

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

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Ms: 990  
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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981

— ● —

# ENROLLED

Com. Sub. for  
HOUSE BILL No. 990

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

— ● —

Passed April 10, 1981

In Effect From Passage



C-641

**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.**

1     The following definitions of kinds of insurance are not

2 mutually exclusive and, if reasonably adaptable thereto, a  
3 particular cover may be included under one or more of such  
4 definitions:

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

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

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

21 (d) Marine—Marine insurance is insurance:

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

37 (2) Against any and all kinds of loss or damage to person  
38 or to property in connection with or appertaining to a marine,

39 inland marine, transit or transportation insurance, including  
40 liability for loss of or damage to either, arising out of or in  
41 connection with the construction, repair, operation, main-  
42 tenance or use of the subject matter of such insurance (but  
43 not including life insurance or surety bonds nor insurance  
44 against loss by reason of bodily injury to the person arising  
45 out of the ownership, maintenance or use of automobiles);

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

50 (4) Against any and all kinds of loss or damage to bridges,  
51 tunnels and other instrumentalities of transportation and com-  
52 munication (excluding buildings, their furniture and furnish-  
53 ings, fixed contents and supplies held in storage) unless fire,  
54 windstorm, sprinkler, leakage, hail, explosion, earthquake,  
55 riot or civil commotion or any or all of them are the only  
56 hazards to be covered;

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

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

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

73 (e) Casualty—Casualty insurance includes:

74 (1) Vehicle insurance, which is insurance against loss of  
75 or damage to any land vehicle or aircraft or any draft or

76 riding animal or to property while contained therein or thereon  
77 or being loaded therein or therefrom, from any hazard or  
78 cause, and against any loss, liability or expense resulting from  
79 or incident to ownership, maintenance or use of any such  
80 vehicle, aircraft or animal; together with insurance against  
81 accidental death or accidental injury to individuals, including  
82 the named insured, while in, entering, alighting from adjusting,  
83 repairing or cranking, or caused by being struck by any  
84 vehicle, aircraft or draft or riding animal, if such insurance  
85 is issued as a part of insurance on the vehicle, aircraft or  
86 draft or riding animal.

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

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

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

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

112 (6) Boiler and machinery insurance, which is insurance  
113 against any liability and loss or damage to property or interest

114 resulting from accidents to or explosion of boilers, pipes,  
115 pressure containers, machinery, or apparatus, and to make  
116 inspection of and issue certificates of inspection upon boilers,  
117 machinery, and apparatus of any kind, whether or not insured.

118 (7) Leakage and fire extinguishing equipment insurance,  
119 which is insurance against loss or damage to any property or  
120 interest caused by the breakage or leakage of sprinklers,  
121 hoses, pumps, and other fire extinguishing equipment or ap-  
122 paratus, water mains, pipes and containers, or by water  
123 entering through leaks or openings in buildings, and insurance  
124 against loss or damage to such sprinklers, hoses, pumps and  
125 other fire extinguishing equipment or apparatus.

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

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

144 (10) Entertainment insurance, which is insurance indemnify-  
145 ing the producer of any motion picture, television, radio,  
146 theatrical, sport, spectacle, entertainment or similar produc-  
147 tion, event or exhibition against loss from interruption, post-  
148 ponement, or cancellation thereof due to death, accidental  
149 injury, or sickness of performers, participants, directors or  
150 other principals.

151 (11) Miscellaneous insurance, which is insurance against

152 any other kind of loss, damage, or liability properly a subject  
153 of insurance and not within any other kind of insurance as  
154 defined in this chapter, if such insurance is not disapproved  
155 by the commissioner as being contrary to law or public policy.

156 (f) Surety—Surety insurance includes:

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

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

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

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

## **CHAPTER 46A.**

### **WEST VIRGINIA COUSUMER CREDIT AND PROTECTION ACT.**

#### **ARTICLE 3. FINANCE CHARGES AND RELATED PROVISIONS.**

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

- 1 (1) In addition to the sales finance charge or loan finance
- 2 charge permitted by this chapter, a creditor may contract for

3 and receive the following additional charges in connection with  
4 a consumer credit sale or a consumer loan.

5 (a) Official fees and taxes.

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

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

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

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

32 (2) A creditor may take, obtain or provide reasonable  
33 insurance on the life and earning capacity of any consumer  
34 obligated on the consumer credit sale or consumer loan, reason-  
35 able insurance on any real or personal property offered as  
36 security subject to the provisions of this subsection, and  
37 vendor's or creditor's single interest insurance with respect  
38 to which the insurer has no right of subrogation. Only one  
39 policy of life insurance and/or one policy of health and acci-



40 dent insurance and/or one policy of accident insurance  
41 and/or one policy of loss of income insurance on any one con-  
42 sumer may be in force with respect to any one contract or  
43 agreement at any one time, but one policy may cover both a  
44 consumer and his spouse.

45 (a) The amount, terms and conditions of property insur-  
46 ance shall have a reasonable relation to the existing hazards or  
47 risk of loss, damage or destruction and be reasonable in  
48 relation to the character and value of the property insured or  
49 to be insured; and the term of such insurance shall be rea-  
50 sonable in relation to the terms of credit: *Provided*, That  
51 nothing shall be deemed to prohibit the consumer from ob-  
52 taining, at his option, greater coverages for longer periods of  
53 time if he so desires;

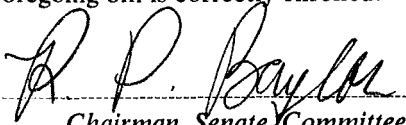
54 (b) Life insurance shall be in an initial amount not to  
55 exceed the total amount repayable under the consumer credit  
56 agreement, and where a consumer credit sale or consumer  
57 loan is repayable in installments, such insurance shall at no  
58 time exceed the scheduled or actual amount of unpaid indebted-  
59 ness, whichever is greater. Life insurance authorized by this  
60 subdivision shall provide that the benefits shall be paid to the  
61 creditor or reduce or extinguish the unpaid indebtedness:  
62 *Provided*, That if a separate charge is made for such insurance  
63 and the amount of insurance exceeds the unpaid indebtedness,  
64 where not prohibited, then such excess shall be payable to the  
65 estate of the consumer. The initial term of such life insurance  
66 in connection with a consumer credit sale, other than a sale  
67 pursuant to a revolving charge account, or in connection with a  
68 consumer loan, other than a loan pursuant to a revolving loan  
69 account, shall not exceed the scheduled term of the consumer  
70 credit agreement by more than fifteen days. The aggregate  
71 amount of periodic benefits payable by credit accident and  
72 health insurance in the event of disability, as defined in the  
73 policy, and loss of income insurance in the event of involun-  
74 tary loss of employment, as defined in the policy, shall not  
75 exceed the unpaid amount of such indebtedness; periodic bene-  
76 fits payable in connection with a consumer credit sale pursuant  
77 to a revolving charge account or of a consumer loan pursuant  
78 to a revolving loan account may be based upon the authorized  
79 credit limit;

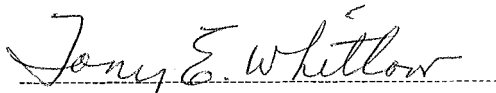
80 (c) When the insurance is obtained or provided by or  
81 through a creditor, the creditor may collect from the consumer  
82 or include as a part of the cash price of a consumer credit  
83 sale or as part of the principal of a consumer loan, or deduct  
84 from the proceeds of any consumer loan the premium, or in the  
85 case of group insurance, the identifiable charge. The premium  
86 or identifiable charge for such insurance required or obtained  
87 by a creditor may equal, but shall not exceed the premium rate  
88 filed by the insurer with the insurance commissioner. In any  
89 case, when the creditor collects the entire premium for such  
90 insurance in advance, such premium shall be remitted by such  
91 creditor to the insurer or the insurance agent, as specified by  
92 the insurer, within ten days from or after the end of the month  
93 in which such collection was made.

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

100 (e) With respect to consumer credit insurance providing  
101 life, accident, health or loss of income coverage, no creditor  
102 shall require a consumer to purchase such insurance or to pur-  
103 chase such insurance from such creditor or any particular  
104 agent, broker or insurance company as a condition precedent  
105 to extending credit to or on behalf of such consumer.

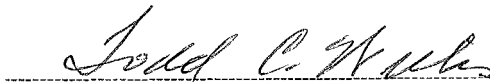
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

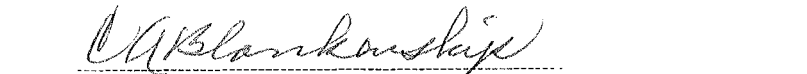
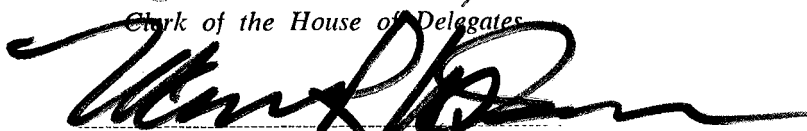
  
Chairman Senate Committee

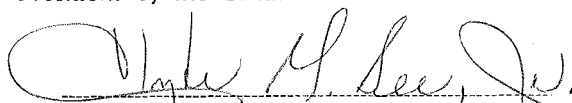
  
Chairman House Committee

Originated in the House.

Takes effect from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates  
  
President of the Senate

  
Speaker House of Delegates

The within incurred this the 20  
day of April, 1981.

  
Governor

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SECY.