WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1983

ENROLLED

HOUSE BILL No. 1603

(By Mr. Doff)

Passed March 9, 1983

In Effect Ninety Days From Passage
ENROLLED

H. B. 1603
(By Mr. Goff)

(Passed March 9, 1983; in effect ninety days from passage.)

AN ACT to amend and reenact section twelve, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section eight-a; and to amend and reenact section two, article twenty-three of said chapter, all relating to the maximum rate of interest on life insurance policy loans; reinstatements; applicability of other provisions of chapter.

Be it enacted by the Legislature of West Virginia:

That section twelve, article thirteen, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section eight-a; and that section two, article twenty-three of said chapter be amended and reenacted, all to read as follows:

ARTICLE 13. LIFE INSURANCE.

§33-13-8a. Maximum rate of interest on policy loans.

1. (a) For purposes of this section the "published monthly average" means:

2. (1) Moody's corporate bond yield average—monthly average corporates as published by Moody's Investors Service, Inc., or any successor thereto; or
(2) In the event that Moody's corporate bond yield average—monthly average corporates is no longer published, a substantially similar average, established by regulation issued by the commissioner.

(b) Policies issued on or after the first day of June, one thousand nine hundred eighty-three, shall provide for maximum policy loan interest rates as follows:

(1) A provision permitting a maximum interest rate of not more than eight percent per annum; or

(2) A provision permitting an adjustable maximum interest rate established from time to time by the life insurer as permitted by law.

(c) The rate of interest charged on a policy loan made under subdivision (2), subsection (b) of this section shall not exceed the higher of the following:

(1) The published monthly average for the calendar month ending two months before the date on which the rate is determined; or

(2) The rate used to compute the cash surrender values under the policy during the applicable period plus one percent per annum.

(d) If the maximum rate of interest is determined pursuant to subdivision (2), subsection (b) of this section, the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy.

(e) The maximum rate for each policy shall be determined at regular intervals at least once every twelve months, but not more frequently than once in any three-month period. At the intervals specified in the policy:

(1) The rate being charged may be increased whenever such increase as determined under subsection (c) of this section would increase that rate by one-half percent or more per annum; and

(2) The rate being charged shall be reduced whenever such reduction as determined under subsection (c) of this section
would decrease that rate by one-half percent or more per annum.

(f) The life insurer shall:

(1) Notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;

(2) Notify the policyholder with respect to premium loans of the initial rate of interest on the loan within forty-five days after making the loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in subdivision (3) below;

(3) Send to policyholder with loans reasonable advance notice of any increase in the rate; and

(4) Include in the notices required above the substance of the pertinent provisions of subsections (b) and (d) of this section.

(g) No policy shall terminate in a policy year as the sole result of a change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.

(h) The substance of the pertinent provisions of subsections (b) and (d) shall be set forth in the policies to which they apply.

(i) For purposes of this section:

(1) The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of a policy;

(2) The term "policy loan" includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due;

(3) The term "policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer; and
(4) The term “policy” includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.

(j) No other provision of law shall apply to policy loan interest rates unless made specifically applicable to such rates.

(k) The provisions of this section shall not apply to any insurance contract issued before the first day of June, one thousand nine hundred eighty-three, unless the policyholder agrees in writing to the applicability of such provisions.

§33-13-12. Reinstatements.

There shall be a provision that unless the policy has been surrendered for its cash surrender value or unless the paid-up term insurance if any, has expired, the policy will be reinstated at any time within three years from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears, and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest at a rate not exceeding six percent per annum compounded annually. However, with respect to policies issued on or after the first day of June, one thousand nine hundred eighty-three, the rate of interest on the payment or reinstatement of any other indebtedness to the insurer upon the policy shall be as provided in section eight-a of this article.

ARTICLE 23. FRATERNAL BENEFIT SOCIETIES.

§33-23-2. Other provisions of chapter applicable.

Every fraternal benefit society shall be governed and be subject, to the same extent as other insurers transacting like kinds of insurance, to the following articles of this chapter: Article one (definitions), article two (insurance commissioner), article four (general provisions), article ten (rehabilitation and liquidation), article eleven (unfair trade practices) and article thirteen (life insurance).
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 27th day of March, 1983.

Governor