
19 tion of evidence of insurability satisfactory to the insurer,
20 and upon condition that all overdue payments and any
21 indebtedness to the insurer on account of the contract be
22 paid, or, within the limits permitted by the then cash
23 values of the contract, reinstated, with interest as to both
24 payments and indebtedness at a rate to be specified in the
25 contract but not exceeding six percent per annum com-
26 pounded annually.

27 (b) This section shall not apply to group annuities or
28 to annuities included in life insurance policies, and any

29 of such provisions not applicable to single premium an-
30 nnuities shall not to that extent be incorporated therein.

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

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

18 (2) Death as a result of aviation;

19 (3) Death as a result of a specified hazardous occupa-
20 tion or occupations;

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

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

25 (b) A policy which contains any exclusion or restrict-
26 tion pursuant to subsection (a) of this section shall also
27 provide that in the event of death under the circumstances
28 to which any such exclusion or restriction is applicable,
29 the insurer will pay an amount not less than a reserve
30 determined according to the commissioners reserve valua-
31 tion method upon the basis of the mortality table and
32 interest rate specified in the policy for the calculation of
33 nonforfeiture benefits (or if the policy provides for no
34 such benefits, computed according to a mortality table
35 and interest rate determined by the insurer and specified
36 in the policy) with adjustment for indebtedness or divi-
37 dend credit.

38 (c) This section shall not apply to group life insurance,

39 accident and sickness insurance, reinsurance, or annuities,
40 or to any provision in a life insurance policy relating to
41 disability benefits or to additional benefits in the event
42 of death by accident or accidental means.

43 (d) Nothing contained in this section shall prohibit any
44 provision which in the opinion of the commissioner is
45 more favorable to the policyholder than a provision per-
46 mitted by this section.

Sec. 26. *Incontestability After Reinstatement.*—The re-
2 instatement of any policy of life insurance or annuity con-
3 tract hereafter delivered or issued for delivery in this
4 State may be contested on account of fraud or misrepre-
5 sentation of facts material to the reinstatement only for
6 the same period following reinstatement and with the
7 same conditions and exceptions as the policy provides
8 with respect to contestability after original issuance.

Sec. 27. *Policy Settlements.*—Any life insurer shall have
2 the power to hold under agreement the proceeds of any
3 policy issued by it, upon such terms and restrictions as
4 to revocation by the policyholder and control by bene-
5 ficiaries, and with such exemptions from the claims of
6 creditors of beneficiaries other than the policyholder as
7 set forth in the policy or as agreed to in writing by the
8 insurer and the policyholder. Upon maturity of a policy,
9 in the event the policyholder has made no such agree-
10 ment, the insurer shall have the power to hold the pro-
11 ceeds of the policy under an agreement with the bene-
12 ficiaries. The insurer shall not be required to segregate
13 the funds so held but may hold them as part of its gen-
14 eral assets.

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

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

7 (b) The amount of principal and accrued interest of
8 any policy loan or other indebtedness against the policy
9 then remaining unpaid.

2 Sec. 29. *Dual or Multiple Pay Policies Prohibited.*—No
3 life insurance policy shall be delivered or issued for de-
4 livery in this State if it provides that on the death of
5 anyone not insured thereunder, the owner or beneficiary
6 of the policy shall receive the payment or granting of
7 anything of value.

2 Sec. 30. *Standard Nonforfeiture Law.*—(1) In the case
3 of policies issued on or after the original operative date
4 of this provision, no policy of life insurance, except as
5 stated in subsection six, shall be delivered or issued for
6 delivery in this State unless it shall contain in substance
7 the following provisions, or corresponding provisions
8 which in the opinion of the commissioner are at least as
9 favorable to the defaulting or surrendering policyholder:

10 (a) That, in the event of default in any premium pay-
11 ment, the insurer will grant, upon proper request not
12 later than sixty days after the due date of the premium
13 in default, a paid-up nonforfeiture benefit on a plan
14 stipulated in the policy, effective as of such due date, of
15 such value as may be hereinafter specified;

16 (b) That, upon surrender of the policy within sixty
17 days after the due date of any premium payment in de-
18 fault after premiums have been paid for at least three full
19 years, the insurer will pay, in lieu of any paid-up non-
20 forfeiture benefit, a cash surrender value of such amount as
21 may be hereinafter specified;

22 (c) That a specified paid-up nonforfeiture benefit shall
23 become effective as specified in the policy unless the per-
24 son entitled to make such election elects another avail-
25 able option not later than sixty days after the due date
26 of the premium in default;

27 (d) That, if the policy shall have become paid up by
28 completion of all premium payments or if it is continued
29 under any paid-up nonforfeiture benefit which became
30 effective on or after the third policy anniversary the in-
31 surer will pay, upon surrender of the policy within thirty
32 days after any policy anniversary, a cash surrender value
33 of such amount as may be hereinafter specified;

34 (e) A statement of the mortality table and interest rate
used in calculating the cash surrender values and the

35 paid-up nonforfeiture benefits available under the policy,
36 together with a table showing the cash surrender value,
37 if any, and paid-up nonforeifture benefits, if any, avail-
38 able under the policy on each policy anniversary either
39 during the first twenty policy years or during the term
40 of the policy, whichever is shorter, such values and bene-
41 fits to be calculated upon the assumption that there are
42 no dividends or paid-up additions credited to the policy
43 and that there is no indebtedness to the insurer on the
44 policy;

45 (f) A statement that the cash surrender values and
46 the paid-up nonforfeiture benefits available under the
47 policy are not less than the minimum values and benefits
48 required by or pursuant to the insurance law of the state
49 in which the policy is delivered; an explanation of the
50 manner in which the cash surrender values and the paid-
51 up nonforeifture benefits are altered by the existence of
52 any paid-up additions credited to the policy or any indebt-
53 edness to the company on the policy; if a detailed state-
54 ment of the method of computation of the values and
55 benefits shown in the policy is not stated therein, a state-
56 ment that such method of computation has been filed
57 with the insurance supervisory official of the state in
58 which the policy is delivered; and a statement of the
59 method to be used in calculating the cash surrender value
60 and paid-up nonforfeiture benefit available under the
61 policy on any policy anniversary beyond the last anni-
62 versary for which such values and benefits are consecu-
63 tively shown in the policy.

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

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

70 (2) Any cash surrender value available under the
71 policy in the event of default in a premium payment due
72 on any policy anniversary, whether or not required by
73 subsection one, shall be an amount not less than the ex-
74 cess, if any, of the present value, on such anniversary,

75 of the future guaranteed benefits which would have been
76 provided for by the policy, including any existing paid-
77 up additions, if there had been no default, over the sum
78 of (i) the then present value of the adjusted premiums
79 as defined in subsection four, corresponding to premiums
80 which would have fallen due on and after such anni-
81 versary, and (ii) the amount of any indebtedness to the
82 insurer on the policy. Any cash surrender value avail-
83 able within thirty days after any policy anniversary un-
84 der any policy paid up by completion of all premium
85 payments or any policy continued under any paid-up
86 nonforfeiture benefit, whether or not required by sub-
87 section one, shall be an amount not less than the present
88 value, on such anniversary, of the future guaranteed
89 benefits provided for by the policy, including any exist-
90 ing paid-up additions decreased by any indebtedness to
91 the insurer on the policy.

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

101 (4) The adjusted premiums for any policy shall be cal-
102 culated on an annual basis and shall be such uniform
103 percentage of the respective premiums specified in the
104 policy for each policy year, excluding extra premiums
105 on a substandard policy, that the present value, at the
106 date of issue of the policy, of all such adjusted premiums
107 shall be equal to the sum of (i) the then present value
108 of the future guaranteed benefits provided for by the
109 policy; (ii) two percent of the amount of insurance, if
110 the insurance be uniform in amount, or of the equivalent
111 uniform amount, as hereinafter defined, if the amount of
112 insurance varies with duration of the policy; (iii)
113 forty percent of the adjusted premium for the first policy
114 year; (iv) twenty-five percent of either the adjusted

115 premium for the first policy year or the adjusted premium
116 for a whole life policy of the same uniform or equivalent
117 uniform amount with uniform premiums for the whole
118 of life issued at the same age for the same amount of
119 insurance, whichever is less: *Provided, however,* That in
120 applying the percentages specified in (iii) and (iv) above,
121 no adjusted premium shall be deemed to exceed four
122 percent of the amount of insurance or level amount
123 equivalent thereto. The date of issue of a policy for the
124 purpose of this subsection shall be the date as of which
125 the rated age of the insured is determined.

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

136 All adjusted premiums and present values referred to in
137 this section shall be calculated on the basis of the commis-
138 sioners one thousand nine hundred forty-one standard
139 ordinary mortality table for ordinary insurance and the
140 one thousand nine hundred forty-one standard industrial
141 mortality table for industrial insurance and the rate of
142 interest, not exceeding three and one-half percent per
143 annum, specified in the policy for calculating cash sur-
144 render values and paid-up nonforfeiture benefits: *Pro-ⁱⁿ*
145 *vided,* That in calculating the present value of any paid-
146 up term insurance with accompanying pure endowment,
147 if any, offered as a nonforfeiture benefit, the rate of
148 mortality assumed may be not more than one hundred and
149 thirty percent of the rates of mortality according to such
150 applicable table: *Provided further,* That for insurance
151 issued on a substandard basis, the calculation of any such
152 adjusted premiums and present values may be based on
153 such other table of mortality as may be specified by the
154 insurer and approved by the commissioner.

155 (5) Any cash surrender value and any paid-up non-
156 forfeiture benefit, available under the policy in the event
157 of default in a premium payment due at any time other
158 than on the policy anniversary, shall be calculated with
159 allowance for the lapse of time and the payment of frac-
160 tional premiums beyond the last preceding policy anni-
161 versary. All values referred to in subsections two, three
162 and four may be calculated upon the assumption that any
163 death benefit is payable at the end of the policy year of
164 death. The net value of any paid-up additions, other than
165 paid-up term additions, shall be not less than the dividends
166 paid to provide such additions. Notwithstanding the pro-
167 visions of subsection two, additional benefits payable (a)
168 in the event of death or dismemberment by accident or
169 accidental means, (b) in the event of total and permanent
170 disability, (c) as reversionary or deferred reversionary
171 annuity benefits, (d) as ~~term~~ ^{reinsurance} benefits provided ~~by~~ [#]
172 by a rider or supplemental policy provision to which, if
173 issued as a separate policy, this section would not apply
174 and (e) as other policy benefits additional to life insur-
175 ance and endowment benefits, and premiums for all such
176 additional benefits, shall be disregarded in ascertaining
177 cash surrender values and nonforfeiture benefits required
178 by this section, and no such additional benefits shall be
179 required to be included in any paid-up nonforfeiture
180 benefits.

181 (6) This section shall not apply to any reinsurance,
182 group insurance, pure endowment, annuity or reversion-
183 ary annuity contract, nor to any term policy of uniform
184 amount, or renewal thereof, of fifteen years or less expir-
185 ing before age sixty-six, for which uniform premiums
186 are payable during the entire term of the policy, nor
187 to any term policy of decreasing amount on which each
188 adjusted premium, calculated as specified in subsection
189 four, is less than the adjusted premium so calculated on
190 a policy issued at the same age and for the same initial
191 amount of insurance for a term defined as follows—for
192 ages at issue ~~fifty~~ and under the term shall be fifteen
193 years, thereafter, the terms shall decrease one year for
194 each year of age beyond fifty, nor to any policy for
195 which shall be delivered outside this State through an

196 agent or other representative of the insurer issuing the
197 policy.

Sec. 31. *Required Provisions, Industrial Life Insurance.*

2 —No policy of industrial life insurance, which is that form
3 of life insurance provided by an individual insurance con-
4 tract under which premiums are payable monthly or
5 oftener, and bearing the words “industrial policy” or
6 “weekly premium policy” printed upon the policy as a
7 part of the descriptive matter, shall be delivered or be
8 issued for delivery in this State unless it complies with
9 sections sixteen, twenty-five, twenty-six, twenty-nine,
10 and thirty of this article, nor unless such policy contains
11 in substance the applicable provisions set forth in sections
12 thirty-two to forty-four, inclusive, of this article.

Sec. 32. *Grace Period, Industrial Life Insurance.*—There

2 shall be a provision in each industrial life insurance policy
3 that the insured is entitled to a grace period of four weeks
4 within which the payment of any premium after the first
5 may be made, except that in policies the premiums for
6 which are payable monthly, the period of grace shall be
7 not less than thirty-one days, and that during the period
8 of grace the policy shall continue in full force, but if
9 during the grace period the policy becomes a claim, then
10 any overdue and unpaid premiums may be deducted from
11 any settlement under the policy.

Sec. 33. *Entire Contract, Industrial Life Insurance.*—

2 There shall be a provision in each industrial life insur-
3 ance policy that the policy shall constitute the entire con-
4 tract between the parties, or, if a copy of the application
5 is endorsed upon or attached to the policy when issued, a
6 provision that the policy and the application therefor
7 shall constitute the entire contract. If the application is
8 so made a part of the contract, the policy shall also provide
9 that all statements made by the applicant in such applica-
10 tion shall, in the absence of fraud, be deemed to be repre-
11 sentations and not warranties.

Section 34. *Incontestability, Industrial Life Insurance.*—

2 There shall be a provision in each industrial life insurance
3 policy that the policy (exclusive of provisions relating to

4 disability benefits or to additional benefits in the event of
5 death by accident or accidental means) shall be incontest-
6 able, except for non-payment of premiums, after it has
7 been in force during the lifetime of the insured for a
8 period of two years from its date of issue.

Sec. 35. *Misstatement of Age, Industrial Life Insurance.*

2 —There shall be a provision in each industrial life insur-
3 ance policy that if it is found that the age of the individual
4 insured, or the age of any other individual considered in
5 determining the premium, has been misstated, any amount
6 payable or benefit accruing under the policy shall be such
7 as the premium would have purchased at the correct age
8 or ages.

Sec. 36. *Dividends, Industrial Life Insurance.*—If an

2 industrial life insurance policy is a participating policy,
3 there shall be a provision that the insurer shall annually
4 ascertain and apportion any divisible surplus accruing on
5 the policy, except that at the option of the insurer such
6 participation may be deferred to the end of the fifth policy
7 year. This provision shall not prohibit the payment of
8 additional dividends on default of payment of premiums
9 or termination of the policy.

Sec. 37. *Nonforfeiture Benefits, Industrial Life Insur-*

2 *ance.*—There shall be in each policy of industrial life in-
3 surance provisions for nonforfeiture benefits and cash
4 surrender values as required by section thirty of this
5 article.

Sec. 38. *Reinstatement, Industrial Life Insurance.*—

2 There shall be in each industrial life insurance policy a
3 provision that unless the policy has been surrendered for
4 its cash surrender value or unless the paid-up term insur-
5 ance, if any, has expired, the policy will be reinstated at
6 any time within two years from the date of premium
7 default upon written application therefor, the production
8 of evidence of insurability satisfactory to the insurer, the
9 payment of all premiums in arrears, and the payment or
10 reinstatement of any other indebtedness to the insurer
11 upon the policy, all with interest at a rate not exceeding
12 six percent per annum compounded annually.

2 Sec. 39. *Settlement, Industrial Life Insurance.*—There
3 shall be a provision in each industrial life insurance policy
4 that when the policy becomes a claim by the death of the
5 insured, settlement shall be made upon surrender of the
6 policy and receipt of due proof of death.

2 Sec. 40. *Beneficiary and Facility of Payment Clause,*
3 *Industrial Life Insurance.*—(a) Each such industrial life
4 insurance policy shall have a space on the front or back
5 page of the policy for the name of the beneficiary desig-
6 nated with a reservation of the right to designate or change
7 the beneficiary after the issuance of the policy.

8 (b) The policy may also provide that no designation or
9 change of beneficiary shall be binding on the insurer unless
10 endorsed on the policy by the insurer, and that the insurer
11 may refuse to endorse the name of any proposed benefi-
12 ciary who does not appear to the insured to have an
13 insurable interest in the life of the insured. Such a policy
14 may also provide that if the beneficiary designated in the
15 policy does not surrender the policy with due proof of
16 death within the period stated in the policy, which shall
17 be not less than thirty days after the death of the insured,
18 or if the beneficiary is the estate of the insured or is a
19 minor, or dies before the insured, or is not legally compe-
20 tent to give a valid release, then the insurer may make
21 payment thereunder to the executor or administrator of
22 the insured, or to any of the insured's relatives by blood
23 or legal adoption or connection by marriage, or to any per-
24 son appearing to the insurer to be equitably entitled
25 thereto by reason of having been named beneficiary, or
26 by reason of having incurred expense for the maintenance,
27 medical attention or burial of the insured. Such policy
28 may also include a similar provision applicable to any
other payment due under the policy.

2 Sec. 41. *Direct Payment of Industrial Life Insurance*
3 *Premiums.*—In the case of weekly premium industrial life
4 insurance policies, there may be a provision that upon
5 proper notice to the insurer, while premiums on the policy
6 are not in default beyond the grace period, of the intention
7 to pay future premiums directly to the insurer at its home
office or any office designated by the insurer for the pur-

8 pose, the insurer will, at the end of each period of a year
9 from the due date of the first premium so paid, for which
10 period such premiums are so paid continuously without
11 default beyond the grace period, refund a stated percent-
12 age of the premiums in an amount which fairly represents
13 the savings in collection expense.

Sec. 42. *Conversion of Weekly Industrial Life Insurance*
2 *Policies.*—There shall be a provision in the case of weekly
3 premium industrial life insurance policies granting to the
4 insured, upon proper written request and upon presenta-
5 tion of evidence of insurability satisfactory to the insurer,
6 the privilege of converting a weekly premium industrial
7 insurance policy to any form of life insurance with less
8 frequent premium payments regularly issued by the in-
9 surer, in accordance with terms and conditions agreed
10 upon with the insurer. The privilege of making such con-
11 version need be granted only if the insurer's weekly
12 premium industrial policies on the life insured, in force
13 as premium paying insurance and on which conversion is
14 requested, grant benefits in event of death, exclusive of
15 additional accidental death benefits and exclusive of any
16 dividend additions, in an amount not less than the mini-
17 mum amount of such insurance with less frequent pre-
18 mium payments issued by the insurer at the age of the
19 insured on the plan of industrial or ordinary insurance
20 desired.

Sec. 43. *Conversion of Monthly Industrial Life Insur-*
2 *ance Policies.*—There shall be a provision, in the case of
3 monthly premium industrial life insurance policies, grant-
4 ing, upon proper written request and upon presentation
5 of evidence of insurability satisfactory to the insurer, the
6 privilege of converting a monthly premium industrial
7 life insurance policy to any form of ordinary life insur-
8 ance regularly issued by the insurer, in accordance with
9 terms and conditions agreed upon with the insurer. The
10 privilege of making such conversion need be granted only
11 if the insurer's monthly premium industrial policies on
12 the life insured, in force as premium paying insurance
13 and on which conversion is requested, grant benefits in
14 event of death, exclusive of additional accidental death

15 benefits and exclusive of any dividend additions, in an
16 amount not less than the minimum amount of ordinary
17 insurance issued by the insurer at the age of the insured
18 on the plan of ordinary insurance desired.

Sec. 44. *Title of Industrial Life Insurance Policies.*—

2 There shall be a title on the face of each industrial life
3 insurance policy briefly describing its form.

Sec. 45. *Application of Industrial Life Provisions to*

2 *Term or Specified Insurance.*—Any of the provisions re-
3 quired in industrial life insurance policies by sections
4 thirty-two to forty-four, inclusive, of this article or any
5 portion thereof which are not applicable to single pre-
6 mium or term policies or to policies issued or granted
7 pursuant to nonforfeiture provisions shall to that extent
8 not be incorporated therein.

Sec. 46. *Prohibited Provisions in Industrial Life Insur-*
2 *ance Policies.*—No policy of industrial life insurance shall
3 contain any of the following provisions:

4 (a) A provision by which the insurer may deny liability
5 under the policy for the reason that the insured has pre-
6 viously obtained other insurance from the same insurer.

7 (b) A provision giving the insurer the right to declare
8 the policy void because the insured has had any disease
9 or ailment, whether specified or not, or because the in-
10 sured has received institutional, hospital, medical or sur-
11 gical treatment or attention, except a provision which
12 gives the insurer the right to declare the policy void if
13 the insured has, within two years prior to the issuance
14 of the policy, received institutional, hospital, medical or
15 surgical treatment or attention and if the insured or
16 claimant under the policy fails to show that the condition
17 occasioning such treatment or attention was not of a
18 serious nature or was not material to the risk.

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

Sec. 47. *Burial Insurance.*—(a) Burial insurance is that

2 type of insurance whereby an insurer agrees to pay for
3 any or all of the incidents of the burial of the body of a
4 named or designated person, whether such insurance is
5 evidenced or effected by any kind of agreement, policy,
6 contract, bond, assurance, guarantee, by-law, regulation,
7 or otherwise. No provision of this article except this sec-
8 tion shall apply to burial insurance, and no provision of
9 article fourteen of this chapter shall apply to burial in-
10 surance.

11 (b) Burial insurance shall be transacted only by in-
12 surers licensed in this State to transact life insurance.

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

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

Article 14. Group Life Insurance

Section 1. Contracts Must Meet Group Requirements.—

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

8 (b) Paragraph (a), above, shall not apply to life insur-
9 ance policies:

10 (1) Insuring only individuals related by marriage,
11 blood or legal adoption;

12 (2) Insuring only individuals having a common interest
13 through ownership of a business enterprise, or a sub-
14 stantial legal interest or equity therein, and who are ac-
15 tively engaged in the management thereof; or

16 (3) Insuring only individuals otherwise having an in-
17 surable interest in each other's lives.

18 (c) Nothing in this article validates any charge or prac-
19 tice illegal under any rule of law or regulation governing
20 usury, small loans, retail instalment sales, or the like, or
21 extends the application of any such rule of law or regula-
22 tion to any transaction not otherwise subject thereto.

Sec. 2. *Employee Groups.*—The lives of a group of in-
2 dividuals may be insured under a policy issued to an
3 employer, or to the trustees of a fund established by an
4 employer, which employer or trustees shall be deemed
5 the policyholder, to insure employees of the employer
6 for the benefit of persons other than the employer, subject
7 to the following requirements:

8 (a) The employees eligible for insurance under the
9 policy shall be all of the employees of the employer, or
10 all of any class or classes thereof determined by condi-
11 tions pertaining to their employment. The policy may
12 provide that the term “employees” shall include the em-
13 ployees of one or more subsidiary corporations, and the
14 employees, individual proprietors, and partners of one
15 or more affiliated corporations, proprietors or partnerships
16 if the business of the employer and of such affiliated cor-
17 porations, proprietors or partnerships is under common
18 control through stock ownership, contract or otherwise.
19 The policy may provide that the term “employees” shall
20 include the individual proprietor or partners if the em-
21 ployer is an individual proprietor or a partnership. The
22 policy may provide that the term “employees” shall in-
23 clude retired employees. No director of a corporate em-
24 ployer shall be eligible for insurance under the policy
25 unless such person is otherwise eligible as a bona fide
26 employee of the corporation by performing services other
27 than the usual duties of a director. No individual pro-
28 prietor or partner shall be eligible for insurance under
29 the policy unless he is actively engaged in and devotes a
30 substantial part of his time to the conduct of the business
31 of the proprietor or partnership. A policy issued to trus-
32 tees may provide that the term “employees” shall include
33 the trustees or their employees, or both, if their duties
34 are principally connected with such trusteeship. A policy
35 issued to insure the employees of a public body may pro-

36 vide that the term "employees" shall include elected or
37 appointed officials.

38 (b) The premium for the policy shall be paid by the
39 policyholder, either wholly from the employer's funds or
40 funds contributed by him or partly from such funds and
41 partly from funds contributed by the insured employees.
42 No policy may be issued on which the entire premium is
43 to be derived from funds contributed by the insured em-
44 ployees, except that the entire premium may be paid from
45 funds contributed by the insured employees if the amount
46 of insurance does not exceed one thousand dollars on the
47 life of any employee. A policy on which part of the
48 premium is to be derived from funds contributed by the
49 insured employees may be placed in force only if at least
50 seventy-five percent of the then eligible employees, ex-
51 cluding any as to whom evidence of individual insura-
52 bility is not satisfactory to the insurer, elect to make the
53 required contributions. A policy on which no part of the
54 premium is to be derived from funds contributed by the
55 insured employees must insure all eligible employees, or
56 all except any as to whom evidence of individual insur-
57 ability is not satisfactory to the insurer.

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

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

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

5 (a) The debtors eligible for insurance under the policy
6 shall be all of the debtors of the creditor whose indebted-
7 ness is repayable either (i) in instalments, or (ii) in one
8 sum at the end of a period not in excess of eighteen
9 months from the initial date of debt, or all of any class
10 or classes thereof determined by conditions pertaining to
11 the indebtedness or to the purchase giving rise to the
12 indebtedness. The policy may provide that the term
13 "debtors" shall include the debtors of one or more sub-

14 subsidiary corporations, and the debtors of one or more affi-
15 liated corporation, proprietors, or partnerships if the
16 business of the policyholder and of such affiliated cor-
17 porations, proprietors or partnerships is under common
18 control through stock ownership, contract or otherwise.
19 No debtor shall be eligible unless the indebtedness con-
20 stitutes an obligation to repay which is binding upon him
21 during his lifetime, at and from the date the insurance
22 becomes effective upon his life.

23 (b) The premium for the policy shall be paid by the
24 policyholder, either from the creditor's funds, or from
25 charges collected from the insured debtors, or from both.
26 A policy on which part or all of the premium is to be
27 derived from the collection from the insured debtors of
28 identifiable charges not required of uninsured debtors
29 shall not include, in the class or classes of debtors eligible
30 for insurance, debtors under obligations outstanding at
31 its date of issue without evidence of individual insura-
32 bility unless at least seventy-five percent of the then
33 eligible debtors elect to pay the required charges. A
34 policy on which no part of the premium is to be derived
35 from the collection of such identifiable charges must in-
36 sure all eligible debtors, or all except any as to whom
37 evidence of individual insurability is not satisfactory to
38 the insurer.

39 (c) The policy may be issued only if the group of
40 eligible debtors is then receiving new entrants at the rate
41 of at least one hundred persons yearly, or may reasonably
42 be expected to receive at least one hundred new entrants
43 during the first policy year, and only if the policy reserves
44 to the insurer the right to require evidence of individual
45 insurability if less than seventy-five percent of the new
46 entrants become insured. The policy may exclude from
47 the classes eligible for insurance classes of debtors de-
48 termined by age.

49 (d) The amount of insurance on the life of any debtor
50 shall at no time exceed the amount owed by him which
51 is repayable in instalments to the creditor, or ten thou-
52 sand dollars, whichever is less. Where the indebtedness
53 is repayable in one sum to the creditor, the insurance on
54 the life of any debtor shall in no instance be in effect

55 for a period in excess of eighteen months except that
56 such insurance may be continued for an additional period
57 not exceeding six months in the case of default, exten-
58 sion or recasting of the loan. The amount of the insurance
59 on the life of any debtor shall at no time exceed the
60 amount of the unpaid indebtedness, or ten thousand dol-
61 lars, whichever is less.

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

Sec. 4. *Labor Union Groups.*—The lives of a group of
2 individuals may be insured under a policy issued to a
3 labor union, which shall be deemed the policyholder, to
4 insure members of such union for the benefit of persons
5 other than the union or any of its officials, representatives
6 or agents, subject to the following requirements:

7 (a) The members eligible for insurance under the policy
8 shall be all of the members of the union, or all of any
9 class or classes thereof determined by conditions pertain-
10 ing to their employment, or to membership in the union,
11 or both.

12 (b) The premium for the policy shall be paid by the
13 policyholder, either wholly from the union's funds, or
14 partly from such funds and partly from funds contributed
15 by the insured members specifically for their insurance,
16 except that the entire premium may be paid from funds
17 contributed by the insured members specifically for their
18 insurance if the amount of insurance does not exceed one
19 thousand dollars on the life of any member. A policy on
20 which part of the premium is to be derived from funds
21 contributed by the insured members specifically for their
22 insurance may be placed in force only if at least seventy-
23 five percent of the then eligible members, excluding any
24 as to whom evidence of individual insurability is not satis-
25 factory to the insurer, elect to make the required con-
26 tributions. A policy on which no part of the premium is
27 to be derived from funds contributed by the insured mem-
28 bers specifically for their insurance must insure all eligible
29 members, or all except any as to whom evidence of in-
30 dividual insurability is not satisfactory to the insurer.

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

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

Sec. 5. *Trustee Groups.*—The lives of a group of indi-
2 viduals may be insured under a policy issued to the
3 trustees of a fund established by two or more employers
4 in the same industry or by one or more labor unions, or
5 by one or more employers and one or more labor unions,
6 which trustees shall be deemed the policyholders, to
7 insure employees of the employers or members of the
8 union for the benefit of persons other than the employers
9 or the unions, subject to the following requirements:

10 (a) The persons eligible for insurance shall be all of
11 the employees of the employers or all of the members of
12 the unions, or all of any class or classes thereof deter-
13 mined by conditions pertaining to their employment, or
14 to membership in the unions, or to both. The policy may
15 provide that the term “employees” shall include retired
16 employees, and the individual proprietor or partner if an
17 employer is an individual proprietor or a partnership. No
18 director of a corporate employer shall be eligible for in-
19 surance under the policy unless such person is otherwise
20 eligible as a bona fide employee of the corporation by per-
21 forming services other than the usual duties of a director.
22 No individual proprietor or partner shall be eligible for
23 insurance under the policy unless he is actively engaged
24 in and devotes a substantial part of his time to the conduct
25 of the business of the proprietor or partnership. The policy
26 may provide that the term “employees” shall include the
27 trustees or their employees, or both, if their duties are
28 principally connected with such trusteeship.

29 (b) The premium for the policy shall be paid by the
30 trustees wholly from funds contributed by the employer
31 or employers of the insured persons, or by the union or
32 unions, or by both, or partly from such funds and partly
33 from funds contributed by the insured persons. No policy
34 may be issued on which the entire premium is to be de-
35 rived from funds contributed by the insured persons

36 specifically for their insurance. A policy on which part
37 of the premium is to be derived from funds contributed
38 by the insured persons specifically for their insurance
39 may be placed in force only if at least seventy-five per-
40 cent of the then eligible persons, excluding any as to
41 whom evidence of insurability is not satisfactory to the
42 insurer, elect to make the required contributions. A
43 policy on which no part of the premium is to be derived
44 from funds contributed by the insured persons specifically
45 for their insurance must insure all eligible persons, or all
46 except any as to whom evidence of individual insurability
47 is not satisfactory to the insurer.

48 (c) The policy must cover at date of issue at least one
49 hundred persons and not less than an average of five per-
50 sons per employer unit; and if the fund is established by
51 the members of an association of employers the policy
52 may be issued only if (A) either (1) the participating
53 employers constitute at date of issue at least sixty percent
54 of those employer members whose employees are not
55 already covered for group life insurance or (2) the total
56 number of persons covered at date of issue exceeds six
57 hundred; and (B) the policy shall not require that, if a
58 participating employer discontinues membership in the
59 association, the insurance of his employees shall cease
60 solely by reason of such discontinuance.

61 (d) The amounts of insurance under the policy must
62 be based upon some plan precluding individual selection
63 either by the insured persons or by the policyholder,
64 employers, or unions.

Sec. 6. *Limit as to Amount.*—No such policy of group
2 life insurance may be issued to an employer, or to a labor
3 union, or to the trustees of a fund established in whole or
4 in part by an employer or a labor union, which provides
5 term insurance on any person which together with any
6 other term insurance under any group life insurance policy
7 or policies issued to the employer or employers of such
8 person or to a labor union or labor unions of which such
9 person is a member or to the trustees of a fund or funds
10 established in whole or in part by such employer or em-
11 ployers or such labor union or labor unions, exceeds

12 twenty thousand dollars, unless one hundred and fifty
 13 percent of the annual compensation of such person from
 14 his employer or employers exceeds twenty thousand dol-
 15 lars, in which event all such term insurance shall not
 16 exceed forty thousand dollars or one hundred and fifty
 17 percent of such annual compensation, whichever is the
 18 lesser.

Sec. 7. *Dependent Coverage.*—Any policy issued pursu-
 2 ant to sections two, four and five of this article may be
 3 extended to insure the employees or members against
 4 loss due to the death of their spouses and minor children,
 5 or any class or classes thereof, subject to the following
 6 requirements:

7 (a) The premium for the insurance shall be paid by
 8 the policyholder, either from the employer's or union's
 9 funds or funds contributed by the employer or union, or
 10 from funds contributed by the insured employees or mem-
 11 bers, or from both. If any part of the premium is to be
 12 derived from funds contributed by the insured employees
 13 or members, the insurance with respect to spouses and
 14 children may be placed in force only if at least seventy-
 15 five percent of the then eligible employees or members,
 16 excluding any as to whose family members evidence of
 17 insurability is not satisfactory to the insurer, elect to make
 18 the required contribution. If no part of the premium is
 19 to be derived from funds contributed by the employees
 20 or members, all eligible employees or members, excluding
 21 any as to whose family members evidence of insurability
 22 is not satisfactory to the insurer, must be insured with
 23 respect to their spouses and children.

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

29 Age of Family Member	Maximum Amount
30 at Death	of Insurance
31 Under 6 months.....	\$ 100.00
32 6 months and under 2 years.....	200.00
33 2 years and under 3 years.....	400.00

34	3 years and under 4 years.....	600.00
35	4 years and under 5 years.....	800.00
36	5 years and over.....	1,000.00

37 (c) Upon termination of the insurance with respect to
38 the members of the family of any employee or member
39 by reason of the employee's or member's termination of
40 employment, termination of membership in the class or
41 classes eligible for coverage under the policy, or death, the
42 spouse shall be entitled to have issued by the insurer,
43 without evidence of insurability, an individual policy of
44 life insurance without disability or other supplementary
45 benefits, providing application for the individual policy
46 shall be made, and the first premium paid to the insurer,
47 within thirty-one days after such termination, subject to
48 the requirements of paragraphs (a), (b) and (c) of sec-
49 tion sixteen of this article. If the group policy terminates
50 or is amended so as to terminate the insurance of any
51 class of employees or members and the employee or mem-
52 ber is entitled to have issued an individual policy under
53 section seventeen of this article, the spouse shall also be
54 entitled to have issued by the insurer an individual policy,
55 subject to the conditions and limitations provided above.
56 If the spouse dies within the period during which he
57 would have been entitled to have an individual policy
58 issued in accordance with this provision, the amount of life
59 insurance which he would have been entitled to have
60 issued under such individual policy shall be payable as a
61 claim under the group policy, whether or not application
62 for the individual policy or the payment of the first
63 premium therefor has been made.

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

Sec. 8. *Group Life Standard Provisions.*—(a) Except as
2 set forth in subsection (b), below, no policy of group life
3 insurance shall be delivered in this State unless it con-
4 tains in substance the standard provisions as required by
5 sections nine to eighteen, inclusive, of this article, or pro-
6 visions which in the opinion of the commissioner are more

7 favorable to the persons insured, or at least as favorable
8 to the persons insured and more favorable to the policy-
9 holder.

10 (b) The provisions of sections fourteen to eighteen,
11 inclusive, of this article shall not apply to policies issued
12 to a creditor to insure debtors of such creditor. The
13 standard provisions required for individual life insurance
14 policies shall not apply to group life insurance policies.
15 If the group life insurance policy is on a plan of insurance
16 other than the term plan, it shall contain a nonforfeiture
17 provision or provisions which in the opinion of the com-
18 missioner is or are equitable to the insured persons and
19 to the policyholder, but nothing herein shall be construed
20 to require that group life insurance policies contain the
21 same nonforfeiture provisions as are required for indi-
22 vidual life insurance policies.

Sec. 9. *Grace Period.*—In group life policies there shall
2 be a provision that the policyholder is entitled to a grace
3 period of thirty-one days for the payment of any premium
4 due except the first, during which grace period the death
5 benefit coverage shall continue in force, unless the policy-
6 holder shall have given the insurer written notice of dis-
7 continuance in advance of the date of discontinuance and
8 in accordance with the terms of the policy. The policy
9 may provide that the policyholder shall be liable to the
10 insurer for the payment of a pro rata premium for the
11 time the policy was in force during such grace period.

Sec. 10. *Incontestability.*—In group life policies there
2 shall be a provision that the validity of the policy shall
3 not be contested, except for nonpayment of premiums,
4 after it has been in force for two years from its date of
5 issue; and that no statement made by any person insured
6 under the policy relating to his insurability shall be used
7 in contesting the validity of the insurance with respect to
8 which such statement was made after such insurance has
9 been in force prior to the contest for a period of two years
10 during such person's lifetime nor unless it is contained in
11 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

6 benefits are payable, and the rights and conditions set
7 forth in sections sixteen, seventeen, and eighteen of this
8 article.

Sec. 16. *Conversion on Termination of Eligibility.*—In
2 group life policies there shall be a provision that if the
3 insurance, or any portion of it, on a person covered under
4 the policy, other than the child of an employee insured
5 pursuant to section seven of this article, ceases because of
6 termination of employment or of membership in the class
7 or classes eligible for coverage under the policy, such per-
8 son shall be entitled to have issued to him by the insurer,
9 without evidence of insurability, an individual policy of
10 life insurance without disability or other supplementary
11 benefits, provided application for the individual policy
12 shall be made, and the first premium paid to the insurer,
13 within thirty-one days after such termination: *Provided*
14 *further that*

15 (a) The individual policy shall, at the option of such
16 person, be on any one of the forms of insurance then
17 customarily issued by the insurer, except term insurance,
18 at the age and for the amount applied for, except that
19 there shall be available to a person whose term insurance
20 under the group policy ceases, as provided above, pre-
21 liminary or interim term insurance for not more than one
22 year from such termination;

23 (b) The individual policy shall be in an amount not in
24 excess of the amount of life insurance which ceases
25 because of such termination, provided that any amount of
26 insurance which shall have matured on or before the date
27 of such termination as an endowment payable to the per-
28 son insured, whether in one sum or in instalments or in
29 the form of an annuity, shall not, for the purposes of this
30 provision, be included in the amount which is considered
31 to cease because of such termination; and

32 (c) The premium on the individual policy shall be at
33 the insurer's then customary rate applicable to the form
34 and amount of the individual policy, to the class of risk to
35 which such person then belongs, and to his age attained
36 on the effective date of the individual policy.

Sec. 17. *Conversion on Termination of Policy.*—In group

2 life policies there shall be a provision that if the group
3 policy terminates or is amended so as to terminate the
4 insurance of any class of insured persons, every person
5 insured thereunder at the date of such termination, other
6 than a child of an employee insured pursuant to section
7 seven of this article, whose insurance terminates and who
8 has been so insured for at least three years under a group
9 policy issued five years or more prior to such termination
10 date, shall be entitled to have issued to him by the insurer
11 an individual policy of life insurance, subject to the same
12 conditions and limitations as are provided by section six-
13 teen of this article, except that term insurance shall not
14 be available and, except that the group policy may provide
15 that the amount of such individual policy shall not exceed
16 the smaller of (a) the amount of the person's life insur-
17 ance protection ceasing because of the termination or
18 amendment of the group policy, less the amount of any
19 life insurance for which he is or becomes eligible under
20 any group policy issued or reinstated by the same or
21 another insurer within thirty-one days after such termi-
22 nation, and (b) two thousand dollars.

Sec. 18. *Death Pending Conversion.*—In group life poli-
2 cies there shall be a provision that if a person insured
3 under the group policy dies during the period within
4 which he would have been entitled to have an individual
5 policy issued to him in accordance with sections sixteen
6 and seventeen of this article and before such an individual
7 policy shall have become effective, the amount of life
8 insurance which he would have been entitled to have
9 issued to him under such individual policy shall be pay-
10 able as a claim under the group policy, whether or not
11 application for the individual policy or the payment of
12 the first premium therefor has been made.

Sec. 19. *Certificate or Statement of Coverage to Debtor.*
2 —In the case of a group life policy issued to a creditor to
3 insure debtors of such creditor, there shall be a provision
4 in such policy that the insurer will furnish to the policy-
5 holder for delivery to each debtor insured under the policy
6 a certificate or statement of coverage form which shall
7 contain a statement that the life of the debtor is insured

8 under the policy and that any death benefit paid there-
9 under by reason of his death shall be applied to reduce or
10 extinguish the indebtedness.

Sec. 20. *Notice of Conversion Rights.*—If any individual
2 insured under a group life insurance policy hereafter de-
3 livered in this State becomes entitled under the terms of
4 such policy to have an individual policy of life insurance
5 issued to him without evidence of insurability, subject to
6 making of application and payment of the first premium
7 within the period specified in such policy, and if such
8 individual is not given notice of the existence of such
9 right at least fifteen days prior to the expiration date of
10 such period, then, in such event the individual shall have
11 an additional period within which to exercise such right,
12 but nothing contained in this section shall be construed
13 to continue any insurance beyond the period provided in
14 such policy. Such additional period shall expire fifteen
15 days next after the individual is given such notice but
16 in no event shall such additional period extend beyond
17 sixty days next after the expiration date of the period
18 provided in such policy. Written notice presented to the
19 individual or mailed by the policyholder to the last known
20 address of the individual or mailed by the insurer to the
21 last known address of the individual as furnished by the
22 policyholder shall constitute notice for the purpose of this
23 section.

Sec. 21. *Application of Dividends; Rate Reductions.*—
2 Any policy dividends hereafter declared, or reduction in
3 rate of premiums hereafter made or continued for the
4 first or any subsequent year of insurance, under any policy
5 of group life insurance heretofore or hereafter issued to
6 any policyholder may be applied to reduce the policy-
7 holder's part of the cost of such insurance, except that if
8 the aggregate dividends or refunds or credits under such
9 group life policy and any other group policy or contract
10 issued to the policyholder exceed the aggregate contribu-
11 tions of the policyholder toward the cost of the coverages,
12 including expenditures made in connection with adminis-
13 tration of such policies, such excess shall be applied by the

14 policyholder for the sole benefit of insured employees or
15 members.

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

6 found that the sex, age, service, salary or any other fact
7 determining the amount of any stipulated payment or
8 the amount or date or dates of payment of any benefit
9 with respect to any annuitant covered thereby has been
10 misstated.

Sec. 26. *Termination Benefits of Group Annuity.*—In
2 group annuity contracts there shall be a provision or pro-
3 visions, with an appropriate reference thereto in the
4 certificate, specifying the nature and basis of ascertain-
5 ment of the benefits which will be available to an annuit-
6 ant who contributes to the cost of the annuity and the con-
7 ditions of payment thereof in the event of either the termi-
8 nation of employment of the annuitant, except by death,
9 or the discontinuance of stipulated payments under the
10 contract. Such provision or provisions shall, in either of
11 such events, make available to an annuitant who con-
12 tributed to the cost of the annuity a paid-up annuity pay-
13 able commencing at a fixed date in an amount at least
14 equal to that purchased by the contributions of the
15 annuitant, determinable as of the respective dates of pay-
16 ment of the several contributions, as shown by a schedule
17 in the contract for that purpose, based upon the same
18 mortality table, rate of interest and loading formula used
19 in computing the stipulated payments under such contract.
20 Such provision or provisions may, by way of exception
21 to the foregoing, provide that if the amount of the annuity
22 determined as aforesaid from such fixed commencement
23 date would be less than one hundred twenty dollars
24 annually, the insurer may at its option, in lieu of granting
25 such paid-up annuity, pay a cash surrender value at least
26 equal to that hereinafter provided.

27 If a cash surrender value, in lieu of such paid-up
28 annuity, is allowed to the annuitant by the terms of such
29 contract, it may be either in a single sum or in equal
30 instalments over a period of not more than twelve months
31 and it shall at least equal either (a) or (b), whichever is
32 less:

33 (a) The amount of reserve attributable to the annuit-
34 ant's contributions less a surrender charge not exceeding

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:

4 (a) The entire money and other considerations therefor
5 are expressed therein; and

6 (b) The time at which the insurance takes effect and
7 terminates is expressed therein; and

8 (c) It purports to insure only one person, except that
9 a policy may insure, originally or by subsequent amend-
10 ment upon the application of an adult member of a family
11 who shall be deemed the policyholder, any two or more
12 eligible members of that family, including husband, wife,
13 dependent children or any children under a specified age
14 which shall not exceed nineteen years and any other
15 person dependent upon the policyholder; and

16 (d) The style, arrangement and over-all appearance of
17 the policy give no undue prominence to any portion of the
18 text, and unless every printed portion of the text of the
19 policy and of any endorsements or attached papers is
20 plainly printed in light-faced type of a style in general
21 use, the size of which shall be uniform and not less than
22 ten-point with a lower-case unspaced alphabet length not
23 less than one hundred and twenty-point (the "text" shall
24 include all printed matter except the name and address
25 of the insurer, name or title of the policy, the brief
26 description, if any, and captions and subcaptions), the
27 policy shall clearly indicate on the first page its optionally
28 renewable nature; and

29 (e) The exceptions and reductions of indemnity are set
30 forth in the policy and, except those which are set forth
31 in sections four and five of this article, are printed, at
32 the insurer's option, either included with the benefit pro-
33 vision to which they apply, or under an appropriate
34 caption such as "Exceptions", or "Exceptions and Re-
35 ductions": *Provided*, That if an exception or reduction
36 specifically applies only to a particular benefit of the
37 policy, a statement of such exception or reduction shall
38 be included with the benefit provision to which it applies;
39 and

40 (f) Each such form, including riders and endorsements,
41 shall be identified by a form number in the lower left-
42 hand corner of the first part thereof; and

43 (g) It contains no provision purporting to make any

44 portion of the charter, rules, constitution, or by-laws of
45 the insurer a part of the policy unless such portion is set
46 forth in full in the policy, except in the case of the in-
47 corporation of, or reference to, a statement of rates or
48 classification of risks, or short-rate table filed with the
49 commissioner.

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

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

15 (a) A provision as follows:

16 "Entire Contract; Changes: This policy, including the
17 endorsements and the attached papers, if any, constitutes
18 the entire contract of insurance. No change in this policy
19 shall be valid until approved by an executive officer of

20 the insurer and unless such approval be endorsed hereon
21 or attached hereto. No agent has authority to change this
22 policy or to waive any of its provisions.”

23 (b) A provision as follows:

24 “Time Limit on Certain Defenses: (1) After two years
25 from the date of issue of this policy no misstatements,
26 except fraudulent misstatements, made by the applicant
27 in the application for such policy shall be used to void
28 the policy or to deny a claim for loss incurred or disability
29 (as defined in the policy) commencing after the expira-
30 tion of such two year period.”

31 The foregoing policy provision shall not be so construed
32 as to affect any legal requirement for avoidance of a
33 policy or denial of a claim during such initial two year
34 period, nor to limit the application of clauses (a), (b),
35 (c), (d) and (e) of section five of this article in the event
36 of misstatement with respect to age or occupation or other
37 insurance. A policy which the insured has the right to
38 continue in force subject to its terms by the timely pay-
39 ment of premium (i) until at least age fifty, or (ii) in
40 the case of a policy issued after age forty-four, for at
41 least five years from its date of issue, may contain in lieu
42 of the foregoing the following provision (from which the
43 clause in parentheses may be omitted at the insurer's
44 option) under the caption “Incontestable”:

45 “After this policy has been in force for a period of two
46 years during the lifetime of the insured (excluding any
47 period during which the insured is disabled), it shall be-
48 come incontestable as to the statements contained in the
49 application.

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

57 (c) A provision as follows:

58 “Grace Period: A grace period of _____ (insert a
59 number not less than ‘7’ for weekly premium policies,

60 '10' for monthly premium policies and '31' for all other
61 policies) days will be granted for the payment of each
62 premium falling due after the first premium, during which
63 grace period the policy shall continue in force."

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

72 (d) A provision as follows:

73 "Reinstatement: If any renewal premium be not paid
74 within the time granted the insured for payment, a sub-
75 sequent acceptance of premium by the insurer or by any
76 agent duly authorized by the insurer to accept such
77 premium, without requiring in connection therewith an
78 application for reinstatement, shall reinstate the policy:
79 *Provided, however,* That if the insurer or such agent re-
80 quires an application for reinstatement and issues a con-
81 ditional receipt for the premium tendered, the policy will
82 be reinstated upon approval of such application by the
83 insurer or, lacking such approval, upon the forty-fifth
84 day following the date of such conditional receipt unless
85 the insurer has previously notified the insured in writing
86 of its disapproval of such application. The reinstated
87 policy shall cover only loss resulting from such accidental
88 injury as may be sustained after the date of reinstate-
89 ment and loss due to such sickness as may begin more
90 than ten days after such date. In all other respects the
91 insured and insurer shall have the same rights thereun-
92 der as they had under the policy immediately before the
93 due date of the defaulted premium, subject to any pro-
94 visions endorsed hereon or attached hereto in connection
95 with the reinstatement. Any premium accepted in con-
96 nection with a reinstatement shall be applied to a period
97 for which premium has not been previously paid, but not
98 to any period more than sixty days prior to the date of
99 reinstatement."

100 The last sentence of the above provision may be omitted

101 from any policy which the insured has the right to con-
102 tinue in force subject to its terms by the timely payment
103 of premiums (1) until at least age fifty, or, (2) in the case
104 of a policy issued after age forty-four, for at least five
105 years from its date of issue.

106 (e) A provision as follows:

107 "Notice of Claim: Written notice of claim must be
108 given to the insurer within twenty days after the occur-
109 rence or commencement of any loss covered by the policy,
110 or as soon thereafter as is reasonably possible. Notice
111 given by or on behalf of the insured or the beneficiary
112 to the insurer at _____ (insert the location of such
113 office as the insurer may designate for the purpose), or
114 to any authorized agent of the insurer, with information
115 sufficient to identify the insured, shall be deemed notice
116 to the insurer."

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

121 "Subject to the qualifications set forth below, if the
122 insured suffers loss of time on account of disability for
123 which indemnity may be payable for at least two years,
124 he shall, at least once in every six months after having
125 given notice of claim give to the insurer notice of con-
126 tinuance of said disability, except in the event of legal
127 incapacity. The period of six months following any filing
128 of proof by the insured or any payment by the insurer
129 on account of such claim or any denial of liability in
130 whole or in part by the insurer shall be excluded in
131 applying this provision. Delay in the giving of such
132 notice shall not impair the insured's right to any indem-
133 nity which would otherwise have accrued during the pe-
134 riod of six months preceding the date on which such
135 notice is actually given."

136 (f) A provision as follows:

137 "Claim Forms: The insurer, upon receipt of a notice of
138 claim, will furnish to the claimant such forms as are
139 usually furnished by it for filing proofs of loss. If such
140 forms are not furnished within fifteen days after the

141 giving of such notice the claimant shall be deemed to have
142 complied with the requirements of this policy as to proof
143 of loss upon submitting, within the time fixed in the
144 policy for filing proofs of loss, written proof covering the
145 occurrence, the character and the extent of the loss for
146 which claim is made."

147 (g) A provision as follows:

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

161 (h) A provision as follows:

162 "Time of Payment of Claims: Indemnities payable un-
163 der this policy for any loss other than loss for which this
164 policy provides any periodic payment will be paid im-
165 mediately upon receipt of due written proof of such loss.
166 Subject to due written proof of loss, all accrued indem-
167 nities for loss for which this policy provides periodic pay-
168 ment will be paid_____ (insert period for payment
169 which must not be less frequently than monthly) and
170 any balance remaining unpaid upon the termination of
171 liability will be paid immediately upon receipt of due
172 written proof."

173 (i) A provision as follows:

174 "Payment of Claims: Indemnity for loss of life will be
175 payable in accordance with the beneficiary designation
176 and the provisions respecting such payment which may
177 be prescribed herein and effective at the time of payment.
178 If no such designation or provision is then effective, such
179 indemnity shall be payable to the estate of the insured.
180 Any other accrued indemnities unpaid at the insured's

181 death may, at the option of the insurer, be paid either
182 to such beneficiary or to such estate. All other indemnities
183 will be payable to the insured."

184 The following provisions, or either of them, may be
185 included with the foregoing provisions at the option of
186 the insurer:

187 "If any indemnity of this policy shall be payable to the
188 estate of the insured, or to an insured or beneficiary who
189 is a minor or otherwise not competent to give a valid
190 release, the insurer may pay such indemnity, up to an
191 amount not exceeding \$_____ (insert an amount
192 which shall not exceed one thousand dollars), to any
193 relative by blood or connection by marriage of the insured
194 or beneficiary who is deemed by the insurer to be equita-
195 bly entitled thereto. Any payment made by the insurer
196 in good faith pursuant to this provision shall fully dis-
197 charge the insurer to the extent of such payment.

198 "Subject to any written direction of the insured in the
199 application or otherwise all or a portion of any indem-
200 nities provided by this policy on account of hospital
201 nursing, medical, or surgical services may, at the insurer's
202 option and unless the insured requests otherwise in writ-
203 ing not later than the time of filing proofs of such loss,
204 be paid directly to the hospital or person rendering such
205 services; but it is not required that the service be ren-
206 dered by a particular hospital or person."

207 (j) A provision as follows:

208 "Physical Examinations and Autopsy: The insurer at
209 its own expense shall have the right and opportunity to
210 examine the person of the insured when and as often
211 as it may reasonably require during the pendency of a
212 claim hereunder and to make an autopsy in case of death
213 where it is not forbidden by law."

214 (k) A provision as follows:

215 "Legal Actions: No action at law or in equity shall
216 be brought to recover on this policy prior to the expira-
217 tion of sixty days after written proof of loss has been
218 furnished in accordance with the requirements of this
219 policy. No such action shall be brought after the expira-
220 tion of three years after the time written proof of loss is
221 required to be furnished."

222 (1) A provision as follows:

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

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

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

Sec. 5. *Optional Policy Provisions.*—Except as provided
2 in section six of this article, no such policy delivered
3 or issued for delivery to any person in this State shall
4 contain provisions respecting the matters set forth below
5 unless such provisions are in the words in which the
6 same appear in this section: *Provided, however,* That the
7 insurer may, at its option, use in lieu of any such pro-
8 vision a corresponding provision of different wording ap-
9 proved by the commissioner which is not less favorable
10 in any respect to the insured or the beneficiary. Any such
11 provision contained in the policy shall be preceded indi-
12 vidually by the appropriate caption appearing in this
13 section or, at the option of the insurer, by such appro-
14 priate individual or group captions or subcaptions as the
15 commissioner may approve.

16 (a) A provision as follows:

17 "Change of Occupation: If the insured be injured or
18 contract sickness after having changed his occupation to
19 one classified by the insurer as more hazardous than that
20 stated in this policy or while doing for compensation
21 anything pertaining to an occupation so classified, the
22 insurer will pay only such portion of the indemnities
23 provided in this policy as the premium paid would have
24 purchased at the rates and within the limits fixed by the
25 insurer for such more hazardous occupation. If the in-
26 sured changes his occupation to one classified by the
27 insurer as less hazardous than that stated in this policy,
28 the insurer, upon receipt of proof of such change of occu-
29 pation, will reduce the premium rate accordingly, and
30 will return the excess pro-rata unearned premium from
31 the date of change of occupation or from the policy anni-
32 versary date immediately preceding receipt of such proof,
33 whichever is the more recent. In applying this provision,
34 the classification of occupational risk and the premium
35 rates shall be such as have been last filed by the insurer
36 prior to the occurrence of the loss for which the insurer
37 is liable or prior to date of proof of change in occupation
38 with the state official having supervision of insurance
39 in the state where the insured resided at the time this
40 policy was issued; but if such filing was not required,
41 then the classification of occupational risk and the pre-
42 mium rates shall be those last made effective by the
43 insurer in such state prior to the occurrence of the loss
44 or prior to the date of proof of change in occupation."

45 (b) A provision as follows:

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

50 (c) A provision as follows:

51 "Other Insurance in This Insurer: If an accident or
52 sickness or accident and sickness policy or policies pre-
53 viously issued by the insurer to the insured be in force
54 concurrently herewith, making the aggregate indemnity
55 for _____ (insert type of coverage or coverages) in

56 excess of \$..... (insert maximum limit of indemnity
57 or indemnities) the excess insurance shall be void and all
58 premiums paid for such excess shall be returned to the
59 insured or to his estate.”

60 Or, in lieu thereof:

61 “Insurance effective at any one time on the insured
62 under a like policy or policies in this insurer is limited
63 to the one such policy elected by the insured, his bene-
64 ficiary or his estate, as the case may be, and the insurer
65 will return all premiums paid for all other such policies.”

66 Provided that no policy hereafter issued for delivery
67 in this State which provides, with or without other bene-
68 fits, for the payment of benefits or reimbursement for
69 expenses with respect to hospitalization, nursing care,
70 medical or surgical examination or treatment, or ambu-
71 lance transportation shall contain any provision for a
72 reduction of such benefits or reimbursement, or any pro-
73 vision for avoidance of the policy, on account of other
74 insurance of such nature carried by the same insured
75 with the same or another insurer.

76 (d) A provision as follows:

77 “Insurance with Other Insurers: If there be other valid
78 coverage, not with this insurer, providing benefits for
79 the same loss on other than an expense incurred basis
80 and of which this insurer has not been given written
81 notice prior to the occurrence or commencement of loss,
82 the only liability for such benefits under this policy shall
83 be for such proportion of the indemnities otherwise pro-
84 vided hereunder for such loss as the like indemnities of
85 which the insurer had notice (including the indemnities
86 under this policy) bear to the total amount of all like
87 indemnities for such loss, and for the return of such por-
88 tion of the premium paid as shall exceed the pro-rata
89 portion for the indemnities thus determined.”

90 The insurer may, at its option, include in this provision
91 a definition of “other valid coverage”, approved as to
92 form by the commissioner, which definition shall be
93 limited in subject matter to coverage provided by organi-
94 zations subject to regulation by insurance law or by in-
95 surance authorities of this or any other state of the United

96 States or any province of Canada, and to any other cov-
97 erage the inclusion of which may be approved by the
98 commissioner. In the absence of such definition such term
99 shall not include group insurance, or benefits provided
100 by union welfare plans or by employer or employee
101 benefit organizations. For the purpose of applying the
102 foregoing policy provision with respect to any insured
103 any amount of benefit provided for such insured pursuant
104 to any compulsory benefit statute (including any work-
105 men's compensation or employer's liability statute)
106 whether provided by a governmental agency or other-
107 wise shall in all cases be deemed to be "other valid cover-
108 age" of which the insurer has had notice. In applying the
109 foregoing policy provision no third party liability cover-
110 age shall be included as "other valid coverage."

111 (e) A provision as follows:

112 "Relation of Earnings to Insurance: If the total monthly
113 amount of loss of time benefits promised for the same
114 loss under all valid loss of time coverage upon the in-
115 sured, whether payable on a weekly or monthly basis,
116 shall exceed the monthly earnings of the insured at the
117 time disability commenced or his average monthly earn-
118 ings for the period of two years immediately preceding
119 a disability for which claim is made, whichever is the
120 greater, the insurer will be liable only for such propor-
121 tionate amount of such benefits under this policy as the
122 amount of such monthly earnings or such average monthly
123 earnings of the insured bears to the total amount of
124 monthly benefits for the same loss under all such cover-
125 age upon the insured at the time such disability com-
126 mences and for the return of such part of the premiums
127 paid during such two years as shall exceed the pro-rata
128 amount of the premiums for the benefits actually paid
129 hereunder; but this shall not operate to reduce the total
130 monthly amount of benefits payable under all such cover-
131 age upon the insured below the sum of two hundred
132 dollars or the sum of the monthly benefits specified in
133 such coverages, whichever is the lesser, nor shall it op-
134 erate to reduce benefits other than those payable for loss
135 of time."

136 The foregoing policy provision may be inserted only
137 in a policy which the insured has the right to continue
138 in force subject to its terms by the timely payment of
139 premiums (1) until at least age fifty or, (2) in the case
140 of a policy issued after age forty-four, for at least five
141 years from its date of issue. The insurer may, at its op-
142 tion, include in this provision a definition of "valid loss
143 of time coverage", approved as to form by the commis-
144 sioner, which definition shall be limited in subject matter
145 to coverage provided by governmental agencies or by
146 organizations subject to regulation by insurance law or
147 by insurance authorities of this or any other state of the
148 United States or any province of Canada, or to any other
149 coverage the inclusion of which may be approved by the
150 commissioner or any combination of such coverages. In
151 the absence of such definition such term shall not include
152 any coverage provided for such insured pursuant to any
153 compulsory benefit statute (including any workmen's
154 compensation or employer's liability statute), or benefits
155 provided by union welfare plans or by employer or em-
156 ployee benefit organizations.

157 (f) A provision as follows:

158 "Unpaid Premium: Upon the payment of a claim under
159 this policy, any premiums then due and unpaid or covered
160 by any note or written order may be deducted there-
161 from."

162 (g) A provision as follows:

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

170 (h) A provision as follows:

171 "Conformity with State Statutes: Any provision of this
172 policy which, on its effective date, is in conflict with the
173 statutes of the state in which the insured resides on such
174 date is hereby amended to conform to the minimum re-
175 quirements of such statutes."

176 (i) A provision as follows:

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

182 (j) A provision as follows:

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

Sec. 6. *Inapplicable or Inconsistent Provisions.*—If any
2 provision of this article is in whole or in part inapplicable
3 to or inconsistent with the coverage provided by a par-
4 ticular form of policy, the insurer, with the approval of
5 the commissioner, shall omit from such policy any in-
6 applicable provision or part of a provision, and shall
7 modify any inconsistent provision or part of the provision
8 in such manner as to make the provision as contained in
9 the policy consistent with the coverage provided by the
10 policy.

Sec. 7. *Order of Certain Provisions.*—The provisions
2 which are the subject of sections four and five of this
3 article or any corresponding provisions which are used
4 in lieu thereof in accordance with such sections, shall be
5 printed in consecutive order of the provisions in such
6 sections or, at the option of the insurer, any such pro-
7 visions may appear as a unit in any part of the policy,
8 with other provisions to which it may be logically re-
9 lated, provided the resulting policy shall not be in whole
10 or in part unintelligible, uncertain, ambiguous, abstruse,
11 or likely to mislead a person to whom the policy is offered,
12 delivered or issued.

Sec. 8. *Third Party Ownership.*—The word "insured"
2 as used in this article, shall not be construed as prevent-
3 ing a person other than the insured with a proper insur-
4 able interest from making application for and owning a
5 policy covering the insured or from being entitled under

6 such a policy to any indemnities, benefits and rights pro-
7 vided therein.

Sec. 9. *Requirements of Other Jurisdictions.*—(a) Any
2 policy of a foreign or alien insurer, when delivered or
3 issued for delivery to any person in this State, may con-
4 tain any provision which is not less favorable to the in-
5 sured or the beneficiary than the provisions of this article
6 and which is prescribed or required by the law of the
7 state under which the insurer is organized.

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

Sec. 10. *Franchise Insurance.*—Accident and sickness
2 insurance on a franchise plan is hereby declared to be
3 that form of accident and sickness insurance issued to:

4 (a) Five or more employees of any corporation, co-
5 partnership or individual employer or any governmental
6 corporation, agency or department thereof, or

7 (b) Five or more members of any trade or professional
8 association or of a labor union or of any other association
9 having had an active existence for at least two years
10 where such association or union has a constitution or by-
11 laws and is formed in good faith for purposes other than
12 that of obtaining insurance;

13 where such persons, with or without their dependents,
14 are issued the same form of an individual policy varying
15 only as to amounts and kinds of coverage applied
16 for by such persons, under an arrangement whereby the
17 premiums on such policies may be paid to the insurer
18 periodically by the employer, with or without payroll
19 deductions, or by the association or union for its mem-
20 bers, or by some designated person acting on behalf of
21 such employer or association or union. The term “em-
22 ployees” as used in this section shall be deemed to include
23 the officers, managers, employees and retired employees
24 of the employer and the individual proprietor or partners
25 if the employer is an individual proprietor or partner-
26 ship.

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

16 of the employer or not less than seventy-five percent of
17 all employees of any class or classes thereof determined
18 by conditions pertaining to the employment.

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

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

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

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

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

Sec. 3. *Required Policy Provisions.*—Each such policy

2 hereafter delivered or issued for delivery in this State
3 shall contain in substance the following provisions:

4 (a) A provision that the policy, the application of the
5 policyholder, a copy of which shall be attached to such
6 policy, and the individual applications, if any, submitted
7 in connection with such policy by the employees or mem-
8 bers, shall constitute the entire contract between the
9 parties, and that all statements made by any applicant or
10 applicants shall be deemed representations and not war-
11 ranties, and that no such statement shall void the insur-
12 ance or reduce benefits thereunder unless contained in a
13 written application.

14 (b) A provision that the insurer will furnish to the
15 policyholder, for delivery to each employee or member
16 of the insured group, an individual certificate setting forth
17 in substance the essential features of the insurance cover-
18 age of such employee or member and to whom benefits
19 thereunder are payable. If dependents are included in the
20 coverage, only one certificate need be issued for each
21 family unit.

22 (c) A provision that all new employees or members, as
23 the case may be, in the groups or classes eligible for
24 insurance, shall from time to time be added to such
25 groups or classes eligible to obtain such insurance in ac-
26 cordance with the terms of the policy.

27 (d) No provision relative to notice or proof of loss or
28 the time for paying benefits or the time within which suit
29 may be brought upon the policy shall be less favorable to
30 the insured than would be permitted in the case of an
31 individual policy by the provisions set forth in article
32 fifteen of this chapter.

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

Sec. 5. *Expense Reimbursement Permitted.*—Any such
2 policy may provide, in addition to such other indemnities,
3 if any, as are provided in the policy on account of sick-
4 ness or bodily injury or death of insured employees or

5 members by accident, for the payment of benefits or re-
6 imbursement for expenses with respect to any one or
7 more of the following contingencies: Hospitalization,
8 nursing care, medical or surgical examination or treat-
9 ment, or ambulance transportation, of insured employees
10 or members, or of their spouses or children, or of depend-
11 ents living with them.

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

Article 17. Fire and Marine Insurance

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

Sec. 2. *Standard Fire Policy.*—No policy of fire insur-
2 ance covering property located in West Virginia shall be
3 made, issued or delivered unless it conforms as to all pro-
4 visions and the sequence thereof with the basic policy
5 commonly known as the New York standard fire policy,
6 edition of one thousand nine hundred forty-three, which
7 is designated as the West Virginia standard fire policy;
8 except that with regard to multiple line coverages pro-
9 viding casualty insurance combined with fire insurance
10 this section shall not apply if the policy contains, with
11 respect to the fire portion thereof, language at least as
12 favorable to the insured as the applicable portions of the
13 standard fire policy and such multiple line policy has been
14 approved by the commissioner. As of the effective date
15 of this chapter, the commissioner shall file in his office,
16 and thereafter maintain on file in his office, a true copy of
17 such West Virginia standard fire policy, designated as
18 such and bearing the commissioner's authenticating certi-
19 ficate and signature and the date of filing. Provisions to
20 be contained on the first page of the policy may be re-
21 written, and rearranged to facilitate policy issuance and
22 to include matter which may otherwise properly be added
23 by endorsement. The standard fire insurance policy shall

5 insurer may print in the policy any provision required by
6 its charter or deed of settlement, or by the laws of its
7 own state or country, not contrary to the laws of this
8 State.

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

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

Sec. 8. *Approval of Forms.*—(a) No fire or marine
2 policy, rider, or endorsement to be attached to any policy,
3 covering any risk located or to be performed in West
4 Virginia shall be delivered or issued for delivery in this
5 State unless either (1) filed with and approved by the
6 commissioner, or (2) conforms to applicable rules ap-
7 proved by the commissioner or is identical as to language
8 to a policy, rider or endorsement approved by the com-

9 missioner. If the use of any such form under the pro-
10 visions of clause (2) above by any insurer or by the mem-
11 bers and subscribers of any rating organization shall be
12 so extensive that in the opinion of the commissioner the
13 public interest requires, the commissioner may require
14 that such form be filed with him by such insurer or by
15 such rating organization on behalf of its members and
16 subscribers.

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

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

2 *Sec. 10. Auditing and Stamping Office.*—Every insurer
3 licensed in West Virginia and effecting insurance against
4 the risk of loss or damage by fire shall maintain or be a
5 member or subscriber of an auditing and stamping office.
6 Any insurance rating organization licensed under the pro-
7 visions of article twenty of this chapter may establish and
8 maintain such office and any advisory organization of the
9 type described in section ten of article twenty of this chap-
ter may establish and maintain such office, subject to the

10 provisions of this section. Each such office serving more
11 than one insurer shall admit to membership or as a sub-
12 scriber any licensed fire insurer applying therefor, and
13 where such office is maintained by a rating organization
14 or advisory organization any such insurer, whether or not
15 a member or subscriber for other services of such rating
16 organization or advisory organization, may subscribe to
17 any of the services of such office for auditing and stamp-
18 ing separately, without being a member or subscriber of
19 such rating organization or advisory organization for
20 rate filings of the business to be audited and stamped.
21 Every such insurer shall submit to such office daily re-
22 ports of all policies written, and copies of binders, renewal
23 certificates, endorsements or other evidence of insurance,
24 containing any coverage against loss or damage by fire,
25 or allied lines, including any type or kind of insurance
26 written as a part of, or as an endorsement to, or in con-
27 nection with, a fire insurance policy, and reports of the
28 cancellation or termination thereof. Each such office shall
29 examine all such documents so submitted and shall report
30 all errors and omissions to the insurer and the representa-
31 tive or agent of the insurer to whom the error or omission
32 is charged. In the event any such insurer shall fail to
33 furnish to such auditing and stamping office within sixty
34 days of receipt of a report of errors or omissions, satis-
35 factory evidence that all errors or omissions so reported
36 have been corrected, it shall be the duty of such office
37 promptly to report such failure to the commissioner.
38 Each such office shall promulgate rules governing the
39 writing and examining of such coverages and shall distri-
40 bute same to its members and subscribers. The expenses
41 of such office shall be borne by its members and sub-
42 scribers under reasonable rules and regulations of such
43 office. Every such insurer shall, in its annual application
44 for license, specify the auditing and stamping office of
45 which it is, or will upon receiving such license become, a
46 member. Each such office shall be subject to examination
47 by the commissioner at such times as he deems necessary
48 and if ^{he} the commissioner finds that the operation of such
49 office involves any act or practice which is unfair, unrea-
50 sonable or discriminatory, he may issue a written order

51 specifying in what respects such operations are unfair,
52 unreasonable or discriminatory and such office shall com-
53 ply with all orders so issued. This section shall not apply
54 to marine insurance or automobile or aircraft physical
55 damage insurance.

Article 18. Casualty Insurance

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

Article 19. Surety Insurance

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

Article 20. Rates and Rating Organizations

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

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

4 (b) This article shall not apply:

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

7 (2) To life or accident and sickness insurance;

8 (3) To insurance of vessels or craft, their cargoes, ma-
9 rine builders' risks, marine protection and indemnity, or

10 other risks commonly insured under marine, as distin-
11 guished from inland marine, insurance policies:

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

17 (5) To title insurance.

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

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

3 (a) Due consideration shall be given to past and pros-
4 pective loss experience within and outside this State, to
5 catastrophe hazards, if any, to a reasonable margin for
6 underwriting profit and contingencies, to dividends, sav-
7 ings or unabsorbed premium deposits allowed or returned
8 by insurers to their policyholders, members or subscrib-
9 ers, to past and prospective expenses both countrywide
10 and those specially applicable to this State, and to all
11 other relevant factors within and outside this State.

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

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

17 (1) The systems of expense provisions included in the
18 rates for use by any insurer or group of insurers may
19 differ from those of other insurers or groups of insurers
20 to reflect the requirements of the operating methods of
21 any such insurer or group with respect to any kind of
22 insurance, or with respect to any subdivision or combi-
23 nation thereof for which subdivision or combination sepa-
24 rate expense provisions are applicable.

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

26 establishment of rates and minimum premiums. Classifi-
27 cation rates may be modified to produce rates for indi-
28 vidual risks in accordance with rating plans which estab-
29 lish standards for measuring variations in hazards or ex-
30 pense provisions, or both. Such standards may measure
31 any differences among risks that can be demonstrated to
32 have a probable effect upon losses or expenses.

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

39 (d) Rates for fire and marine insurance to which this
40 article applies shall also be subject to the following pro-
41 visions:

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

46 (2) Due consideration shall be given to the conflagra-
47 tion hazard, and in the case of fire insurance rates con-
48 sideration shall be given to the experience of the fire
49 insurance business during a period of not less than the
50 most recent five year period for which such experience is
51 available.

52 (e) Except to the extent necessary to meet the pro-
53 visions of paragraph (b) of this section, uniformity among
54 insurers in any matters within the scope of this section
55 is neither required nor prohibited.

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

Sec. 4. *Rate Filings.*—(a) (1) Every insurer shall file
2 with the commissioner every manual of classifications,
3 rules and rates, every rating plan and every modification
4 of any of the foregoing which it proposes to use for
5 casualty insurance to which this article applies.

6 (2) Every insurer shall file with the commissioner,
7 except as to inland marine risks which by general custom
8 of the business are not written according to manual rates

9 or rating plans, every manual, minimum, class rate, rat-
10 ing schedule or rating plan and every other rating rule
11 and every modification of any of the foregoing which it
12 proposes to use for fire and marine insurance to which
13 this article applies. Specific inland marine rates on risks
14 specially rated, made by a rating organization, shall be
15 filed with the commissioner.

16 (b) Every such filing shall state the proposed effective
17 date thereof and shall indicate the character and extent
18 of the coverage contemplated. When a filing is not ac-
19 companied by the information upon which the insurer
20 supports such filing, and the commissioner does not have
21 sufficient information to determine whether such filing
22 meets the requirements of this article, he shall require
23 such insurer to furnish the information upon which it sup-
24 ports such filing and in such event the waiting period shall
25 commence as of the date such information is furnished.
26 The information furnished in support of a filing may in-
27 clude (1) the experience or judgment of the insurer or
28 rating organization making the filing, (2) its interpreta-
29 tion of any statistical data it relies upon, (3) the experi-
30 ence of other insurers or rating organizations, or (4) any
31 other relevant factors. A filing and any supporting in-
32 formation shall be open to public inspection after the
33 filing becomes effective.

34 (c) An insurer may satisfy its obligation to make such
35 filings by becoming a member of, or a subscriber to, a
36 licensed rating organization which makes such filings,
37 and by authorizing the commissioner to accept such filings
38 on its behalf: *Provided*, That nothing contained in this
39 article shall be construed as requiring any insurer to be-
40 come a member of or a subscriber to any rating organi-
41 zation.

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

46 (e) Subject to the exceptions specified in paragraphs
47 (f) and (g) of this section, each filing shall be on file
48 for a waiting period of thirty days before it becomes

49 effective, which period may be extended by the commis-
50 sioner for an additional period not to exceed fifteen days
51 if he gives written notice within such waiting period to
52 the insurer or rating organization which made the filing
53 that he needs such additional time for the consideration
54 of such filing. Upon written application by such insurer
55 or rating organization, the commissioner may authorize
56 a filing which he has reviewed to become effective before
57 the expiration of the waiting period or any extension
58 thereof. A filing shall be deemed to meet the require-
59 ments of this article unless disapproved by the commis-
60 sioner within the waiting period or any extension thereof.

61 (f) Any special filing with respect to a surety bond
62 required by law or by court or executive order or by
63 order, rule or regulation of a public body, not covered
64 by a previous filing, shall become effective when filed
65 and shall be deemed to meet the requirements of this
66 article until such time as the commissioner reviews the
67 filing and so long thereafter as the filing remains in
68 effect.

69 (g) Specific inland marine rates on risks specially rated
70 by a rating organization shall become effective when filed
71 and shall be deemed to meet the requirements of this
72 article until such time as the commissioner reviews the
73 filing and so long thereafter as the filing remains in
74 effect.

75 (h) Under such rules and regulations as he shall adopt
76 the commissioner may, by written order, suspend or
77 modify the requirement of filing as to any kind of in-
78 surance, subdivision or combination thereof, or as to
79 classes of risks, the rates for which cannot practicably be
80 filed before they are used. Such orders, rules and regu-
81 lations shall be made known to insurers and rating or-
82 ganizations affected thereby. The commissioner may make
83 such examination as he may deem advisable to ascertain
84 whether any rates affected by such order meet the stand-
85 ards set forth in paragraph (b) of section three of this
86 article.

87 (i) Upon the written application of the insured, stating
88 his reasons therefor, filed with and approved by the com-

89 missioner, a rate in excess of that provided by a filing
90 otherwise applicable may be used on any specific risk.

91 (j) No insurer shall make or issue a contract or policy
92 except in accordance with the filings which are in effect
93 for said insurer as provided in this article or in accord-
94 ance with paragraphs (h) or (i) of this section. This
95 paragraph shall not apply to contracts or policies for in-
96 land marine risks as to which filings are not required.

Sec. 5. *Disapproval of Filings.*—(a) If within the wait-
2 ing period or any extension thereof as provided in para-
3 graph (e) of section four of this article, the commissioner
4 finds that a filing does not meet the requirements of this
5 article, he shall send to the insurer or rating organization
6 which made such filing, written notice of disapproval of
7 such filing specifying therein in what respects he finds
8 such filing fails to meet the requirements of this article
9 and stating that such filing shall not become effective.

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

25 (c) If at any time subsequent to the applicable review
26 period provided for in paragraphs (a) or (b) of this
27 section, the commissioner finds that a filing does not
28 meet the requirements of this article, he shall, after notice
29 and hearing to every insurer and rating organization
30 which made such filing, issue an order specifying in what
31 respects he finds that such filing fails to meet the require-
32 ments of this article, and stating when, within a reason-

10 or agreement or association or its certificate of incorpora-
11 tion, and of its by-laws, rules and regulations governing
12 the conduct of its business, (2) a list of its memebtrs and
13 subscribers, (3) the name and address of a resident of
14 this State as attorney-in-fact upon whom notices or
15 orders of the commissioner or process affecting such rat-
16 ing organization may be served and (4) a statement of
17 its qualifications as a rating organization. If the com-
18 missioner finds that the applicant is competent, trust-
19 worthy and otherwise qualified to act as a rating organi-
20 zation and that its constitution, articles of agreement or
21 association or certificate of incorporation, and its by-laws,
22 rules and regulations governing the conduct of its busi-
23 ness conform to the requirements of law, he shall issue a
24 license specifying the kinds of insurance or subdivisions
25 thereof for which the applicant is authoized to act as a
26 rating organization. Every such application shall be
27 granted or denied in whole or in part by the commissioner
28 within sixty days of the date of its filing with him.
29 Licenses issued pursuant to this section shall remain in
30 effect for three years unless sooner suspended or revoked
31 by the commissioner. The fee for said license shall be
32 twenty-five dollars, and said fee shall be in lieu of all
33 other fees, licenses or taxes to which a rating organiza-
34 tion might otherwise be subject, all fees so collected to
35 go into the fund provided and for the purposes specified
36 in section thirteen of article three of this chapter. Licenses
37 issued pursuant to this section may be suspended or re-
38 voked by the commissioner, after notice and hearing, in
39 the event the rating organization ceases to meet the re-
40 quirements of this article. Every rating organization shall
41 notify the commissioner promptly of every change in
42 (1) its constitution, its articles of agreement or associa-
43 tion or its certificate of incorporation, and its by-laws,
44 rules and regulations governing the conduct of its busi-
45 ness, (2) its list of members and subscribers and (3) the
46 name and address of the resident of this State designated
47 as attorney-in-fact by it upon whom notices or orders
48 of the commissioner or process affecting such rating or-
49 ganization may be served.

50 (b) Subject to rules and regulations which have been

51 approved by the commissioner as reasonable, each rating
52 organization shall permit any insurer, not a member, to
53 be a subscriber to its rating services for any kind of
54 casualty insurance or subdivision thereof, or for any kind
55 of fire and marine insurance or subdivision or class of
56 risk or a part or combination thereof, or any kind of
57 surety insurance or subdivision thereof, for which it is
58 authorized to act as a rating organization. Notice of pro-
59 posed changes in such rules and regulations shall be given
60 to subscribers. Each rating organization shall furnish its
61 rating services without discrimination to its members and
62 subscribers. The reasonableness of any rule or regulation
63 in its application to subscribers, or the refusal of any
64 rating organization to admit an insurer as a subscriber,
65 shall, at the request of any subscriber or any such in-
66 surer, be reviewed by the commissioner. If, after notice
67 and hearing, the commissioner finds that such rule or
68 regulation is unreasonable in its application to subscribers,
69 he shall order that such rule or regulation shall not be
70 applicable to subscribers. If the rating organization fails
71 to grant or reject an insurer's application for subscriber-
72 ship within thirty days after it was made, the insurer
73 may request a review by the commissioner as if the ap-
74 plication had been rejected. If, after notice and hearing,
75 the commissioner finds that the insurer has been refused
76 admittance to the rating organization as a subscriber
77 without justification, he shall order the rating organiza-
78 tion to admit the insurer as a subscriber. If he finds that
79 the action of the rating organization was justified, he
80 shall make an order affirming its action.

81 (c) No rating organization shall adopt any rule the
82 effect of which would be to prohibit or regulate the pay-
83 ment of dividends, savings or unabsorbed premium de-
84 posits allowed or returned by insurers to their policy-
85 holders, members or subscribers.

86 (d) Cooperation among rating organizations or among
87 rating organizations and insurers in rate making or in
88 other matters within the scope of this article is hereby
89 authorized, provided the filings resulting from such co-
90 operation are subject to all the provisions of this article
91 which are applicable to filings generally. The commis-

92 sioner may review such cooperative activities and prac-
93 tices, and if after a hearing he finds that any such ac-
94 tivity or practice is unfair or unreasonable or otherwise
95 inconsistent with the provisions of this article, he may
96 issue a written order specifying in what respects such ac-
97 tivity or practice is unfair or unreasonable or otherwise
98 inconsistent with the provisions of this article, and re-
99 quiring the discontinuance of such activity or practice.

100 (e) Any rating organization for casualty, marine or
101 surety insurance may provide for the examination of
102 policies, daily reports, binders, renewal certificates, en-
103 dorsements or other evidences of insurance, or the can-
104 cellation thereof, and may make reasonable rules govern-
105 ing their submission. Such rules shall contain a pro-
106 vision that in the event any insurer does not within sixty
107 days furnish satisfactory evidence to the rating organiza-
108 tion of the correction of any error or omission previously
109 called to its attention by the rating organization, it shall
110 be the duty of the rating organization to notify the com-
111 missioner thereof. All information so submitted for ex-
112 amination shall be confidential. Such services for fire
113 insurance shall be governed by the provisions of section
114 ten of article seventeen of this chapter.

115 (f) Any rating organization may subscribe for or pur-
116 chase actuarial, technical or other services, and such serv-
117 ices shall be available to all members and subscribers
118 without discrimination.

Sec. 7. *Deviations.*—(a) Every member of or subscriber
2 to a rating organization shall adhere to the filings made
3 on its behalf by such organization except that:

4 (1) In the case of casualty and surety insurance to
5 which this article applies any such insurer may make
6 written application to the commissioner for permission
7 to file a uniform percentage decrease or increase to be
8 applied to the premiums produced by the rating system
9 so filed for a kind of insurance, or for a class of insurance
10 which is found by the commissioner to be a proper rating
11 unit for the application of such uniform percentage de-
12 crease or increase, or for a subdivision of a kind of insur-
13 ance (a) comprised of a group of manual classifications

14 which is treated as a separate unit for rate making pur-
15 poses, or (b) for which separate expense provisions are
16 included in the filings of the rating organization. Such
17 application shall specify the basis for the modification
18 and shall be accompanied by the data upon which the
19 applicant relies. A copy of the application and data shall
20 be sent simultaneously to such rating organization; and

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

34 (b) The commissioner shall, after notice to such in-
35 surer and rating organization, and hearing, unless hear-
36 ing is waived by such insurer and rating organization,
37 issue an order permitting the modification for such in-
38 surer to be filed if he finds it to be justified and it shall
39 thereupon become effective or issue an order denying
40 such application if he finds that the modification is not
41 justified or that the resulting premiums would be exces-
42 sive, inadequate or unfairly discriminatory. Each devia-
43 tion permitted to be filed shall be effective for a period
44 of one year from the date of such permission unless ter-
45 minated sooner with the approval of the commissioner.

Sec. 8. *Appeal by Minority.*—(a) Any member of or
2 subscriber to a rating organization may appeal to the
3 commissioner from the action or decision of such rating
4 organization in approving or rejecting any proposed
5 change in or addition to the filings of such rating organi-
6 zation and the commissioner shall, after notice and hear-
7 ing, issue an order approving the action or decision of
8 such rating organization or directing it to give further

9 consideration to such proposal, or, if such appeal is from
10 the action or decision of the rating organization in re-
11 jecting a proposed addition to its filings, he may, in the
12 event he finds that such action or decision was unreason-
13 able, issue an order directing the rating organization to
14 make an addition to its filings, on behalf of its members
15 and subscribers, in a manner consistent with his findings,
16 within a reasonable time after the issuance of such order.

17 (b) In the case of casualty and surety insurance to
18 which this article applies, if such appeal is based upon
19 the failure of the rating organization to make a filing on
20 behalf of such member or subscriber which is based on a
21 system of expense provisions which differs, in accordance
22 with the right granted in subdivision (1) of paragraph
23 (c) of section three of this article, from the system of
24 expense provisions included in a filing made by the rating
25 organization, the commissioner shall, if he grants the
26 appeal, order the rating organization to make the re-
27 quested filing for use by the appellant. In deciding such
28 appeal the commissioner shall apply the standards set
29 forth in section three of this article.

Sec. 9. *Information to be Furnished Insureds; Hearings*
2 *and Appeals of Insureds.*—(a) Every rating organization
3 and every insurer which makes its own rates shall, within
4 a reasonable time after receiving written request therefor
5 and upon payment of such reasonable charge as it may
6 make, furnish to any insured affected by a rate made by
7 it, or to the authorized representative of such insured,
8 all pertinent information as to such rate.

9 (b) Every rating organization and every insurer which
10 makes its own rates shall provide within this State rea-
11 sonable means whereby any person aggrieved by the ap-
12 plication of its rating system may be heard, in person or
13 by his authorized representative, on his written request
14 to review the manner in which such rating system has
15 been applied in connection with the insurance afforded
16 him. If the rating organization or insurer fails to grant
17 or reject such request within thirty days after it is made,
18 the applicant may proceed in the same manner as if his
19 application had been rejected. Any party affected by the

20 action of such rating organization or such insurer on such
21 request may, within thirty days after written notice of
22 such action, appeal to the commissioner, who, after notice
23 and hearing, may affirm or reverse such action.

Sec. 10. *Advisory Organizations.*—(a) Every group,
2 association or other organization of insurers, whether
3 located within or outside this State, which assists insurers
4 which make their own filings or rating organizations in
5 rate making, by the collection and furnishing of loss or
6 expense statistics, or by the submission of recommenda-
7 tions, but which does not make filings under this article,
8 shall be known as an advisory organization.

9 (b) Every advisory organization shall file with the com-
10 missioner (1) a copy of its constitution, its articles of
11 agreement or association or its certificate of incorpora-
12 tion and of its by-laws, rules and regulations governing
13 its activities, (2) a list of its members, (3) the name and
14 address of a resident of this State as its attorney-in-fact
15 upon whom notices or orders of the commissioner or
16 process may be served, and (4) an agreement that the
17 commissioner may examine such advisory organization
18 in accordance with the provisions of section twelve of
19 this article.

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

29 (d) No insurer which makes its own filings nor any
30 rating organization shall support its filings by statistics
31 or adopt rate making recommendations, furnished to it
32 by an advisory organization which has not complied with
33 this section or with an order of the commissioner involv-
34 ing such statistics or recommendations issued under par-
35 agraph (c) of this section. If the commissioner finds such
36 insurer or rating organization to be in violation of this

37 paragraph he may issue an order requiring the discon-
38 tinuance of such violation.

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

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

9 (b) If after notice and hearing the commissioner finds
10 that any activity or practice of any such group, associa-
11 tion or other organization is unfair or unreasonable or
12 otherwise inconsistent with the provisions of this article,
13 he may issue a written order specifying in what respects
14 such activity or practice is unfair or unreasonable or
15 otherwise inconsistent with the provisions of this article,
16 and requiring the discontinuance of such activity or prac-
17 tice.

Sec. 12. *Examinations.*—(a) The commissioner shall, at
2 least once in five years, make or cause to be made an
3 examination of each rating organization licensed under
4 the provisions of section six of this article and he may,
5 as often as he may deem it expedient, make or cause to
6 be made an examination of each advisory organization
7 referred to in section ten of this article and of each group,
8 association or other organization referred to in section
9 eleven of this article. The reasonable costs of any such
10 examination shall be paid by the rating organization,
11 advisory organization, or group, association or other or-
12 ganization examined upon presentation to it of a detailed
13 account of such costs. The officers, managers, agents and
14 employees of such rating organization, advisory organi-
15 zation, or group, association or other organization may
16 be examined at any time under oath and shall exhibit
17 all books, records, accounts, documents, or agreements
18 governing its method of operation. The commissioner
19 shall furnish two copies of the examination report to the
20 organization, group or association examined not less than
21 ten days prior to filing same in his office. If such organi-

22 zation, group or association so requests in writing, within
23 such ten-day period, the commissioner shall consider the
24 objections, if any, to such report as proposed, and shall not
25 file such report until such modifications, if any, have been
26 made therein as the commissioner deems proper. The
27 report when so filed shall be admissible in any action or
28 proceeding brought by the commissioner against the or-
29 ganization, group or association examined, or its officers
30 or agents, and shall be prima facie evidence of the facts
31 stated therein. The commissioner may withhold the re-
32 port of any such examination for such time as he may
33 deem proper.

34 (b) In lieu of any such examination the commissioner
35 may accept the report of an examination made by the
36 insurance supervisory official of another state, pursuant
37 to the laws of such state.

Sec. 13. *Rate Administration.*—(a) Recording the Re-
2 reporting of Loss and Expense Experience. The commis-
3 sioner shall promulgate reasonable rules and statistical
4 plans, reasonably adapted to each of the rating systems on
5 file with him, which may be modified from time to time and
6 which shall be used thereafter by each insurer in the
7 recording and reporting of its loss and countrywide ex-
8 pense experience, in order that the experience of all insur-
9 ers may be made available at least annually in such form
10 and detail as may be necessary to aid him in determining
11 whether rating systems comply with the standards set
12 forth in section three of this article. Such rules and plans
13 may also provide for the recording and reporting of loss
14 and expense experience items which are specially applic-
15 able to this State and are not susceptible of determination
16 by a prorating of countrywide experience. In promulgat-
17 ing such rules and plans, the commissioner shall give due
18 consideration to the rating systems on file with him, and
19 in order that such rules and plans may be as uniform
20 as is practicable among the several states, to the rules
21 and to the form of the plans used for such rating systems
22 in other states. No insurer shall be required to record or
23 report its loss experience on a classification basis that is
24 inconsistent with the rating system filed by it. The com-

25 commissioner may designate one or more rating organizations
26 or other agencies to assist him in gathering such exper-
27 ience and making compilations thereof, and such com-
28 pilations shall be made available, subject to reasonable
29 rules promulgated by the commissioner, to insurers and
30 rating organizations.

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

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

Sec. 14. *False or Misleading Information.*—No person
2 or organization shall wilfully withhold information from,
3 or knowingly give false or misleading information to, the
4 commissioner, any statistical agency designated by the
5 commissioner, any rating organization, or any insurer,
6 which will affect the rates or premiums chargeable under
7 this article.

Sec. 15. *Assigned Risks.*—With respect to casualty in-
2 surance to which this article applies, agreements may be
3 made among insurers with respect to the equitable ap-
4 portionment among them of insurance which may be
5 afforded applicants who are in good faith entitled to but
6 who are unable to procure such insurance through ordi-
7 nary methods and such insurers may agree among them-
8 selves on the use of reasonable rate modifications for such
9 insurance, such agreements and rate modifications to be
10 subject to the approval of the commissioner.

Sec. 16. *Penalties.*—(a) The commissioner may suspend,
2 revoke or refuse to renew the license of any rating orga-
3 nization which violates any provision of this article or
4 chapter or which fails to comply with an order of the

5 commissioner issued pursuant to this chapter, within the
6 time limited by such order, or any extension thereof
7 which the commissioner may grant. The commissioner
8 may determine when a suspension of license shall become
9 effective and it shall remain in effect for the period fixed
10 by him, unless he modifies or rescinds such suspension, or
11 until the order upon which such suspension is based is
12 modified, rescinded or reversed.

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

Article 21. Reciprocal Insurers

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

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

Sec. 3. *Kinds of Insurance.*—A reciprocal insurer, upon
2 being licensed therefor as provided in this article, when
3 possessed of and maintaining on deposit surplus funds
4 equal to the minimum capital required of a stock in-
5 surer to transact like kinds of insurance, may transact
6 fire, marine, casualty or surety insurance, and may pur-

7 chase reinsurance upon the risk of any subscriber, and
8 may grant reinsurance as to any kind of insurance it
9 is licensed to transact direct. No reciprocal insurer shall
10 be licensed to transact, nor shall any reciprocal insurer
11 transact, life or accident and sickness insurance.

Sec. 4. *Name.*—A reciprocal insurer shall have and use
2 a business name, which shall include the word “recipro-
3 cal”, or “inter-insurer”, or “inter-insurance”, or “ex-
4 change”, or “underwriters”, or “underwriting”, in which
5 name such insurer may sue and be sued.

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

Sec. 6. *Application for License.*—A reciprocal insurer
2 desiring to transact insurance may apply to the commis-
3 sioner for a license. The attorney shall execute under his
4 oath and file with the commissioner such application set-
5 ting forth:

- 6 (a) The name of the insurer;
- 7 (b) The location of the insurer’s principal office, which
8 shall be the same as that of the attorney, and in the case
9 of a domestic reciprocal insurer shall be maintained with-
10 in this State;
- 11 (c) The kinds of insurance proposed to be transacted;
- 12 (d) The designation and appointment of the proposed
13 attorney and a copy of the power of attorney;
- 14 (e) The names and addresses of the officers and direc-
15 tors of the attorney, if a corporation, or its members, if a
16 firm;
- 17 (f) In the case of a domestic reciprocal insurer, the
18 powers of the subscribers’ advisory committee, and in the
19 case of domestic, foreign or alien reciprocal insurers, the
20 names and terms of office of the members thereof;
- 21 (g) In the case of a domestic reciprocal insurer that all
22 monies paid to the reciprocal shall, after deducting there-
23 from any sum payable to the attorney, be held in the name
24 of the insurer and for the purposes specified in the sub-
25 scribers’ agreement;
- 26 (h) A copy of the subscribers’ agreement;

27 (i) A statement of the financial condition of the insurer,
28 a schedule of its assets, and a statement that the surplus
29 as required by section three of this article is on hand;

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

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

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

40 (m) In the case of a domestic reciprocal insurer, a state-
41 ment that each of the original subscribers has in good
42 faith applied for insurance of a kind proposed to be trans-
43 acted, and that the insurer has received from each such
44 subscriber the full premium or premium deposit required
45 for the policy applied for, for a term of not less than six
46 months at an adequate rate theretofore filed with and
47 approved by the commissioner;

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

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

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

5 (1) The powers of the attorney;

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

8 (3) The general services to be performed by the at-
9 torney;

10 (4) The maximum amount to be deducted from advance
11 premiums or deposits to be paid to the attorney and the
12 general items of expense in addition to losses, to be paid
13 by the insurer;

14 (5) Except as to nonassessable policies, a provision for a
15 contingent several liability of each subscriber in a specified
16 amount, which amount shall be not less than one nor more
17 than ten times the annual premium or premium deposit
18 stated in the policy.

19 (b) The power of attorney may:

20 (1) Provide for the right of substitution of the attorney
21 and revocation of the power of attorney and rights there-
22 under;

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

25 (3) Provide for the exercise of any right reserved to
26 the subscribers directly or through their advisory com-
27 mittee;

28 (4) Contain other lawful provisions deemed advisable.

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

Sec. 9. *Modifications.*—Modification of the terms of the
2 subscribers' agreement or of the power of attorney of a
3 domestic reciprocal insurer shall be made jointly by the
4 attorney and the subscribers' advisory committee. No
5 modification of a domestic, foreign or alien reciprocal
6 insurer's power of attorney or subscribers' agreement shall
7 be effective retroactively, nor as to any insurance contract
8 issued prior thereto, and such modification shall be rea-
9 sonable and equitable, and shall be filed with the commis-
10 sioner.

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

11 (b) The bond shall be in the penal sum of twenty-five
12 thousand dollars, aggregate in form, conditioned that the
13 attorney will faithfully account for all monies and other

14 property of the insurer coming into his hands, and that he
15 will not withdraw or appropriate to his own use from the
16 funds of the insurer, any monies or property to which he
17 is not entitled under the power of attorney.

18 (c) The bond shall provide that it is not subject to can-
19 cellation unless thirty days' advance notice in writing of
20 cancellation is given both the attorney and the commis-
21 sioner.

22 (d) In lieu of such bond, the attorney may maintain on
23 deposit with the state treasurer through the office of the
24 commissioner a like amount in cash or in value of securi-
25 ties qualified under this chapter as insurers' deposit invest-
26 ments, and subject to the same conditions as the bond.

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

Sec. 11. *Annual Report.*—(a) The annual report of a
2 reciprocal insurer shall be made and filed by its attorney.

3 (b) The report shall be supplemented by such informa-
4 tion as may be required by the commissioner relative to
5 the affairs and transactions of the attorney insofar as they
6 pertain to the reciprocal insurer.

Sec. 12. *Process and Venue.*—(a) Concurrently with
2 the filing of the application provided for by the terms of
3 section six of this article, the attorney shall file with the
4 commissioner an instrument in writing, executed by him
5 for said subscribers, conditioned that upon the issuance of
6 the license provided for in section seven of this article
7 any action, suit or other proceeding arising out of any
8 insurance contract or policy issued under such license,
9 may be brought in the county of this State wherein the
10 property insured was situated either at the date of the
11 policy or at the time when the right of action accrued, or
12 in the county of this State wherein the person insured had
13 a legal residence at the date of his death or at the time

14 the right of action accrued, and that service of any process
15 or notice may be had upon the auditor of this State in all
16 actions, suits or other proceedings in this State arising out
17 of such policies, contracts, agreements or other business
18 of insurance transacted under such license, and that said
19 auditor may accept service of any such process or notice.

20 (b) Such service or acceptance of service shall be valid
21 and binding upon such attorney and upon all subscribers
22 exchanging at any time reciprocal or inter-insurance con-
23 tracts through such attorney. Two copies of such process
24 or notice, in addition to the original, shall be furnished
25 the auditor, and he shall file one copy, forward one copy
26 to said attorney and return the original with his accept-
27 ance of service or for return of service. But no process or
28 notice shall be served on the auditor or accepted by him
29 less than ten days before the return day thereof. Where
30 the principal office of the attorney is located in this State,
31 service of process may be had upon all subscribers by
32 serving same upon the attorney at said office. Service of
33 process shall not be had upon said subscribers or any of
34 them in any suit or other proceeding in this State except
35 in the manner provided in this section, and any action,
36 suit, or other proceeding may be begun and prosecuted
37 against or defended by them under the name or designa-
38 tion adopted by them.

39 (c) The attorney shall pay to the auditor an annual fee
40 of ten dollars.

Sec. 13. *Fees and Taxes.*—(a) The attorney for each
2 reciprocal insurer shall pay on behalf of such insurer all
3 fees and taxes prescribed by this chapter for other insurers
4 transacting like kinds of insurance, except that the amount
5 of the premium tax shall be computed upon the gross
6 premiums on business transacted in this State less pre-
7 miums returnable because of cancellation and less amounts
8 returned to subscribers or credited to their accounts as
9 savings.

10 (b) In addition such attorney shall pay annually on
11 behalf of such reciprocal insurer the fire marshal's tax
12 provided by section twenty-four, article three, chapter
13 twenty-nine of this Code, to the extent such tax is applic-

14 able to the kinds of insurance transacted in this state by
15 such reciprocal insurer.

16 (c) No reciprocal insurer shall be liable for any taxes
17 except those described in this section and property taxes
18 upon real and personal property, unless reciprocal in-
19 surers be specifically mentioned in the law imposing such
20 taxes.

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

Sec. 15. *Subscriber's Advisory Committee.*—(a) The
2 advisory committee of a domestic reciprocal insurer exer-
3 cising the subscribers' rights shall be selected under such
4 rules as the subscribers adopt.

5 (b) Not less than two-thirds of such committee shall be
6 subscribers other than the attorney, or any person employ-
7 ed by, representing, or having a financial interest in the
8 attorney.

9 (c) The committee shall:

10 (1) Supervise the finances of the insurer;

11 (2) Supervise the insurer's operations to such extent
12 as to assure conformity with the subscribers' agreement
13 and power of attorney;

14 (3) Procure the audit of the accounts and records of
15 the insurer and of the attorney at the expense of the in-
16 surer;

17 (4) Have such additional powers and functions as may
18 be conferred by the subscribers' agreement.

Sec. 16. *Subscriber's Liability.*—(a) The liability of
2 each subscriber, other than as to a nonassessable policy,
3 for the obligations of the reciprocal insurer shall be an
4 individual, several, and proportionate liability, and not
5 joint.

6 (b) Except as to a nonassessable policy each subscriber
7 shall have a contingent assessment liability, in the amount
8 provided for in the power of attorney or in the subscribers'
9 agreement, for payment of actual losses and expenses
10 incurred while his policy was in force. Such contingent
11 liability may be at the rate of not less than one nor more
12 than ten times the premium or premium deposit stated in
13 the policy, and the maximum aggregate thereof shall be
14 computed in the manner set forth in section twenty of
15 this article.

16 (c) Each assessable policy issued by the insurer shall
17 contain a statement of the contingent liability, set in type
18 of the same prominence as the insuring clause.

Sec. 17. *Subscriber's Liability on Judgments.*—(a) No
2 action shall lie against any subscriber upon any obliga-
3 tion claimed against the insurer until a final judgment
4 has been obtained against the insurer and remains unsatis-
5 fied for thirty days.

6 (b) Any such judgment shall be binding upon each
7 subscriber only in such proportion as his interests may
8 appear and in amount not exceeding his contingent liabili-
9 ty, if any.

Sec. 18. *Assessments.*—(a) Assessments may from time
2 to time be levied upon subscribers of a domestic reciprocal
3 insurer liable therefor under the terms of their policies by
4 the attorney upon approval in advance by the subscribers'
5 advisory committee; or by the receiver, conservator, re-
6 habilitator or liquidator, in liquidation proceedings of the
7 insurer.

8 (b) Each such subscriber's share of a deficiency for
9 which an assessment is made, but not exceeding in any
10 event his aggregate contingent liability as computed in
11 accordance with section twenty of this article, shall be
12 computed by applying to the premium earned on the
13 subscriber's policy or policies during the period to be
14 covered by the assessment, the ratio of the total deficiency
15 to the total premiums earned during such period upon all
16 policies subject to the assessment.

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

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

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

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

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

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

Sec. 21. *Nonassessable Policies.*—(a) If a reciprocal in-

2 surer has a surplus of assets over all liabilities in an
3 amount equal to the minimum capital stock generally
4 required of a domestic stock insurer authorized to transact
5 like kinds of insurance, upon application of the attorney
6 and as approved by the subscribers' advisory committee,
7 the commissioner may issue his certificate authorizing the
8 insurer to extinguish the contingent liability of subscribers
9 under its policies then in force in this State, and to omit
10 provisions imposing contingent liability in all policies
11 delivered or issued for delivery in this State for so long
12 as such surplus funds remain unimpaired.

13 (b) Upon impairment of such surplus, the commissioner
14 may revoke such certificate. Such revocation shall not
15 render subject to contingent liability any policy then in
16 force and for the remainder of the period for which the
17 premium has theretofore been paid; but after such revo-
18 cation no policy shall be issued or renewed without pro-
19 viding for contingent assessment liability of the subscriber.

20 (c) The commissioner shall not authorize a reciprocal
21 insurer so to extinguish the contingent liability of any
22 of its subscribers or in any of its policies to be issued,
23 unless it qualifies to and does extinguish such liability of
24 all its subscribers and in all such policies for all kinds of
25 insurance transacted by it. Except, that if required by
26 the laws of another state in which the insurer is trans-
27 acting insurance as an authorized insurer, the insurer may
28 issue policies providing for the contingent liability of
29 such of its subscribers as may acquire such policies in such
30 state, and need not extinguish the contingent liability
31 applicable to policies theretofore in force in such state.

32 (d) No reciprocal insurer shall deliver or issue for
33 delivery in this State assessable policies imposing a con-
34 tingent liability upon subscribers, if such reciprocal in-
35 surer is issuing for delivery to subscribers in this or any
36 other state nonassessable policies insuring risks of sub-
37 stantially the same hazard and class.

Sec. 22. *Distribution of Savings.*—A reciprocal insurer
2 may from time to time return to its subscribers any unused
3 premiums, savings, or credits accruing to their accounts.
4 Any such distribution shall not unfairly discriminate

5 between classes of risks, or policies, or between sub-
6 scribers, but such distribution may vary as to classes of
7 subscribers based upon the experience of such subscribers.

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

Sec. 24. *Financial Condition.*—In determining the fi-
2 nancial condition of a reciprocal insurer the commissioner
3 shall apply the following rules:

4 (a) He shall charge as liabilities the same reserves as
5 are required of incorporated insurers issuing nonassessable
6 policies on a reserve basis.

7 (b) The surplus deposits of subscribers shall be allowed
8 as assets, except that any premium deposit delinquent for
9 ninety days shall first be charged against such surplus
10 deposit.

11 (c) The surplus deposits of subscribers shall not be
12 charged as a liability.

13 (d) All premium deposits delinquent less than ninety
14 days shall be allowed as assets.

15 (e) An assessment levied upon subscribers, and not
16 collected, shall not be allowed as an asset.

17 (f) The contingent liability of subscribers shall not be
18 allowed as an asset.

19 (g) The computation of reserves shall be based upon
20 premium deposits other than membership fees and with-
21 out any deduction for the compensation of the attorney.

Sec. 25. *Subscriber's Share in Assets.*—Upon the liquida-
2 tion of a domestic reciprocal insurer, its assets remaining
3 after discharge of its indebtedness and policy obligations,
4 the return of any contributions of the attorney or other
5 persons to its surplus made as provided in section twenty-
6 three of this article, and the return of any unused pre-
7 mium, savings, or credits then standing on subscribers'

8 accounts, shall be distributed to its subscribers who were
9 such within the twelve months prior to the last termina-
10 tion of its license, according to such reasonable formula
11 as the commissioner may approve.

Sec. 26. *Merger or Conversion.*—(a) A domestic recip-
2 cal insurer upon affirmative vote of not less than two-
3 thirds of its subscribers who vote on such merger pursuant
4 to due notice and the approval of the commissioner of the
5 terms therefor, may merge with another reciprocal insurer
6 or be converted to a stock or mutual insurer.

7 (b) Such a stock or mutual insurer shall be subject to
8 the same capital requirements and shall have the same
9 rights as a like domestic insurer transacting like kinds of
10 insurance.

11 (c) The commissioner shall not approve any plan for
12 such merger or conversion which is inequitable to sub-
13 scribers, or which, if for conversion to a stock insurer,
14 does not give each subscriber preferential right to acquire
15 stock of the proposed insurer proportionate to his interest
16 in the reciprocal insurer as determined in accordance with
17 section twenty-five of this article and a reasonable length
18 of time within which to exercise such right.

Article 22. Farmers' Mutual Fire Insurance Companies

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

Sec. 2. *Other Provisions Applicable.*—Each such com-
2 pany to the same extent such provisions are applicable to
3 domestic mutual insurers shall be governed by and be
4 subject to the following articles of this chapter: article
5 one (definitions), article two (insurance commissioner),
6 article four (general provisions) except that section six-
7 teen of article four shall not be applicable thereto, article

8 ten (rehabilitation and liquidation) except that under the
9 provisions of section thirty-two of said article ten no
10 assessment shall be levied against any former member of
11 a farmers' mutual fire insurance company who was no
12 longer a member of such company at the time the order
13 to show cause was issued, article eleven (unfair practices
14 and frauds), and article twelve (agents, brokers and
15 solicitors) except that the agents' license fee shall be one
16 dollar; but only to the extent such provisions are not
17 inconsistent with the provisions of this article.

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

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

Sec. 5. *Corporate Organization and Procedure.*—(a) The
2 number of directors of any such company shall not be less
3 than six nor more than fifteen, a majority of whom shall

4 constitute a quorum to do business, to be elected from the
5 incorporators by ballot, of whom one-third shall be elected
6 for one year, one-third for two years and one-third for
7 three years, until their successors are elected and qualified.
8 At all subsequent elections, except to fill vacancies, one-
9 third of such board of directors shall be elected for three
10 years, such election to be held at the annual meeting of
11 the company. In the election of the first board of directors
12 each incorporator shall be entitled to one vote. At every
13 subsequent election every member shall be entitled to one
14 vote and may cast the same in person or by proxy. Regular
15 meetings of the board of directors shall be held as often
16 as the by-laws may provide, and special meetings may be
17 held at the call of the president, secretary, or a majority
18 of the board of directors.

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

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

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

39 (e) Each such company when so licensed to transact
40 insurance shall possess all the powers necessary to carry
41 out its corporate purposes and not inconsistent with this
42 article or the laws of this State. Amendments to the
43 charter or by-laws may be offered by the board or any

44 member at any regular or special meeting of the members
45 upon written notice to all members of the intention to
46 propose such amendments not less than thirty days prior
47 to such meeting, and such amendments may be adopted
48 by the approval of a majority of the members present and
49 voting in person or by proxy. No such amendment shall
50 be effective unless and until approved by the commis-
51 sioner.

52 (f) The president or vice-president, and secretary or
53 assistant secretary of every such company shall prepare
54 annually, under oath, a full, true and complete statement
55 of the condition of such company as of the thirty-first day
56 of December, and present the same to the annual meeting.

Sec. 6. *Members.*—(a) Each policyholder of such com-
2 pany is a member thereof and is entitled to all the rights
3 and privileges and is subject to all liabilities connected
4 with such membership.

5 (b) Whenever any public or private corporation, board
6 or association in this State holds a policy in any such
7 company, any officer, stockholder or trustee of any such
8 corporation, board or association may be recognized as
9 acting for or on its behalf for the purpose of such mem-
10 bership, but shall not be personally liable upon such con-
11 tract of insurance by reason of acting in such representa-
12 tive capacity. The right of any corporation organized
13 under the laws of this State to participate as a member of
14 such company is hereby declared to be incidental to the
15 purpose for which such corporation is organized and as
16 much granted as the rights and powers expressly con-
17 ferred.

Sec. 7. *Policy Approval.*—(a) No policy form shall be
2 issued or used by any such company unless such form has
3 been filed with and approved by the commissioner. The
4 filing, approval and disapproval of such forms shall be
5 governed by the provisions of sections eight and nine of
6 article six of this chapter in the same manner as form
7 filings of other insurers.

8 (b) All terms and conditions of such policies shall be
9 set forth in full in the policy or endorsements attached
10 thereto including the contingent liability, if any, of the

11 policyholder, and no provision purporting to make any
12 portion of the charter, by-laws or other documents a part
13 of the policy shall be valid unless such portion is set forth
14 in full in the policy.

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

17 (d) Whenever the commissioner believes the public
18 interest requires a standard form for a particular kind of
19 coverage, the commissioner may prescribe a standard form
20 of policy for such companies, or a standard specific pro-
21 vision to be inserted in such policies, and all policies
22 thereafter issued by such companies shall conform to
23 such standard forms or provisions.

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

5 (1) Loss or damage to dwelling houses, stores and all
6 kinds of buildings and household furniture, goods, mer-
7 chandise and chattels of every description, and all other
8 property by fire, and allied coverages, including lightning,
9 aircraft, windstorm, tornado, cyclone, hail, frost or snow,
10 smoke, weather or climatic conditions, including excess or
11 deficiency of moisture, flood, rain or drought, business in-
12 terruptions, riot attending a strike or civil commotion, riot,
13 vehicle and by explosion whether fire ensues or not;

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

17 (3) Loss or damage by water or other fluid to any goods
18 or premises arising from the breakage or leakage of
19 sprinklers, pumps or other apparatus erected for extin-
20 guishing fires, or of other conduits or containers, or by
21 water entering through leaks or openings in buildings
22 and of water pipes, and against accidental injury to such
23 sprinklers, pumps, apparatus, conduits, containers or
24 water pipes;

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

27 (b) The commissioner may, for good cause shown or

28 on application of the company, limit the license of a
29 company to make insurance to any one or more of the
30 perils or coverages set forth in paragraph (a) of this
31 section.

32 (c) In addition any such company may apply to the
33 commisisoner for an extension of its license, and upon
34 complying with reasonable standards established by the
35 commissioner to assure the solvency of such company
36 and the protection of its policyholders, may in the dis-
37 cretion of the commissioner be granted an extension of
38 its license to permit such company to issue policies of
39 insurance on risks located in this State insuring against
40 one or more of the following:

41 (1) Legal liability for the death, injury, or disability
42 of any human being, or for damage to property, excluding
43 liability resulting from the ownership, maintenance, or
44 use of vehicles or aircraft; and provisions for medical,
45 hospital, surgical and disability benefits to injured per-
46 sons and funeral and death benefits to dependents, bene-
47 ficiaries or personal representatives of persons killed, ir-
48 respective of legal liability of the insured, when issued
49 as an incidental coverage with or supplemental to such
50 liability coverage.

51 (2) Loss or damage to property by burglary, theft, lar-
52 ceny, robbery, vandalism, malicious mischief, or wrong-
53 ful conversion, or any attempt at any of the foregoing.

54 (3) Personal property floater insurance.

Sec. 9. *Premiums, Membership Fees, Assessments and*
2 *Dividends.*—(a) Such company shall collect from its
3 members such initial fees or charges as its by-laws pro-
4 vide.

5 (b) Any such company may levy assessments or collect
6 premiums for the purpose of paying losses and expenses
7 already incurred, or for estimated future losses and ex-
8 penses, and for reserve or surplus fund purposes. The
9 secretary of any such company shall notify every member
10 of the company of the amount due by a written or printed
11 notice, mailed to the last known address of each member,
12 stating the amount due the company from the member
13 and the time and place and to whom it shall be paid.

14 Such payment shall be made by the member within sixty
15 days from date of mailing such notice, or within a lesser
16 period, as the by-laws may provide. The company may
17 maintain an action against any member thereof to re-
18 cover all such assessments which he may neglect or re-
19 fuse to pay when legally due and payable.

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

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

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

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

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

12 (c) All assets of such company other than such accu-

13 mulated surplus shall be in cash or invested in the gov-
14 ernment securities described in section seven of article
15 eight of this chapter.

Sec. 12. *Limit of Risk.*—No such company shall insure
2 any single risk comprising a building and contents or
3 other property so located as to be subject to destruction
4 by a single fire for a greater amount than one thousand
5 dollars until its insurance in force shall be as much as
6 five hundred thousand dollars, nor shall it then insure
7 any such risks for an amount greater than one-fifth of
8 one percent of the net insurance in force under its policies,
9 or ten percent of its surplus, whichever is greater, unless
10 the risks insured by the company in excess of the amounts
11 above stipulated are simultaneously covered by rein-
12 surance.

Sec. 13. *Reinsurance; Joint Policies.*—(a) Such com-
2 pany may procure reinsurance on any or all of its risks
3 in licensed insurers transacting like kinds of insurance;
4 and such company may issue policies of reinsurance to
5 other licensed insurers transacting like kinds of insur-
6 ance.

7 (b) Two or more such companies may issue policies
8 jointly.

Sec. 14. *Notices to Members.*—All notices of cancella-
2 tion of policies or reduction thereof and all other notices
3 to members required by this article shall be delivered
4 personally or mailed in a sealed envelope addressed to the
5 last known address of the member and when so given
6 they shall be deemed sufficient and binding upon the
7 member so notified.

Sec. 15. *Termination, Cancellation and Suspension of*
2 *Membership.*—(a) Any member of a company may with-
3 draw therefrom upon written notice to the company.
4 Every member so withdrawing shall immediately sur-
5 render his policy and pay to the extent of his liability
6 as stated in the policy, all of his indebtedness legally due
7 the company.

8 (b) No member shall be liable for losses or expenses

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

3 stock insurer in the manner provided in section twenty-
 4 four of article five of this chapter for converting other
 5 types of domestic mutual insurers to domestic stock in-
 6 surers, or

7 (b) A farmers' mutual fire insurance company may be-
 8 come a domestic mutual insurer pursuant to such plan
 9 and procedure as may be approved in advance by the
 10 commissioner, subject to approval by vote of not less
 11 than three-fourths of the company's current members vot-
 12 ing thereon in person, by proxy, or by mail at a meeting
 13 of members called for that purpose pursuant to such
 14 notice and procedure as may be approved by the commis-
 15 sioner, and subject to such company as reorganized com-
 16 plying with all requirements of this chapter relating to
 17 the initial organization and licensing of a domestic mutual
 18 insurer transacting like kinds of insurance as those pro-
 19 posed to be transacted by the reorganized company.

Article 23. Fraternal Benefit Societies

Section 1. *Scope of Article.*—Every fraternal benefit
 2 society shall be governed by the provisions of this article
 3 and by no other provisions of this chapter except such
 4 provisions as are specifically made applicable and referred
 5 to in this article.

Sec. 2. *Other Provisions Applicable.*—Every fraternal
 2 benefit society shall be governed and be subject, to the
 3 same extent as other insurers transacting like kinds of
 4 insurance, to the following articles of this chapter: article
 5 one (definitions), article two (insurance commissioner),
 6 article four (general provisions), article ten (rehabilita-
 7 tion and liquidation), and article eleven (unfair practices
 8 and frauds).

Sec. 3. *Fraternal Benefit Societies Defined.*—Any in-
 2 corporated society, order or supreme lodge, without capital
 3 stock, including one exempted under the provisions of
 4 subparagraph (2) of paragraph (a) of section thirty-four
 5 of this article whether incorporated or not, conducted
 6 solely for the benefit of its members and their benefici-
 7 aries and not for profit, operated on a lodge system with
 8 ritualistic form of work, having a representative form of

9 government, and which makes provision for the payment
10 of benefits in accordance with this article, is hereby de-
11 clared to be a fraternal benefit society. When used in
12 this article the word "society", unless otherwise indicated,
13 shall mean fraternal benefit society.

Sec. 4. *Lodge System Defined.*—A society having a
2 supreme legislative or governing body and subordinate
3 lodges or branches by whatever name known, into which
4 members are elected, initiated or admitted in accordance
5 with its constitution, laws, ritual and rules, which sub-
6 ordinate lodges or branches shall be required by the laws
7 of the society to hold regular meetings at least once in
8 each month, shall be deemed to be operating on the lodge
9 system.

Sec. 5. *Representative Form of Government Defined.*—
2 A society shall be deemed to have a representative form
3 of government when:
4 (a) it provides in its constitution or laws for a supreme
5 legislative or governing body, composed of representa-
6 tives elected either by the members or by delegates elected
7 directly or indirectly by the members, together with such
8 other members of such body as may be prescribed by the
9 society's constitution and laws;
10 (b) the representatives elected constitute a majority
11 in number and have not less than two-thirds of the votes
12 nor less than the votes required to amend its constitution
13 and laws;
14 (c) the meetings of the supreme legislative or govern-
15 ing body and the election of officers, representatives or
16 delegates are held as often as once in four calendar years;
17 (d) each insured member shall be eligible for election
18 to act or serve as a delegate to such meeting;
19 (e) the society has a board of directors charged with
20 the responsibility for managing its affairs in the interim
21 between meetings of its supreme legislative or governing
22 body, subject to control by such body and having powers
23 and duties delegated to it in the constitution or laws of
24 the society;
25 (f) such board of directors is elected by the supreme
26 legislative or governing body, except in case of filling a

27 vacancy in the interim between meetings of such body;
28 (g) the officers are elected either by the supreme legis-
29 lative or governing body or by the board of directors;
30 and
31 (h) the members, officers, representatives or delegates
32 shall not vote by proxy.

Sec. 6. *Organization.*—The organization of a domestic
2 society shall be governed as follows:

3 (a) Seven or more citizens of the United States, a ma-
4 jority of whom are citizens of this State, who desire to
5 form a fraternal benefit society, may make, sign and
6 acknowledge before some officer, competent to take
7 acknowledgment of deeds, articles of incorporation, in
8 which shall be stated:

9 (1) the proposed corporate name of the society, which
10 shall not so closely resemble the name of any society or
11 insurance company as to be misleading or confusing;

12 (2) the purposes for which it is being formed and the
13 mode in which its corporate powers are to be exercised.
14 Such purposes shall not include more liberal powers than
15 are granted by this article: *Provided*, That any lawful,
16 social, intellectual, educational, charitable, benevolent,
17 moral, fraternal or religious advantages may be set forth
18 among the purposes of the society; and

19 (3) the names and residences of the incorporators and
20 the names, residences and official titles of all the officers,
21 trustees, directors, or other persons who are to have and
22 exercise the general control of the management of the
23 affairs and funds of the society for the first year or until
24 the ensuing election at which all such officers shall be
25 elected by the supreme legislative or governing body,
26 which election shall be held not later than one year from
27 the date of the issuance of the permanent certificate.

28 (b) Such articles of incorporation, duly certified copies
29 of the constitution, laws and rules, copies of all proposed
30 forms of certificates, applications therefor, and circulars
31 to be issued by the society and a bond conditioned upon
32 the return to applicants of the advanced payments if
33 the organization is not completed within one year, such
34 bond to be in an amount to be determined by the com-

35 missioner not to exceed the sum of twenty-five thousand
36 dollars with sureties approved by the commissioner,
37 shall be filed with the commissioner, who may require
38 such further information as he deems necessary. All
39 documents filed are to be in the English language. If the
40 purposes of the society conform to the requirements of
41 this article and all provisions of law have been complied
42 with, the commissioner shall approve same in writing,
43 whereupon the incorporators may file such approved ar-
44 ticles with the secretary of state of this State and receive
45 a certificate of incorporation in the same manner as such
46 certificates are issued to other non-stock corporations.

47 (c) No certificate granted under the provisions of this
48 section shall be valid after one year from its date or after
49 such further period, not exceeding one year, as may be
50 authorized by the commissioner upon cause shown, unless
51 the five hundred applicants hereinafter required have
52 been secured and the organization has been completed
53 as herein provided. The articles of incorporation and all
54 other proceedings thereunder shall become null and void
55 in one year from the date of the certificate, or at the
56 expiration of the extended period, unless the society shall
57 have completed its organization and received a license as
58 hereinafter provided.

59 (d) Upon receipt of the certificate of incorporation, the
60 society may solicit members for the purpose of complet-
61 ing its organization, shall collect from each applicant the
62 amount of not less than one regular monthly premium
63 in accordance with its table of rates as provided by its
64 constitution and laws, and shall issue to each such ap-
65 plicant a receipt for the amount so collected. No society
66 shall incur any liability other than for the return of such
67 advance premium, nor issue any certificate, nor pay,
68 allow, or offer or promise to pay or allow, any death or
69 disability benefit to any person until:

70 (1) actual bona fide applications for death benefits have
71 been secured aggregating at least five hundred thousand
72 dollars on not less than five hundred lives;

73 (2) all such applicants for death benefits shall have
74 furnished evidence of insurability satisfactory to the so-
75 ciety.

76 (3) certifies of examinations or acceptable declara-
77 tions of insurability have been duly filed and approved
78 by the chief medical examiner of the society;
79 (4) ten subordinate lodges or branches have been
80 established into which the five hundred applicants have
81 been admitted;
82 (5) there has been submitted to the commissioner,
83 under oath of the president or secretary, or corresponding
84 officer of the society, a list of such applicants, giving their
85 names, addresses, date each was admitted, name and num-
86 ber of the subordinate branch of which each applicant
87 is a member, amount of benefits to be granted and pre-
88 miums therefor; and
89 (6) it shall have been shown to the commissioner, by
90 sworn statement of the treasurer, or corresponding officer
91 of such society, that at least five hundred applicants have
92 each paid in cash at least one regular monthly premium as
93 herein provided, which premiums in the aggregate shall
94 amount to at least twenty-five hundred dollars, all of
95 which shall be credited to the fund or funds from which
96 benefits are to be paid and no part of which may be used
97 for expenses. Said advance premiums shall be held in
98 trust during the period of organization and if the society
99 has not qualified for a certificate of authority within one
100 year, as herein provided, such premiums shall be returned
101 to said applicants.
102 (e) The commissioner may make such examination
103 and require such further information as he deems ad-
104 visable. Upon presentation of satisfactory evidence that
105 the society has complied with all the provisions of law,
106 he shall issue to the society a license to transact insur-
107 ance pursuant to the provisions of this article. The license
108 shall be prima facie evidence of the existence of the
109 society at the date of such license. The commissioner
110 shall cause a record of such license to be made. A certified
111 copy of such record may be given in evidence with like
112 effect as the original license.
113 (f) Every society shall have the power to adopt a con-
114 stitution and laws for the government of the society, the
115 admission of its members, the management of its affairs

116 and the fixing and readjusting of the rates of its members
117 from time to time. It shall have the power to change,
118 alter, add to or amend such constitution and laws and
119 shall have such other powers as are necessary and inci-
120 dental to carrying into effect the objects and purposes of
121 the society.

Sec. 7. *Corporate Powers Retained.*—Any incorporated
2 society licensed to transact insurance in this State at the
3 time this article becomes effective may thereafter exer-
4 cise all the rights, powers and privileges prescribed in
5 this article and in its charter, articles of incorporation
6 and license as far as consistent with this article. A do-
7 mestic incorporated society shall not be required to re-
8 incorporate.

Sec. 8. *Existing Voluntary Associations.*—(a) After
2 one year from the effective date of this article, no unin-
3 corporated or voluntary association shall be permitted
4 to transact business in this State.

5 (b) Any domestic voluntary association now licensed
6 to transact insurance in this State may incorporate and
7 shall receive from the commissioner a license as a fra-
8 ternal benefit society when:

9 (1) it shall have completed its conversion to an incor-
10 porated society not later than one year from the effective
11 date of this article;

12 (2) it has filed its articles of incorporation and has
13 satisfied the other requirements described in section six
14 of this article; and

15 (3) the commissioner shall have made such examina-
16 tion and procured whatever additional information he
17 shall deem advisable.

18 (c) Every voluntary association so incorporated shall
19 incur the obligations and enjoy the benefits thereof the
20 same as though originally incorporated, and such cor-
21 poration shall be deemed a continuation of the original
22 voluntary association. The officers thereof shall serve
23 through their respective terms as provided in its original
24 articles of association, but their successors shall be elected
25 and serve as provided in its articles of incorporation.

26 Incorporation of a voluntary association shall not affect
27 existing suits, claims or contracts.

Sec. 9. *Office and Meetings of Domestic Society.*—The
2 principal office of any domestic society shall be located
3 in this State. The meetings of its supreme legislative or
4 governing body may be held in any state, district, prov-
5 ince or territory wherein such society has at least five
6 subordinate branches and all business transacted at such
7 meetings shall be as valid in all respects as if such meet-
8 ings were held in this State.

Sec. 10. *Consolidations and Mergers.*—(a) A domestic
2 society may make application to consolidate or merge
3 with any other society by filing with the commissioner:
4 (1) a certified copy of the written contract containing
5 in full the terms and conditions of the consolidation or
6 merger;
7 (2) a sworn statement by the president and secretary
8 or corresponding officers of each society showing the
9 financial condition thereof on a date fixed by the com-
10 missioner but not earlier than December thirty-first, next
11 preceding the date of the contract;
12 (3) a certificate of such officers, duly verified by their
13 respective oaths, that the consolidation or merger has
14 been approved by a two-thirds vote of the supreme legis-
15 lative or governing body of each society; and
16 (4) evidence that at least sixty days prior to the ac-
17 tion of the supreme legislative or governing body of each
18 society, the text of the contract has been furnished to
19 all members of each society either by mail or by publi-
20 cation in full in the official organ of each society.
21 (b) If the commissioner finds that the contract is in
22 conformity with the provisions of this section, that the
23 financial statements are correct and that the consolida-
24 tion or merger is just and equitable to the members of
25 each society, he shall approve the contract and issue his
26 certificate to such effect. Upon such approval, the con-
27 tract shall be in full force and effect unless any society
28 which is a party to the contract is incorporated under
29 the laws of any other state or territory. In such event
30 the consolidation or merger shall not become effective

31 unless and until it has been approved as provided by the
32 laws of such state or territory and a certificate of such
33 approval filed with the commissioner or, if the laws of
34 such state or territory contain no such provision, then
35 the consolidation or merger shall not become effective
36 unless and until it has been approved by the insurance
37 supervisory official of such state or territory and a cer-
38 tificate of such approval filed with the commissioner.

39 (c) Upon the consolidation or merger becoming effec-
40 tive as herein provided, all the rights, franchises and in-
41 terests of the consolidated or merged societies in and to
42 every species of property, real, personal or mixed, and
43 things in action thereunto belonging shall be vested in
44 the society resulting from or remaining after the con-
45 solidation or merger without any other instrument, ex-
46 cept that conveyances of real property may be evidenced
47 by proper deeds, and the title to any real estate or in-
48 terest therein, vested under the laws of this State in any
49 of the societies consolidated or merged, shall not revert
50 or be in any way impaired by reason of the consolidation
51 or merger, but shall vest absolutely in the society re-
52 sulting from or remaining after such consolidation or
53 merger.

54 (d) The affidavit of any officer of the society or of any-
55 one authorized by it to mail any notice or document,
56 stating that such notice or document has been duly ad-
57 dressed and mailed, shall be prima facie evidence that
58 such notice or document has been furnished the ad-
59 dressees.

Sec. 11. *Conversion of Society to Mutual Life Insurer.*—

2 Any domestic fraternal benefit society may be converted
3 and licensed as a mutual life insurance company by com-
4 pliance with all the requirements of this chapter for the
5 initial licensing of a domestic mutual life insurer, if such
6 plan of conversion has been approved by the commissioner.
7 Such plan shall be prepared in writing setting forth in
8 full the terms and conditions thereof. The board of di-
9 rectors shall submit such plan to the supreme legislative
10 or governing body of such society at any regular or special
11 meeting thereof, by giving a full, true and complete copy

12 of such plan with the notice of such meeting. Such notice
13 shall be given as provided in the laws of the society for
14 the convocation of a regular or special meeting of such
15 body, as the case may be. The affirmative vote of two-
16 thirds of all members of such body shall be necessary for
17 the approval of such agreement. No such conversion shall
18 take effect unless and until approved by the commissioner
19 who may give such approval if he finds that the proposed
20 change is in conformity with the requirements of law and
21 not prejudicial to the certificate holders of the society.

Sec. 12. *Qualifications for Membership.*—(a) A society
2 may admit to benefit membership any person not less than
3 fifteen years of age, nearest birthday, who has furnished
4 evidence of insurability acceptable to the society. Any
5 such member who shall apply for additional benefits more
6 than six months after becoming a benefit member shall
7 pass an additional medical examination, or make an
8 additional declaration of insurability, as required by the
9 society.

10 (b) Any person admitted prior to attaining the full age
11 of twenty-one years shall be bound by the terms of the
12 application and certificate and by all the laws and rules
13 of the society and shall be entitled to all the rights and
14 privileges of membership therein to the same extent as
15 though the age of majority had been attained at the time
16 of application. A society may also admit general or social
17 members who shall have no voice or vote in the manage-
18 ment of its insurance affairs.

Sec. 13. *Amendment of Articles of Incorporation, Con-
2 stitution and Laws.*—(a) A domestic society may amend
3 its articles of incorporation, constitution or laws in accord-
4 ance with the provisions thereof by action of its supreme
5 legislative or governing body at any regular or special
6 meeting thereof or, if its articles of incorporation, consti-
7 tution or laws so provide, by referendum. Such referen-
8 dum may be held in accordance with the provisions of
9 its article of incorporation, constitution or laws by the
10 vote of the voting members of the society, by the vote
11 of delegates or representative^s of voting members or
12 by the vote of local lodges or branches. No amend-

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13 ment submitted for adoption by referendum shall be
14 adopted unless, within six months from the date of sub-
15 mission thereof, a majority of all of the voting members
16 of the society shall have signified their consent to such
17 amendment by one of the methods herein specified.

18 (b) No amendment to the articles of incorporation,
19 constitution or laws of any domestic society shall take
20 effect unless approved by the commissioner who shall
21 approve such amendment if he finds that it has been duly
22 adopted and is not inconsistent with any requirement of
23 the laws of this State or with the character, objects and
24 purposes of the society. Unless the commissioner shall
25 disapprove any such amendment within sixty days after
26 the filing of same, such amendment shall be considered
27 approved. The approval or disapproval of the commis-
28 sioner shall be in writing and mailed to the secretary or
29 corresponding officer of the society at its principal office.
30 In case he disapproves such amendment, the reasons
31 therefore shall be stated in such written notice.

32 (c) Within ninety days from the approval thereof by
33 the commissioner, all such amendments, or a synopsis
34 thereof, shall be furnished to all members of the society
35 either by mail or by publication in full in the official organ
36 of the society. The affidavit of any officer of the society
37 or of anyone authorized by it to mail any amendments
38 or synopsis thereof, stating facts which show that same
39 have been duly addressed and mailed, shall be prima
40 facie evidence that such amendments or synopsis thereof,
41 have been furnished the addressee.

42 (d) Every foreign or alien society authorized to do
43 business in this State shall file with the commissioner a
44 duly certified copy of all amendments of, or additions to,
45 its articles of incorporation, constitution or laws within
46 ninety days after the enactment of same.

47 (e) Printed copies of the constitution or laws as amend-
48 ed, certified by the secretary or corresponding officer of
49 the society shall be prima facie evidence of the legal
50 adoption thereof.

Sec. 14. *Institutions.*— (a) It shall be lawful for a society
2 to create, maintain and operate charitable, benevolent or

3 educational institutions for the benefit of its members and
4 their families and dependents and for the benefit of child-
5 ren insured by the society. For such purpose it may own,
6 hold or lease personal property or real property located
7 within or without this State, with necessary buildings
8 thereon. Such property shall be reported in every annual
9 statement but shall not be allowed as an admitted asset of
10 such society.

11 (b) Maintenance, treatment and proper attendance in
12 any such institution may be furnished free or a reasonable
13 charge may be made therefor, but no such institution
14 shall be operated for profit. The society shall maintain a
15 separate accounting of any income and disbursements
16 under this section and report them in its annual statement.
17 No society shall own or operate funeral homes or under-
18 taking establishments.

Sec. 15. *Benefits Other Than Insurance Benefits.*—(a)

2 A society may pay benefits, other than insurance benefits
3 to its members from any special account or fund main-
4 tained for such purpose; provided that if such benefits
5 are of such a nature that they could constitute benefits
6 within the classes of insurance set forth in section seven-
7 teen of this article, a society making such payments may
8 not:

- 9 (1) make any separate charge therefor;
- 10 (2) issue any certificate, policy or other document
11 promising such payments;
- 12 (3) provide in its constitution, laws or any other docu-
13 ment that such payments may be received by the member
14 as a matter of right; or
- 15 (4) advertise such payments as insurance or as pay-
16 ments to which the member has any right.

17 (b) The society shall maintain a separate accounting
18 of all disbursements made under this section and report
19 them in its annual statement.

Sec. 16. *No Personal Liability.*—The officers and mem-
2 bers of the supreme, grand or any subordinate body of a
3 society shall not be personally liable for payment of any
4 benefits provided by a society.

Sec. 17. *Benefits.*—A society licensed in this State may
2 provide for the payment of:
3 (a) death benefits in any form;
4 (b) endowment benefits;
5 (c) annuity benefits;
6 (d) temporary or permanent disability benefits as a
7 result of disease occurring before age sixty-five or accident
8 at any age;
9 (e) hospital, medical or nursing benefits due to sickness
10 or bodily infirmity occurring before age sixty-five or acci-
11 dent at any age; and
12 (f) monument or tombstone benefits to the memory of
13 deceased members not exceeding in any case the sum of
14 three hundred dollars.

Sec. 18. *Benefits on Lives of Children.*—(a) A society
2 may provide for benefits on the lives of children under the
3 minimum age for adult membership but not greater than
4 twenty-one years of age at time of application therefor,
5 upon the application of some adult person, as its laws or
6 rules may provide, which benefits shall be in accordance
7 with the provisions of section seventeen of this article.
8 A society may, at its option, organize and operate branches
9 for such children. Membership and initiation in local
10 lodges shall not be required of such children, nor shall
11 they have a voice in the management of the society.
12 (b) Children insured under certificates issued pursuant
13 to this section shall be transferred to and become mem-
14 bers of the adult branch of the society upon attaining the
15 minimum age for adult membership under the laws of the
16 society.
17 (c) A society shall have power to provide for the desig-
18 nation and changing of designation of beneficiaries in the
19 certificates providing for such benefits and to provide in
20 all other respects for the regulation, government and con-
21 trol of such certificates and all rights, obligations and
22 liabilities incident thereto and connected therewith.

Sec. 19. *Nonforfeiture Benefits, Cash Surrender Values,
2 Loans and Options.*—(a) A society may grant paid-up
3 nonforfeiture benefits, cash surrender values, certificate
4 loans and such other options as its laws may permit. As

5 to certificates issued on and after the effective date of this
6 article, a society shall grant at least one paid-up nonfor-
7 feiture benefit.

8 (b) In the case of certificates other than those for which
9 reserves are computed on the Commissioners 1941 Stan-
10 dard Ordinary Mortality Table or the 1941 Standard In-
11 dustrial Table, the value of every paid-up nonforfeiture
12 benefit and the amount of any cash surrender value, loan
13 or other option granted shall not be less than the excess,
14 if any, of (1) over (2) as follows:

15 (1) the reserve under the certificate determined on the
16 basis specified in the certificate; and

17 (2) the sum of any indebtedness to the society on the
18 certificate, including interest due and accrued, and a sur-
19 render charge equal to two and one-half percent of the
20 face amount of the certificate, which, in the case of insur-
21 ance on the lives of children, shall be the ultimate face
22 amount of the certificate, if death benefits provided therein
23 are graded.

24 (c) However, in the case of certificates issued on a sub-
25 standard basis or in the case of certificates, the reserves
26 for which are computed upon the American Men Ultimate
27 Table of Mortality, the term of any extended insurance
28 benefit granted including accompanying pure endowment,
29 if any, may be computed upon the rates of mortality not
30 greater than one hundred thirty percent of those shown
31 by the mortality table specified in the certificate for the
32 computation of the reserve.

33 (d) In the case of certificates for which reserves are
34 computed on the Commissioners 1941 Standard Ordinary
35 Mortality Table or the 1941 Standard Industrial Table,
36 every paid-up nonforfeiture benefit and the amount of any
37 cash surrender value, loan or other option granted shall
38 not be less than the corresponding amount ascertained in
39 accordance with the provisions of the laws of this State
40 applicable to life insurance companies issuing policies con-
41 taining like insurance benefits based upon such tables.

2 Sec. 20. *Beneficiaries.*—(a) The member shall have the
3 right at all times to change the beneficiary or beneficiaries
in accordance with the constitution, laws or rules of the

4 society. Every society by its constitution, laws or rules
5 may limit the scope of beneficiaries and shall provide that
6 no beneficiary shall have or obtain any vested interest in
7 the proceeds of any certificate until the certificate has
8 become due and payable in conformity with the provisions
9 of the insurance contract.

10 (b) A society may make provision for the payment of
11 funeral benefits to the extent of such portion of any pay-
12 ment under a certificate as might reasonably appear to be
13 due to any person equitably entitled thereto by reason of
14 having incurred expense occasioned by the burial of the
15 member, provided the portion so paid shall not exceed the
16 sum of five hundred dollars.

17 (c) If, at the death of any member, there is no lawful
18 beneficiary to whom the insurance benefits shall be pay-
19 able, the amount of such benefits, except to the extent
20 that funeral benefits may be paid as hereinbefore pro-
21 vided, shall be payable to the personal representative of
22 the deceased member.

Sec. 21. *Benefits Not Attachable.*—No money or other
2 benefit, charity, relief or aid to be paid, provided or ren-
3 dered by any society, shall be liable to attachment, gar-
4 nishment or other process, or to be seized, taken, appropri-
5 ated or applied by any legal or equitable process or oper-
6 ation of law to pay any debt or liability of a member or
7 beneficiary, or any other person who may have a right
8 thereunder, either before or after payment by the society.

Sec. 22. *The Contract.*—(a) Every society licensed in
2 this State shall issue to each benefit member a certificate
3 specifying the amount of benefits provided thereby. The
4 certificate, together with any riders or endorsements
5 attached thereto, the charter or articles of incorporation,
6 the constitution and laws of the society, the application
7 for membership, and declaration of insurability, if any,
8 signed by the applicant, and all amendments to each there-
9 of, shall constitute the agreement, as of the date of issu-
10 ance, between the society and the member, and the certi-
11 ficate shall so state. A copy of the application for member-
12 ship and of the declaration of insurability, if any, shall be
13 endorsed upon or attached to the certificate.

14 (b) All statements purporting to be made by the mem-
15 ber shall be representations and not warranties. Any
16 waiver of this provision shall be void.

17 (c) Any changes, additions or amendments to the char-
18 ter or articles of incorporation, constitution or laws duly
19 made or enacted subsequent to the issuance of the certifi-
20 cate, shall bind the member and the beneficiaries, and
21 shall govern and control the agreement in all respects the
22 same as though such changes, additions or amendments
23 had been made prior to and were in force at the time of
24 the application for membership, except that no change,
25 addition, or amendment shall destroy or diminish benefits
26 which the society contracted to give the member as of the
27 date of issuance.

28 (d) Copies of any of the documents mentioned in this
29 section, certified by the secretary or corresponding officer
30 of the society, shall be received as evidence of the terms
31 and conditions thereof.

32 (e) A society shall provide in its constitution or laws
33 and in its certificates that if its reserves as to all or any
34 class of certificates become impaired its board of directors
35 or corresponding body may require that there shall be
36 paid by the member to the society the amount of the mem-
37 ber's equitable proportion of such deficiency as ascertained
38 by its board, and that if the payment be not made it shall
39 stand as an indebtedness against the certificate and draw
40 interest not to exceed five percent per annum compounded
41 annually.

Sec. 23. *Standard and Prohibited Provisions.*—(a) No
2 life benefit certificate shall be delivered or issued for
3 delivery in this State unless a copy of the form shall have
4 been filed with the commissioner and approved by him as
5 conforming to the requirements of this section and not
6 inconsistent with any other provisions of law applicable
7 thereto. A certificate shall be deemed approved unless
8 disapproved by the commissioner within sixty days of the
9 date of such filing.

10 (b) The certificate shall contain in substance the follow-
11 ing standard provisions or, in lieu thereof, provisions which
12 are more favorable to the member:

13 (1) title on the face and filing page of the certificate
14 clearly and correctly describing its form;

15 (2) a provision stating the amount of rates, premiums
16 or other required contributions, by whatever name known,
17 which are payable by the insured under the certificate;

18 (3) a provision that the member is entitled to a grace
19 period of not less than a full month (or thirty days at the
20 option of the society) in which the payment of any pre-
21 mium after the first, may be made. During such grace
22 period the certificate shall continue in full force, but in
23 case the certificate becomes a claim during the grace
24 period before the overdue payment is made, the amount
25 of such overdue payment or payments may be deducted in
26 any settlement under the certificate;

27 (4) a provision that the member shall be entitled to
28 have the certificate reinstated at any time within three
29 years from the due date of the premium in default, unless
30 the certificate has been completely terminated through
31 the application of a nonforfeiture benefit, cash surrender
32 value or certificate loan, upon the production of evidence
33 of insurability satisfactory to the society and the payment
34 of all overdue premiums and any other indebtedness to
35 the society upon the certificate, together with interest on
36 such premiums and such indebtedness, if any, at a rate
37 not exceeding six percent per annum compounded annu-
38 ally;

39 (5) except in the case of pure endowment, annuity or
40 reversionary annuity contracts, reducing term insurance
41 contracts, or contracts of term insurance of uniform
42 amount of fifteen years or less expiring before age sixty-
43 six, a provision that, in the event of default in payment
44 of any premium after three full years' premiums have
45 been paid or after premiums for a lesser period have been
46 paid if the contract so provides, the society will grant,
47 upon proper request not later than sixty days after the
48 due date of the premium in default, a paid-up nonforfei-
49 ture benefit on the plan stipulated in the certificate,
50 effective as of such due date, of such value as specified in
51 this article. The certificate may provide, if the society's
52 laws so specify or if the member shall so elect prior to the

53 expiration of the grace period of any overdue premium,
54 that default shall not occur so long as premiums can be
55 paid under the provisions of an arrangement for auto-
56 matic premium loan as may be set forth in the certificate;

57 (6) a provision that one paid-up nonforfeiture benefit
58 as specified in the certificate shall become effective auto-
59 matically unless the member elects another available paid-
60 up nonforfeiture benefit, not later than sixty days after
61 the due date of the premium in default;

62 (7) a statement of the mortality table and rate of
63 interest used in determining all paid-up nonforfeiture
64 benefits and cash surrender options available under the
65 certificate, and a brief general statement of the method
66 used in calculating such benefits;

67 (8) a table showing in figures the value of every paid-up
68 nonforfeiture benefit and cash surrender option available
69 under the certificate for each certificate anniversary either
70 during the first twenty certificate years or during the term
71 of the certificate whichever is shorter;

72 (9) a provision that the certificate shall be incontestable
73 after it has been in force during the lifetime of the member
74 for a period of two years from its date of issue except for
75 nonpayment of premiums, violation of the provisions of
76 the certificate relating to military, aviation, or naval serv-
77 ice and violation of the provisions relating to suspension
78 or expulsion as substantially set forth in the certificate.
79 At the option of the society, supplemental provisions re-
80 lating to benefits in the event of temporary or permanent
81 disability or hospitalization and provisions which grant
82 additional insurance specifically against death by accident
83 or accidental means, may also be excepted. The certificate
84 shall be incontestable on the ground of suicide after it has
85 been in force during the lifetime of the member for a
86 period of two years from date of issue. The certificate may
87 provide, as to statements made to procure reinstatement,
88 that the society shall have the right to contest a reinstated
89 certificate within a period of two years from date of re-
90 instatement with the same exceptions as herein provided;

91 (10) a provision that in case the age of the member or
92 of the beneficiary is considered in determining the prem-

93 ium and it is found at any time before final settlement
94 under the certificate that the age has been misstated, and
95 the discrepancy and premium involved have not been
96 adjusted, the amount payable shall be such as the premium
97 would have purchased at the correct age; but if the correct
98 age was not an insurable age under the society's charter
99 or laws, only the premium paid to the society, less any pay-
100 ments previously made to the member, shall be returned
101 or, at the option of the society, the amount payable under
102 the certificate shall be such as the premium would have
103 purchased at the correct age according to the society's
104 promulgated rates and any extension thereof based on
105 actuarial principles;

106 (11) a provision or provisions which recite fully, or
107 which set forth the substance of, all sections of the charter,
108 constitution, laws, rules or regulations of the society, in
109 force at the time of issuance of the certificate, the violation
110 of which will result in the termination of, or in the re-
111 duction of, the benefit or benefits payable under the cer-
112 tificate;

113 (12) if the constitution or laws of the society provide
114 for expulsion or suspension of a member, any member so
115 expelled or suspended, except for non-payment of a prem-
116 ium or within the contestable period for material mis-
117 representations in such member's application for member-
118 ship shall have the privilege of maintaining his insurance
119 in force by continuing payment of the required premium;
120 and

121 (13) in the case of a certificate issued by a foreign or
122 alien society, a provision that the rights or obligations of
123 the member or of any person rightfully claiming under
124 the certificate shall be governed by the laws of this State.

125 (c) Any of the foregoing provisions set forth in para-
126 graph (b) of this section, or portions thereof, not applic-
127 able by reason of the plan of insurance or because the
128 certificate is an annuity certificate may, to the extent in-
129 applicable, be omitted from the certificate.

130 (d) No life benefit certificate shall be delivered or
131 issued for delivery in this State containing in substance
132 any of the following provisions:

133 (1) any provision limiting the time within which any
134 action at law or in equity may be commenced to less than
135 two years after the cause of action shall accrue;

136 (2) any provision by which the certificate shall purport
137 to be issued or to take effect more than six months before
138 the original application for the certificate was made, ex-
139 cept in case of transfer from one form of certificate to
140 another in connection with which the member is to receive
141 credit for any reserve accumulation under the form of
142 certificate from which the transfer is made; or

143 (3) any provision for forfeiture of the certificate for
144 failure to repay any loan thereon or to pay interest on
145 such loan while the total indebtedness, including interest,
146 is less than the loan value of the certificate.

147 (e) The word "premiums" as used in this article means
148 premiums, rates, or other required contributions by what-
149 ever name known.

Sec. 24. *Filing and Approval of Accident and Sickness
2 Insurance Certificates.*—No domestic, foreign or alien
3 society licensed in this State shall issue or deliver in this
4 State any certificate or other evidence of any contract of
5 accident and sickness insurance unless and until the form
6 thereof, together with the form of application and all
7 riders or endorsements for use in connection therewith,
8 shall have been filed with the commissioner and approved
9 by him as conforming to reasonable rules and regulations
10 from time to time made by him and as not inconsistent
11 with any other provisions of law applicable thereto. The
12 commissioner shall, within a reasonable time after the
13 filing of any such form, notify the society filing the same
14 either of his approval or of his disapproval of such form.
15 The commissioner may approve any such form which in
16 his opinion contains provisions on any one or more of the
17 several requirements made by him which are more favor-
18 able to the members than the one or ones so required.
19 Pursuant to the foregoing provisions the commissioner
20 shall have power, from time to time, to make, alter and
21 supersede reasonable regulations prescribing the required,
22 optional and prohibited provisions in such contracts, and
23 such regulations shall conform, as far as practicable, to

24 the provisions of article fifteen (accident and sickness
25 insurance) and article sixteen (group accident and sick-
26 ness insurance) of this chapter. Where the commissioner
27 deems inapplicable, either in part or in their entirety, the
28 provisions of the foregoing articles, he may prescribe the
29 portions or summary thereof of the contract to be printed
30 on the certificate issued to the member. Any filing made
31 hereunder shall be deemed approved unless disapproved
32 within sixty days from the date of such filing.

Sec. 25. *Waiver.*—The constitution and laws of the
2 society may provide that no subordinate body, nor any of
3 its subordinate officers or members shall have the power
4 or authority to waive any of the provisions of the laws and
5 constitution of the society. Such provision shall be binding
6 on the society and every member and beneficiary of a
7 member.

Sec. 26. *Reinsurance.*—A domestic society may, by an
2 authorized reinsurance agreement, cede any individual
3 risk or risks in whole or in part to an insurer (other than
4 another fraternal benefit society) having the power to
5 make such reinsurance; but no such society may reinsure
6 substantially all of its insurance in force without the
7 written permission of the commissioner.

Sec. 27. *Licensing of Foreign and Alien Societies.*—(a)
2 No foreign or alien society shall transact business in this
3 State without a license issued by the commissioner. Any
4 such society may be licensed to transact business in this
5 State upon filing with the commissioner:

6 (1) a duly certified copy of its charter or articles of
7 incorporation;

8 (2) a copy of its constitution and laws, certified by its
9 secretary or corresponding officer;

10 (3) a statement of its business under oath of its presi-
11 dent and secretary or corresponding officers in a form
12 prescribed by the commissioner, duly verified by an ex-
13 amination made by the supervising insurance official of its
14 home state or other state, territory, province or country,
15 satisfactory to the commissioner;

16 (4) a certificate from the proper official of its home

17 state, territory, province or country that the society is
18 legally incorporated and licensed to transact business
19 therein;

20 (5) copies of its certificate forms; and

21 (6) such other information as he may deem necessary;
22 and upon a showing that its assets are invested in accord-
23 ance with the provisions of this article.

24 (b) No license shall be issued to a foreign or alien
25 society desiring admission to this State unless such society
26 has the qualifications required of domestic societies orga-
27 nized under this article.

Sec. 28. *Term of License, Renewal, Refusal to License,
2 Revocation or Suspension, Penalty in Lieu Thereof, Re-
3 issuance.*—The term of license, renewal thereof, refusal
4 to license, revocation or suspension of license or penalty
5 in lieu thereof, and reissuance of license of all societies
6 shall be governed by the provisions of sections eight, nine,
7 ten, and eleven of article three of this chapter, to the same
8 extent that such sections are applicable to other insurers.

Sec. 29. *Fees and Taxation.*—(a) Each society shall pay
2 to the commissioner an annual license fee of twenty-five
3 dollars and a fee of ten dollars for filing the annual state-
4 ment of such society, all fees so collected to go into the
5 fund for the purposes specified in section thirteen of article
6 three of this chapter.

7 (b) Every society licensed under this article is hereby
8 declared to be a charitable and benevolent institution, and
9 all of its funds and assets shall be exempt from all state,
10 county, district and municipal taxes except taxes on real
11 property and office equipment.

Sec. 30. *Funds.*—(a) All assets shall be held, invested
2 and disbursed for the use and benefit of the society and
3 no member or beneficiary shall have or acquire individual
4 rights therein or become entitled to any apportionment
5 or the surrender of any part thereof, except as provided
6 in the contract.

7 (b) A society may create, maintain, invest, disburse
8 and apply any special fund or funds necessary to carry
9 out any purpose permitted by the laws of such society.

10 (c) Every society, the admitted assets of which are less
11 than the sum of its accrued liabilities and reserves under
12 all of its certificates when valued according to standards
13 required for certificates issued after one year from the
14 effective date of this article, shall, in every provision of
15 the laws of the society for payments by members of such
16 society, in whatever form made, distinctly state the pur-
17 pose of the same and the proportion thereof which may be
18 used for expenses, and no part of the money collected for
19 mortuary or disability purposes or the net accretions
20 thereto shall be used for expenses.

Sec. 31. *Investments.*—(a) A domestic society shall
2 invest its funds only in such investments as are authorized
3 by article eight of this chapter for the investment of the
4 assets of domestic insurers, except that paragraph (a) of
5 section six of article eight of this chapter shall not apply
6 to societies.

7 (b) Foreign and alien societies shall have investments
8 of the same general quality as required of domestic socie-
9 ties, except that other investments authorized by the laws
10 of such foreign or alien society's state or country of domi-
11 cile may be recognized as assets in the discretion of the
12 commissioner.

Sec. 32. *Reports and Valuations.*—In addition to the
2 annual statement required by section fourteen of article
3 four of this chapter, reports shall be filed and synopses
4 of annual statements shall be published in accordance
5 with the provisions of this section as follows:

6 (a) A synopsis of its annual statement providing an
7 explanation of the facts concerning the condition of the
8 society thereby disclosed shall be printed and mailed to
9 each benefit member of the society not later than the first
10 day of June of each year, or, in lieu thereof, such synopsis
11 may be published in the society's official publication.

12 (b) As a part of the annual statement required of each
13 society, it shall, on or before the first day of March, file
14 with the commissioner a valuation of its certificates in
15 force on December thirty-first last preceding provided,
16 the commissioner may, in his discretion for cause shown,
17 extend the time for filing such valuation for not more

18 than two calendar months. Such report of valuation shall
19 show, as reserve liabilities, the difference between the
20 present mid-year value of the promised benefits provided
21 in the certificates of such society in force and the present
22 mid-year value of the future net premiums as the same
23 are in practice actually collected, not including therein
24 any value for the right to make extra assessments and
25 not including any amount by which the present mid-year
26 value of future net premiums exceeds the present mid-
27 year value of promised benefits on individual certificates.
28 At the option of any society, in lieu of the above, the
29 valuation may show the net tabular value. Such net
30 tabular value as to certificates issued prior to one year
31 after the effective date of this article shall be determined
32 in accordance with the provisions of law applicable prior
33 to the effective date of this article and as to certificates
34 issued on or after one year from the effective date of this
35 article shall not be less than the reserves determined
36 according to the Commissioners' Reserve Valuation
37 method as hereinafter defined. If the premium charged
38 is less than the tabular net premium according to the
39 basis of valuation used, an additional reserve equal to
40 the present value of the deficiency in such premiums
41 shall be set up and maintained as a liability. The reserve
42 liabilities shall be properly adjusted in the event that the
43 mid-year or tabular values are not appropriate.

44 (c) Reserves according to the Commissioners' Reserve
45 Valuation method, for the life insurance and endowment
46 benefits of certificates providing for a uniform amount
47 of insurance and requiring the payment of uniform
48 premiums shall be the excess, if any, of the present value,
49 at the date of valuation, of such future guaranteed bene-
50 fits provided for by such certificates, over the then present
51 value of any future modified net premiums therefor. The
52 modified net premiums for any such certificate shall be
53 such uniform percentage of the respective contract pre-
54 miums for such benefits that the present value, at the
55 date of issue of the certificate, of all such modified net
56 premiums shall be equal to the sum of the then present
57 value of such benefits provided for by the certificate and
58 the excess of (1) over (2), as follows:

59 (1) a net level premium equal to the present value,
60 at the date of issue, of such benefits provided for after
61 the first certificate year, divided by the present value,
62 at the date of issue, of an annuity of one per annum
63 payable on the first and each subsequent anniversary of
64 such certificate on which a premium falls due: *Provided,*
65 *however,* That such net level annual premium shall not
66 exceed the net level annual premium on the nineteen
67 year premium whole life plan for insurance of the same
68 amount at an age one year higher than the age at issue
69 of such certificate; and

70 (2) a net one-year term premium for such benefits pro-
71 vided for in the first certificate year.

72 (d) Reserves according to the Commissioners' Reserve
73 Valuation method for (1) life insurance benefits for vary-
74 ing amounts of benefits or requiring the payment of vary-
75 ing premiums, (2) annuity and pure endowment benefits,
76 (3) disability and accidental death benefits in all cer-
77 tificates and contracts, and (4) all other benefits except
78 life insurance and endowment benefits, shall be calcu-
79 lated by a method consistent with the principles of para-
80 graph (c) of this section.

81 (e) The present value of deferred payments due under
82 incurred claims or matured certificates shall be deemed
83 a liability of the society and shall be computed upon mor-
84 tality and interest standards prescribed in the following
85 subsection.

86 (f) Such valuation and underlying data shall be cer-
87 tified by a competent actuary or, at the expense of the
88 society, verified by the actuary of the department of in-
89 surance of the state of domicile of the society.

90 (g) The minimum standards of valuation for certificates
91 issued prior to one year from the effective date of this
92 article shall be those provided by the law applicable im-
93 mediately prior to the effective date of this article but
94 not lower than the standards used in the calculating of
95 rates for such certificates.

96 (h) The minimum standard of valuation for certificates
97 issued after one year from the effective date of this article

98 shall be three and one-half percent interest and the fol-
99 lowing tables:

100 (1) for certificates of life insurance—American Men
101 Ultimate Table of Mortality, with Bowerman's or Davis'
102 Extension thereof or with the consent of the commissioner,
103 the Commissioner's 1941 Standard Ordinary Mortality
104 Table or the Commissioner's 1941 Standard Industrial
105 Table of Mortality;

106 (2) for annuity certificates, including life annuities pro-
107 vided or available under optional modes of settlement in
108 such certificates—the 1937 Standard Annuity Table;

109 (3) for disability benefits issued in connection with
110 life benefit certificates—Hunter's Disability Table, which,
111 for active lives, shall be combined with a mortality table
112 permitted for calculating the reserves on life insurance
113 certificates, except that the table known as Class III Dis-
114 ability Table (1926) modified to conform to the con-
115 tractual waiting period, shall be used in computing re-
116 serves for disability benefits under a contract which
117 presumes that total disability shall be considered to be
118 permanent after a specified period;

119 (4) for accidental death benefits issued in connection
120 with life benefit certificates—the Inter-Company Double
121 Indemnity Mortality Table combined with a mortality
122 table permitted for calculating the reserves for life insur-
123 ance certificates; and

124 (5) for non-cancellable accident and sickness benefits—
125 the Class III Disability Table (1926) with conference
126 modifications or, with the consent of the commissioner,
127 tables based upon the society's own experience.

128 (i) The commissioner may, in his discretion, accept
129 other standards for valuation if he finds that the reserves
130 produced thereby will not be less in the aggregate than
131 reserves computed in accordance with the minimum valu-
132 ation standard herein prescribed. The commissioner may,
133 in his discretion, vary the standards of mortality applic-
134 able to all certificates of insurance on substandard lives
135 or other extra hazardous lives by any society authorized
136 to do business in this State. Whenever the mortality
137 experience under all certificates valued on the same mor-
138 tality table is in excess of the expected mortality accord-

139 ing to such table for a period of three consecutive years,
140 the commissioner may require additional reserves when
141 deemed necessary in his judgment on account of such
142 certificates.

143 (j) Any society, with the consent of the insurance su-
144 pervisory official of the state of domicile of the society
145 and under such conditions, if any, which he may impose,
146 may establish and maintain reserves on its certificates in
147 excess of the reserves required thereunder, but the con-
148 tractual rights of any insured member shall not be
149 affected thereby.

Sec. 33. *Agents.*—Agents for societies shall not be re-
2 required to be licensed, but every society shall employ
3 or authorize only trustworthy and competent persons as
4 their agents.

Sec. 34. *Exemption of Certain Societies.*—(a) Nothing
2 contained in this article shall be so construed as to affect
3 or apply to:

4 (1) grand or subordinate lodges of societies, orders or
5 associations now doing business in this State which pro-
6 vide benefits exclusively through local or subordinate
7 lodges;

8 (2) orders, societies or associations which admit to
9 membership only persons engaged in one or more crafts
10 or hazardous occupations, in the same or similar lines of
11 business insuring only their own members, their families
12 and descendants of members and the ladies' societies or
13 ladies' auxiliaries to such orders, societies or associations;

14 (3) domestic societies which limit their membership
15 to employees of a particular city or town, designated
16 firm, business house or corporation which provide for a
17 death benefit of not more than four hundred dollars or
18 disability benefits of not more than three hundred fifty
19 dollars to any person in any one year, or both; or

20 (4) domestic societies or associations of a purely reli-
21 gious, charitable or benevolent description, which provide
22 for a death benefit of not more than four hundred dollars
23 or for disability benefits of not more than three hundred
24 fifty dollars to any one person in any one year, or both.

25 (b) Any such society or association described in sub-

26 paragraphs (3) or (4) of paragraph (a) of this section
27 which provides for death or disability benefits for which
28 benefit certificates are issued, and any such society or
29 association included in subparagraph (4) which has more
30 than one thousand members, shall not be exempted from
31 the provisions of this article but shall comply with all
32 requirements thereof.

33 (c) No society which, by the provisions of this section,
34 is exempt from the requirements of this article, except
35 any society described in subparagraph (2) of paragraph
36 (a) of this section, shall give or allow, or promise to give
37 or allow to any person any compensation for procuring
38 new members.

39 (d) Every society which provides for benefits in case
40 of death or disability resulting solely from accident, and
41 which does not obligate itself to pay natural death or sick
42 benefits shall have all of the privileges and be subject
43 to all the applicable provisions and regulations of this
44 article except that the provisions thereof relating to medi-
45 cal examination, valuations of benefit certificates, and
46 incontestability, shall not apply to such society.

47 (e) The commissioner may require from any society or
48 association, by examination or otherwise, such informa-
49 tion as will enable him to determine whether such society
50 or association is exempt from the provisions of this ar-
51 ticle.

52 (f) Societies, exempted under the provisions of this
53 section, shall also be exempt from all other provisions of
54 this chapter.

Article 24. Hospital Service Corporations and Medical Service Corporations

2 Section 1. *Declaration of Policy.*—In view of the de-
3 sirability of making available to the people of this State
4 increased hospital, medical services and other health serv-
5 ices, the declared policy of the legislature in the enact-
6 ment of this article is to encourage the organization, pro-
7 motion and expansion of hospital service corporations and
8 medical service corporations by exempting them from
9 the payment of all taxes and from the operation of the
general insurance laws of this State, but at the same time

10 subjecting them to such regulation as may be necessary
11 for the adequate protection of those members of the pub-
12 lic who subscribe for the services offered by such cor-
13 porations.

Sec. 2. *Definitions.*—For the purposes of this article:

2 (a) “Corporation” shall mean either a hospital service
3 corporation or a medical service corporation.

4 (b) “Hospital service corporation” shall mean a non-
5 profit, nonstock corporation, organized in accordance with
6 the provisions of article one of chapter thirty-one of this
7 Code for the sole purpose of contracting with the public
8 and with hospitals and other health agencies for hospital
9 or other health services to be furnished to subscribers
10 under terms of their contract with the corporation.

11 (c) “Hospital service” shall mean only such hospital
12 or other health care, to be provided by hospitals or other
13 health agencies, or such payment therefor, as may be
14 specified in the contract made by the subscriber with the
15 corporation.

16 (d) “Medical service corporation” shall mean a non-
17 profit, nonstock corporation, organized in accordance with
18 the provisions of article one of chapter thirty-one of this
19 Code for the sole purpose of contracting with the public
20 and with duly licensed physicians for medical or surgical
21 services and with other health agencies for other health
22 services to be furnished to subscribers under terms of
23 their contracts with the corporation, and controlled by a
24 board of directors, the majority of whom are duly licensed
25 physicians.

26 (e) “Medical service” shall mean only such medical,
27 surgical or other health care, to be provided by duly
28 licensed physicians or other health agencies, or such pay-
29 ment therefor, as may be specified in the contract made
30 by the subscriber with the corporation.

31 (f) “Service” shall mean such hospital, medical or other
32 health service as shall be provided under the terms of
33 the contracts issued by the corporation to subscribers.

34 (g) “Commissioner” shall mean the insurance commis-
35 sioner of West Virginia.

Sec. 3. *Corporations Affected; Eligibility of Hospitals*

2 **and Physicians.**—(a) Every such corporation operating
3 within this State shall be subject to the provisions of this
4 article.

5 (b) Every hospital or other health agency in this State
6 meeting the standards prescribed by the board of directors
7 of each such corporation shall be eligible for participation
8 in any hospital service plan operating in this State. Every
9 duly licensed physician or other health agency in this
10 State meeting the standards prescribed by the board of
11 directors of each such corporation shall be eligible for
12 participation in any medical service plan operating in this
13 State. The board of directors of every such corporation
14 may also prescribe standards for hospitals, physicians and
15 other health agencies located in states adjoining this
16 State, and all such hospitals, physicians and other health
17 agencies meeting such standards shall be eligible for par-
18 ticipation in such plans.

Sec. 4. *Exemptions; Other Laws Applicable.*—Every
2 such corporation is hereby declared to be a scientific,
3 nonprofit institution, and as such exempt from the pay-
4 ment of all property and other taxes. Every such cor-
5 poration, to the same extent such provisions are applicable
6 to insurers transacting similar kinds of insurance and not
7 inconsistent with the provisions of this article, shall be
8 governed by and be subject to the provisions of the fol-
9 lowing articles of this chapter: article two (insurance
10 commissioner) except that under section nine of article
11 two examinations shall be conducted at least once every
12 four years, article four (general provisions) except that
13 section sixteen of article four shall not be applicable
14 thereto, article ten (rehabilitation and liquidation), ar-
15 ticle eleven (unfair practices and frauds), and article
16 twelve (agents, brokers and solicitors) except that the
17 agent's license fee shall be one dollar; and no other pro-
18 vision of this chapter shall apply to such corporations
19 unless specifically made applicable by the provisions of
20 this article. If, however, any such corporation shall be
21 converted into a corporation organized for a pecuniary
22 profit, or if it shall transact business without having ob-
23 tained a license as required by section five of this article,
24 it shall thereupon forfeit its right to these exemptions.

2 Sec. 5. *Licenses.*—(a) No such corporation shall enter
3 into any contract with a subscriber until it has obtained
4 from the commissioner a license as provided in this sec-
5 tion. Application for a license shall be made on forms
6 to be prescribed and furnished by the commissioner.

7 (b) Such application shall be accompanied by a copy
8 of the following documents: (1) Certificate of incorpora-
9 tion; (2) By-laws; (3) Contracts between the corporation
10 and participating hospitals, physicians or other health
11 agencies; (4) Proposed contracts to be issued to sub-
12 scribers, setting forth the hospital or medical service to
13 which subscribers are entitled, and the table of rates
14 to be charged for such service; and (5) Financial state-
15 ment, showing the amount of contributions paid, or agreed
16 to be paid, to the corporation for working capital, the
17 name or names of each contributor, and the terms of each
18 contribution.

19 (c) Within thirty days after receipt of an application,
20 the commissioner shall, upon payment to him of a license
21 fee of one hundred dollars, issue a license authorizing the
22 corporation to transact business in this State in the area
23 to be served by it, if he is satisfied (1) that the applicant
24 is incorporated in this State under the provisions of
25 article one of chapter thirty-one of this Code as a bona
26 fide nonprofit corporation, (2) that the contracts between
27 the corporation and participating hospitals, physicians
28 and other health agencies contain all the terms required
29 by section seven of this article, (3) that the working
30 capital available to the corporation will be sufficient to
31 pay all operating expenses, other than payment for hos-
32 pital or medical services, for a reasonable period after
33 the issuance of the license, and (4) that the proposed plan
34 will serve the best interests of all of the people of the
35 area in which the corporation intends to operate, regard-
36 less of their race, color or economic status. Any license
37 so issued may be renewed annually upon payment to the
38 commissioner of a renewal fee of one hundred dollars.

39 (d) The term of such license, renewal, refusal to license,
40 revocation, suspension, or penalty in lieu thereof, shall
be governed by the provisions of sections eight, nine, ten

41 and eleven, of article three of this chapter, in the same
42 manner that such sections are applicable to insurers gen-
43 erally.

44 (e) No such corporation shall include in its name the
45 words "insurance", "casualty", "surety", "health and acci-
46 dent", "accident and sickness", "mutual", or any other
47 words descriptive of the insurance business; nor shall
48 such name be so similar to that of any insurer which was
49 licensed to transact insurance in this State when such
50 corporation was formed, as to tend, in the opinion of the
51 commissioner, to confuse the public.

Sec. 6. *Supervision by Commissioner; Approval of Con-*
2 *tracts, Forms, Rates and Fees.*—(a) It shall be the duty
3 of the commissioner to enforce the provisions of this
4 article.

5 (b) No such corporation shall deliver or issue for de-
6 livery any subscriber's contract, changes in the terms
7 of such contract, application, rider, or endorsement, until
8 a copy thereof and the rates pertaining thereto have been
9 filed with and approved by the commissioner. All such
10 forms filed with the commissioner shall be deemed ap-
11 proved after the expiration of thirty days from the date
12 of such filing unless the commissioner shall have disap-
13 proved the same, stating his reasons for such disapproval
14 in writing, except that such period may be extended for
15 an additional period not to exceed fifteen days upon writ-
16 ten notice thereof from the commissioner to the applicant.
17 Such forms may be used prior to the expiration of such
18 periods if written approval thereof has been received from
19 the commissioner.

20 (c) No rates to be charged subscribers shall be used or
21 established by any such corporation unless and until the
22 same have been filed with the commissioner and approved
23 by him. The procedure for such filing and approval shall
24 be the same as that prescribed in paragraph (b) of this
25 section for the approval of forms. The commissioner shall
26 approve all such rates which are not excessive, inadequate
27 or unfairly discriminatory.

28 (d) The commissioner shall pass upon the actuarial

29 soundness of the schedule of fees to be paid hospitals,
30 physicians and other health agencies.

Sec. 7. *Required Provisions in Contracts Made by the
2 Corporations with Hospitals, Physicians and Other Health
3 Agencies.*—Each contract made by the corporation with
4 participating hospitals, physicians and other health
5 agencies shall contain the following provisions:

6 (a) That the hospital, physician or other health agency
7 will render to any subscriber such service as he may be
8 entitled to under the terms and conditions of the contract
9 issued to the subscriber by the corporation.

10 (b) That in submitting bills to the corporation for
11 services rendered to subscribers under the terms of their
12 contract, the hospitals, physicians and other health
13 agencies will make only such charges as are set forth in
14 an agreed schedule of fees to be paid by the corporation.

15 (c) That, in case of a deficit in available funds of the
16 corporation, each participating hospital, physician or other
17 health agency will, on the basis stated in this section,
18 accept a pro rata share of available funds in full settle-
19 ment of any bill submitted.

20 (d) That, in the event a surplus remains after an an-
21 nual accounting of the financial condition of the corpora-
22 tion, such surplus may be used by the corporation, upon
23 an affirmative vote of a majority of its board of directors,
24 for the following purposes, in the order of priority stated
25 below:

26 (1) To liquidate on a pro rata basis any losses incurred
27 by hospitals, physicians or other health agency upon the
28 settlement of bills in previous years.

29 (2) To return the original contributions for working
30 capital, or any part thereof, on a pro rata basis.

31 (3) To reduce rates charged subscribers, or to expand
32 the services rendered them.

Sec. 8. *Contract or Certificate to be Furnished to Pol-
2 icyholders and Subscribers; Contracts with Needy Per-
3 sons.*—(a) Every such corporation shall deliver to each
4 contract holder a copy of the contract and to each holder
5 of a master group contract for delivery to each sub-

6 scribe to such group contract a certificate setting forth
7 the essential terms of the contract to be performed.

8 (b) A corporation may accept from governmental
9 agencies payment of all or part of the cost of subscrip-
10 tions for hospital, medical or other health care rendered
11 needy persons, and may accept from private agencies,
12 corporations, associations, groups or individuals, similar
13 payment for such service to be rendered needy or other
14 persons.

Sec. 9. *Payroll Deduction of Governmental Employees.*

2 —The officer charged with the duty of preparing the pay-
3 roll of any subscriber, who is an employee of the state
4 government or of any of its political subdivisions, includ-
5 ing state operated educational institutions, may upon
6 request of the subscriber deduct from his payroll the
7 amount of the fee owed by the subscriber to any hospital
8 service corporation or medical service corporation, pro-
9 vided enrollment regulations of the particular corpora-
10 tion are satisfied, in which case the officer shall pay over
11 such amount to the corporation.

Sec. 10. *Investments: Bonds of Corporate Officers and*
2 *Employees.*—(a) The funds of any such corporation shall
3 be invested only as follows:

4 (1) Fifty percent of such funds shall be in cash or gov-
5 ernment securities of the type described in section seven
6 of article eight of this chapter.

7 (2) The balance of such funds may be in cash or in-
8 vested in the classes of investments described in the fol-
9 lowing sections of article eight of this chapter: section
10 eleven (corporate obligations), section twelve (building
11 and savings and loan shares, international bank), section
12 thirteen (preferred or guaranteed stock), section four-
13 teen (common stock), section sixteen (real property) and
14 section eighteen (revenue bonds). All such investments
15 shall be subject to all the restrictions and conditions con-
16 tained in said article eight as applying to similar invest-
17 ments of insurers generally.

18 (b) Every officer or employee of any such corporation,
19 who is entrusted with the handling of its funds, shall
20 furnish, in such amount as may with the approval of the

21 commissioner be fixed by the board of directors of the
22 corporation, a bond with corporate surety, conditioned
23 upon the faithful performance of all his duties.

Sec. 11. *Reciprocity with Other Service Plans Defined:*
2 *Payment Authorized.*—Hospital and medical service cor-
3 porations licensed and operating under provisions of this
4 article are hereby authorized to promote and encourage
5 reciprocity with other licensed hospital and medical
6 plans, both within and without this State, in expanding
7 their services to subscribers. In the event that a sub-
8 scriber to a plan requires emergency hospital or medical
9 service, or, in the event that the particular services that
10 he receives are not available through the plan to which
11 he subscribes, such plan is hereby authorized to make
12 payment on behalf of such subscriber for such service
13 on a basis not to exceed its schedule of fees to be paid
14 hospitals or physicians, previously approved by the com-
15 missioner and on file in his office.

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

E. H. McCourt
Chairman Senate Committee

Witcher
Chairman House Committee

Originated in the House of Delegates

Takes effect Jan. 1, 1958 passage

J. Howard Meyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Ralph J. Bean
President of the Senate

W. C. Cramer
Speaker, House of Delegates

The within approved this the 15th day of March, 1957.

Geoff. Hudenwood
Governor



Filed in the Office of the Secretary of State
of West Virginia
MAR 15 1957
D. PITT O'BRIEN
SECRETARY OF STATE