WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

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ENROLLED

Com. Sub. for

HOUSE BILL No. 990

(By Mr. Tompkins, Mr. Martin, 35th Dist.)

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Passed ........................................ April 10, 1981

In Effect ................................... From Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 990

(By Mr. Tompkins and Mr. Martin, 35th Dist.)

[Passed April 10, 1981; in effect from passage.]

AN ACT to amend and reenact section ten, article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section one hundred nine, article three, chapter forty-six-a of said code, relating to kinds of insurance and providing a definition of loss of income insurance; relating to additional charges and insurance with respect to consumer loans and consumer sales; and providing certain restrictions on the right of creditors to provide loss of income insurance.

Be it enacted by the Legislature of West Virginia:

That section ten, article one, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section one hundred nine, article three, chapter forty-six-a of said code be amended and reenacted, all to read as follows:

CHAPTER 33. INSURANCE.

ARTICLE 1. DEFINITIONS.

§33-1-10. Kinds of insurance—life, accident and sickness, fire; marine; casualty; surety; loss of income.

The following definitions of kinds of insurance are not
mutually exclusive and, if reasonably adaptable thereto, a
particular cover may be included under one or more of such
definitions:

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

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

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

(d) Marine—Marine insurance is insurance:

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

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

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

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

(5) Against any and all kinds of loss or damage to piers, wharves, docks and ships, excluding the risks of fire, windstorm, sprinkler leakage, hail, explosion, earthquake, riot and civil commotion and each of them;

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

(7) Marine protection and indemnity insurance, which is insurance against, or against legal liability of the insured for, loss, damage or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness or death or for loss of or damage to the property of another person.

(e) Casualty—Casualty insurance includes:

(1) Vehicle insurance, which is insurance against loss of or damage to any land vehicle or aircraft or any draft or
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riding animal or to property while contained therein or thereon
or being loaded therein or therefrom, from any hazard or
cause, and against any loss, liability or expense resulting from
or incident to ownership, maintenance or use of any such
vehicle, aircraft or animal; together with insurance against
accidental death or accidental injury to individuals, including
the named insured, while in, entering, alighting from adjusting,
repairing or cranking, or caused by being struck by any
vehicle, aircraft or draft or riding animal, if such insurance
is issued as a part of insurance on the vehicle, aircraft or
draft or riding animal.

(2) Liability insurance, which is insurance against legal
liability for the death, injury, or disability of any human
being, or for damage to property; and provision for medical,
hospital, surgical, disability benefits to injured persons and
funeral and death benefits to dependents, beneficiaries or
personal representatives of persons killed, irrespective of
legal liability of the insured, when issued as an incidental
coverage with or supplemental to liability insurance.

(3) Burglary and theft insurance, which is insurance
against loss or damage by burglary, theft, larceny, robbery,
forgery, fraud, vandalism, malicious mischief, confiscation, or
wrongful conversion, disposal or concealment, or from any
attempt at any of the foregoing, including supplemental cover-
ages for medical, hospital, surgical and funeral benefits sus-
stained by the named insured or other person as a result of
bodily injury during the commission of a burglary, robbery or
theft by another; also insurance against loss of or damage to
moneys, coins, bullion, securities, notes, drafts, acceptances,
or any other valuable papers and documents, resulting from any
cause.

(4) Personal property floater insurance, which is insurance
upon personal effects against loss or damage from any cause.

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

(6) Boiler and machinery insurance, which is insurance
against any liability and loss or damage to property or interest
resulting from accidents to or explosion of boilers, pipes, pressure containers, machinery, or apparatus, and to make inspection of and issue certificates of inspection upon boilers, machinery, and apparatus of any kind, whether or not insured. 

(7) Leakage and fire extinguishing equipment insurance, which is insurance against loss or damage to any property or interest caused by the breakage or leakage of sprinklers, hoses, pumps, and other fire extinguishing equipment or apparatus, water mains, pipes and containers, or by water entering through leaks or openings in buildings, and insurance against loss or damage to such sprinklers, hoses, pumps and other fire extinguishing equipment or apparatus.

(8) Credit insurance, which is insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured. Credit insurance shall include loss of income insurance which is insurance against the failure of a debtor to pay his or her monthly obligation due to involuntary loss of employment. For the purpose of this definition, involuntary loss of employment means unemployment which has occurred as a result of, but not limited to, individual or mass layoffs, general strikes or lockouts.

(9) Malpractice insurance, which is insurance against legal liability of the insured, and against loss, damage or expense incidental to a claim of such liability, and including medical, hospital, surgical, and funeral benefits to injured persons, irrespective of legal liability of the insured arising out of the death, injury, or disablement of any person, or arising out of damage to the economic interest of any person, as the result of negligence in rendering expert, fiduciary or professional service.

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

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

(f) Surety—Surety insurance includes:

(1) Fidelity insurance, which is insurance guaranteeing
the fidelity of persons holding positions of public or private
trust.

(2) Insurance guaranteeing the performance of contracts,
other than insurance policies, and guaranteeing and executing
bonds, undertakings, and contracts of suretyship.

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

(4) Title insurance, which is insurance of owners of prop-
erty or others having an interest therein, or liens or encum-
brances thereon, against loss by encumbrance, defective title,
invalidity or adverse claim to title.

CHAPTER 46A.
WEST VIRGINIA CONSUMER CREDIT AND
PROTECTION ACT.

ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.

§46A-3-109. Additional charges; insurance.

(1) In addition to the sales finance charge or loan finance
charge permitted by this chapter, a creditor may contract for
and receive the following additional charges in connection with
a consumer credit sale or a consumer loan.

(a) Official fees and taxes.

(b) Charges for insurance as described in subsection (2):
Provided, That nothing contained in this section with respect
to insurance shall be construed as in any way limiting the power
and jurisdiction of the insurance commissioner of this state in
the premises;

(c) Annual charges, payable in advance, for the privilege
of using a lender credit card or similar arrangement which en-
titles the user to purchase goods or services from at least
one hundred persons not related to the issuer of the lender
credit card or similar arrangement, under an arrangement pur-
suant to which the debts resulting from the purchases are pay-
able to the issuer;

(d) Charges for other benefits including insurance, con-
ferred on the consumer, if the benefits are of value to him and
if the charges are reasonable in relation to the benefits, are
of a type which is not for credit, and are excluded as per-
missible additional charges from the sales finance charge
or loan finance charge by rule adopted by the commissioner:
Provided, That as to insurance, the policy as distinguished
from a certificate of coverage thereunder must be issued by an
individual licensed under the laws of this state to sell such
insurance and the determination of whether the charges there-
for are reasonable in relation to the benefits shall be deter-
mined by the insurance commissioner of this state; and

(e) Reasonable closing costs with respect to a debt secured
by an interest in land.

(2) A creditor may take, obtain or provide reasonable
insurance on the life and earning capacity of any consumer
obligated on the consumer credit sale or consumer loan, reason-
able insurance on any real or personal property offered as
security subject to the provisions of this subsection, and
vendor's or creditor's single interest insurance with respect
to which the insurer has no right of subrogation. Only one
policy of life insurance and/or one policy of health and acci-
dent insurance and/or one policy of accident insurance and/or one policy of loss of income insurance on any one consumer may be in force with respect to any one contract or agreement at any one time, but one policy may cover both a consumer and his spouse.

(a) The amount, terms and conditions of property insurance shall have a reasonable relation to the existing hazards or risk of loss, damage or destruction and be reasonable in relation to the character and value of the property insured or to be insured; and the term of such insurance shall be reasonable in relation to the terms of credit: Provided, That nothing shall be deemed to prohibit the consumer from obtaining, at his option, greater coverages for longer periods of time if he so desires;

(b) Life insurance shall be in an initial amount not to exceed the total amount repayable under the consumer credit agreement, and where a consumer credit sale or consumer loan is repayable in installments, such insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater. Life insurance authorized by this subdivision shall provide that the benefits shall be paid to the creditor or reduce or extinguish the unpaid indebtedness: Provided, That if a separate charge is made for such insurance and the amount of insurance exceeds the unpaid indebtedness, where not prohibited, then such excess shall be payable to the estate of the consumer. The initial term of such life insurance in connection with a consumer credit sale, other than a sale pursuant to a revolving charge account, or in connection with a consumer loan, other than a loan pursuant to a revolving loan account, shall not exceed the scheduled term of the consumer credit agreement by more than fifteen days. The aggregate amount of periodic benefits payable by credit accident and health insurance in the event of disability, as defined in the policy, and loss of income insurance in the event of involuntary loss of employment, as defined in the policy, shall not exceed the unpaid amount of such indebtedness; periodic benefits payable in connection with a consumer credit sale pursuant to a revolving charge account or of a consumer loan pursuant to a revolving loan account may be based upon the authorized credit limit;
(c) When the insurance is obtained or provided by or through a creditor, the creditor may collect from the consumer or include as a part of the cash price of a consumer credit sale or as part of the principal of a consumer loan, or deduct from the proceeds of any consumer loan the premium, or in the case of group insurance, the identifiable charge. The premium or identifiable charge for such insurance required or obtained by a creditor may equal, but shall not exceed the premium rate filed by the insurer with the insurance commissioner. In any case, when the creditor collects the entire premium for such insurance in advance, such premium shall be remitted by such creditor to the insurer or the insurance agent, as specified by the insurer, within ten days from or after the end of the month in which such collection was made.

(d) With respect to insurance against loss of or damage to property, or against liability, the creditor shall furnish a clear and specific statement in writing to the debtor, setting forth the cost of the insurance if obtained from or though the creditor, and stating that the debtor may choose the person through whom the insurance is to be obtained; and

(e) With respect to consumer credit insurance providing life, accident, health or loss of income coverage, no creditor shall require a consumer to purchase such insurance or to purchase such insurance from such creditor or any particular agent, broker or insurance company as a condition precedent to extending credit to or on behalf of such consumer.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House.

Takes effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within ___________ this the ___

day of ________________, 1981.

[Signature]
Governor
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Office of the Governor

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