

No. 1520

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

— ● —

## ENROLLED

Com. Sub. for  
HOUSE BILL No. 1520.

(By Mr. Speaker, Mr. Albright & Delaney  
[By request of the Executive.]

— ● —

Passed March 8, 1986

In Effect Ninety Days From Passage

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 1520**

(By MR. SPEAKER MR. ALBRIGHT, and DELEGATE SWANN)  
[By request of the Executive]

---

[Passed March 8, 1986; in effect ninety days from passage.]

AN ACT to amend and reenact section thirteen, article three; sections six, thirteen, sixteen, sixteen-a and twenty-eight, article twelve; section six, article twenty; section twelve, article twenty-one; sections two and sixteen, article twenty-two; section twenty-nine, article twenty-three; sections four and five, article twenty-four; section seven, article twenty-five; and section twenty-two, article twenty-five-a, all of chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to increasing the fees and charges assessed against insurers and their agents, brokers, solicitors, and service representatives; terminating the existing two percent insurance premium tax on excess line brokers, which tax is payable into the state general revenue fund, on and after the first day of January, one thousand nine hundred eighty-seven; providing for the preservation of and payment of tax liability already accrued under the two percent tax and for the prior calendar year to be remitted and paid subsequent to elimination of such tax; retaining the additional four percent insurance premium tax on such excess line brokers, which tax is payable into a special account in the state treasury and thereafter distributable after legislative appropriation to local municipal policemen's and firemen's pension and relief funds and

to volunteer and part-volunteer fire companies and departments, and making the collection and payment of such four percent tax on a quarterly basis rather than annually, once a year; and increasing the license, annual, filing, or applications fees for rating organizations, reciprocal insurers, farmers' mutual insurance companies, fraternal benefit societies, hospital service corporations, medical service corporations, dental service corporations, health care corporations and health maintenance organizations.

*Be it enacted by the Legislature of West Virginia:*

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

**ARTICLE 3. LICENSING, FEES AND TAXATION OF INSURERS.**

**§33-3-13. Fees and charges.**

1 (a) Except where it is otherwise specially provided,  
2 the commissioner shall demand and receive the follow-  
3 ing fees from all insurers: For annual fee for each  
4 license, two hundred dollars; for receiving and filing  
5 annual reports, one hundred dollars; for valuation of  
6 policies of life insurers organized under the laws of this  
7 state, one and one-half cents for each one thousand  
8 dollars of insurance; for valuation of policies of life  
9 insurers organized under the laws of any other state  
10 licensed to transact insurance in this state the rate for  
11 each one thousand dollars of insurance valued as is  
12 imposed by the other state upon any similar insurer  
13 organized under the laws of this state licensed to  
14 transact insurance in the other state; for filing certified  
15 copy of articles of incorporation, fifty dollars; for filing  
16 copy of its charter, fifty dollars; for filing statements

17 preliminary to admission, one hundred dollars; for filing  
 18 any additional paper required by law or furnishing  
 19 copies thereof, one dollar; for every certificate of  
 20 valuation, copy of report or certificate of condition of  
 21 company to be filed in any other state, fifteen dollars;  
 22 for each licensed agent, twenty-five dollars. The  
 23 commissioner may by regulation set reasonable charges  
 24 for printed forms for the annual statements required by  
 25 law. He may sell at cost publications purchased by, or  
 26 printed on behalf of the commissioner.

27 (b) Such fees and charges collected by the commis-  
 28 sioner under the provisions of this section or elsewhere  
 29 in this chapter and designated for use by the commis-  
 30 sioner for the operation of the department of insurance  
 31 or for the purposes of this section, shall be paid into a  
 32 special revenue account, hereby created in the state  
 33 treasury, to be expended and used by the commissioner,  
 34 upon his requisition and after appropriation by the  
 35 Legislature, for the operation of the department of  
 36 insurance.

#### ARTICLE 6. THE INSURANCE POLICY.

##### §33-6-34. Fee for form and rate filing.

1 A fee of ten dollars for every form filing and ten  
 2 dollars for every rate filing shall be submitted with each  
 3 filing. If a form filing or rate filing is made on behalf  
 4 of more than one insurer, other than a filing made by  
 5 a rating organization licensed by the commissioner  
 6 pursuant to section six, article twenty of this chapter,  
 7 the fee shall be submitted as if the filing were made by  
 8 each individual insurer. Fees submitted pursuant to this  
 9 section shall not be refunded if the form filing or rate  
 10 filing, for which the fee was submitted, is disapproved  
 11 in whole or in part by the commissioner. The refiling  
 12 of a form filing or rate filing previously disapproved by  
 13 the commissioner shall be considered a new filing for  
 14 the purposes of the filing fee: *Provided*, That any request  
 15 by the commissioner for additional information pertain-  
 16 ing to a form filing shall not be considered a new filing  
 17 for purposes of the filing fee. All fees collected pursuant  
 18 to this section shall be used by the commissioner for the

19 operation of the department of insurance.

**ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS  
LINE.**

**§33-12-6. License fee.**

1 The fee for an agent's license shall be twenty-five  
2 dollars as provided in section thirteen, article three of  
3 this chapter, the fee for a solicitor's license shall be  
4 twenty-five dollars, and the fee for a broker's license  
5 shall be twenty-five dollars, except that when any other  
6 state imposes a tax, bond, fine, penalty, license fee or  
7 other obligation or prohibition on agents resident in this  
8 state, the same tax, bond, fine, penalty, license fee or  
9 other obligation or prohibition shall be imposed upon  
10 agents (where licensing of nonresident agents is permit-  
11 ted under this article) or brokers of such other state  
12 licensed or seeking a license in this state. All fees and  
13 moneys so collected shall be used for the purposes set  
14 forth in section thirteen, article three of this chapter.

**§33-12-13. Licensing of excess line brokers.**

1 (a) Any licensed insurance agent determined by the  
2 commissioner to be competent and trustworthy for the  
3 purpose, may be licensed as an excess line broker.  
4 (b) The license fee shall be two hundred dollars, all  
5 fees so collected are to be used for the purposes set forth  
6 in section thirteen, article three of this chapter.  
7 (c) Prior to issuance of the license, the applicant  
8 therefor shall file with the commissioner and thereafter  
9 maintain in force for so long as the license or any  
10 renewal thereof remains in effect, a bond in favor of the  
11 state of West Virginia in the penal sum of two thousand  
12 dollars, with an authorized corporate surety approved  
13 by the commissioner, conditioned that he will conduct  
14 business under the license in accordance with this  
15 article, that he will promptly remit the taxes provided  
16 by section sixteen of this article, and that he will  
17 properly account to the person entitled thereto for funds  
18 received by him through transactions under the license.  
19 No bond shall be terminated unless at least thirty days'  
20 prior written notice thereof is filed with the commis-

21 sioner.

**§33-12-16. Annual return of two percent tax on excess line brokers; termination of such two percent tax on January 1, 1987, with accrued liability thereunder for prior calendar year preserved and required to be remitted.**

1 (a) Every excess line broker licensed pursuant to the  
2 provisions of this article shall make a return annually,  
3 under oath, on or before the first day of March to the  
4 commissioner of the gross amount of premiums charged  
5 the insureds by the insurers for insurance procured by  
6 such licensee, pursuant to such license during the  
7 previous calendar year, together with the amount of tax  
8 due thereon. The annual tax required to be paid, under  
9 the provisions of this section, shall be a sum equal to two  
10 percent of the gross premiums received on the gross  
11 business procured by such licensee on subjects of  
12 insurance, resident, located or to be performed in this  
13 state and obtained pursuant to the provisions of this  
14 article, including any so-called dividends on participat-  
15 ing insurance policies applied in reduction of premiums,  
16 less premiums returnable for cancellation. All such  
17 taxes paid to the commissioner shall be paid by him into  
18 the state treasury for the benefit of the state fund.

19 (b) On and after the first day of January, one  
20 thousand nine hundred eighty-seven, the annual two  
21 percent tax imposed by this section shall cease, expire  
22 and be of no further force or effect whatsoever thereaf-  
23 ter, but the final payment of tax in respect of the two  
24 percent tax levied by this section and being for the  
25 previous calendar year of one thousand nine hundred  
26 eighty-six shall be payable and shall be remitted to the  
27 Commissioner by the first day of March, one thousand  
28 nine hundred eighty-seven, as provided by this section.  
29 All of the other, general provisions of this section in  
30 respect of return requirements and other general  
31 administration provisions are retained for the adminis-  
32 tration purposes of the premium taxes remaining under  
33 this article.

**§33-12-16a. Four percent premium tax on excess line**

**brokers, payable by quarterly and final returns; and distributable to local level departments as specified.**

1 For the purpose of providing additional revenue for  
2 municipal policemen's and firemen's pension and relief  
3 funds and additional revenue for volunteer and part-  
4 volunteer fire companies and departments, an additional  
5 annual premium tax is hereby imposed and required to  
6 be paid, on a calendar year basis and in quarterly  
7 estimated installments due and payable on or before the  
8 twenty-fifth day of the month succeeding the close of the  
9 quarter in which they accrued, except for the fourth  
10 quarter, in respect of which taxes shall be due and  
11 payable and final computation of actual total liability  
12 for the prior calendar year shall be made, less credit for  
13 the three quarterly estimated payments prior made, and  
14 with such return to be made on or before the first day  
15 of March of the succeeding year. This additional tax  
16 shall be a sum equal to four percent of the gross  
17 premiums received on the gross business procured by  
18 such licensed excess line broker on subjects of insurance,  
19 resident, located or to be performed in this state and  
20 obtained pursuant to the provisions of this article,  
21 including any so-called dividends on participating  
22 insurance policies applied in reduction of premiums, less  
23 premiums returnable for cancellation. All provisions of  
24 this article relating to the levy, imposition and collection  
25 of the regular premium tax are applicable to the levy,  
26 imposition and collection of this additional tax.

27 All such taxes paid to the commissioner pursuant to  
28 this section shall be paid by him into a special account  
29 in the state treasury, designated "municipal pensions  
30 and protection fund," and after appropriation by the  
31 Legislature, shall be distributed in accordance with the  
32 provisions of subsection (c), section fourteen-d, article  
33 three of this chapter.

**§33-12-28. Service representative permits.**

1 Individual nonresidents of West Virginia, employed  
2 on salary by an insurer, who enter the state to assist and  
3 advise resident agents in the solicitation, negotiation,

4 making or procuring of contracts of insurance on risks  
5 resident, located or to be performed in West Virginia  
6 shall obtain a service representative permit. The  
7 commissioner may, upon receipt of a properly prepared  
8 application, issue the permit without requiring a  
9 written examination therefor. The fee for a service  
10 representative permit shall be twenty-five dollars and  
11 the permit shall expire at midnight on the thirty-first  
12 day of March next following the date of issuance.  
13 Issuance of a service representative permit shall not  
14 entitle the holder to countersign policies. The represen-  
15 tative shall not in any manner solicit, negotiate, make  
16 or procure insurance in this state except when in the  
17 actual company of the licensed resident agent whom he  
18 has been assigned to assist. All fees collected under this  
19 section shall be used for the purposes set forth in section  
20 thirteen, article three of this chapter.

#### ARTICLE 20. RATES AND RATING ORGANIZATIONS.

##### §33-20-6. Rating organizations.

1 (a) A corporation, an unincorporated association, a  
2 partnership or an individual, whether located within or  
3 outside this state, may make application to the commis-  
4 sioner for license as a rating organization for such kinds  
5 of casualty insurance or subdivisions thereof, or for such  
6 kinds of fire and marine insurance or subdivision or  
7 class of risk or a part or combination thereof as are  
8 specified in its application and shall file therewith (1)  
9 a copy of its constitution, its articles of agreement or  
10 association or its certificates of incorporation, and of its  
11 bylaws, rules and regulations governing the conduct of  
12 its business, (2) a list of its members and subscribers,  
13 (3) the name and address of a resident of this state as  
14 attorney-in-fact upon whom notices or orders of the  
15 commissioner or process affecting such rating organiza-  
16 tion may be served and (4) a statement of its qualifica-  
17 tions as a rating organization. If the commissioner finds  
18 that the applicant is competent, trustworthy and  
19 otherwise qualified to act as a rating organization and  
20 that its constitution, articles of agreement or association  
21 or certificate of incorporation, and its bylaws, rules and  
22 regulations governing the conduct of its business



23 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 authorized to act as  
26 a rating organization. Every application shall be  
27 granted or denied in whole or in part by the commis-  
28 sioner 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  
31 revoked by the commissioner. The fee for the license  
32 shall be one hundred dollars, and the fee shall be in lieu  
33 of all other fees, licenses or taxes to which a rating  
34 organization might otherwise be subject, all fees so  
35 collected to be used for the purposes specified in section  
36 thirteen, article three of this chapter. Licenses issued  
37 pursuant to this section may be suspended or revoked  
38 by the commissioner, after notice and hearing, in the  
39 event the rating organization ceases to meet the  
40 requirements of this article. Every rating organization  
41 shall notify the commissioner promptly of every change  
42 in (1) its constitution, its articles of agreement or  
43 association or its certificate of incorporation, and its  
44 bylaws, rules and regulations governing the conduct of  
45 its business, (2) its list of members and subscribers and  
46 (3) the name and address of the resident of this state  
47 designated as attorney-in-fact by it upon whom notices  
48 or orders of the commissioner or process affecting such  
49 rating organization may be served.

50 (b) Subject to rules and regulations which have been  
51 approved by the commissioner as reasonable, each  
52 rating organization shall permit any insurer, not a  
53 member, to be a subscriber to its rating services for any  
54 kind of casualty insurance or subdivision thereof, or for  
55 any kind of fire and marine insurance or subdivision or  
56 class of risk or a part or combination thereof, or any  
57 kind of surety insurance or subdivision thereof, for  
58 which it is authorized to act as a rating organization.  
59 Notice of proposed changes in such rules and regulations  
60 shall be given to subscribers. Each rating organization  
61 shall furnish its rating services without discrimination  
62 to its members and subscribers. The reasonableness of  
63 any rule or regulation in its application to subscribers,  
64 or the refusal of any rating organization to admit an

65 insurer as a subscriber, shall, at the request of any  
66 subscriber or any such insurer, be reviewed by the  
67 commissioner. If, after notice and hearing, the commis-  
68 sioner finds that the rule or regulation is unreasonable  
69 in its application to subscribers, he shall order that the  
70 rule or regulation shall not be applicable to subscribers.  
71 If the rating organization fails to grant or reject an  
72 insurer's application for subscribership within thirty  
73 days after it was made, the insurer may request a  
74 review by the commissioner as if the application had  
75 been rejected. If, after notice and hearing, the commis-  
76 sioner finds that the insurer has been refused admit-  
77 tance to the rating organization as a subscriber without  
78 justification, he shall order the rating organization to  
79 admit the insurer as a subscriber. If he finds that the  
80 action of the rating organization was justified, he shall  
81 make an order affirming its action.

82 (c) No rating organization shall adopt any rule the  
83 effect of which would be to prohibit or regulate the  
84 payment of dividends, savings or unabsorbed premium  
85 deposits allowed or returned by insurers to their  
86 policyholders, members or subscribers.

87 (d) Cooperation among rating organizations or among  
88 rating organizations and insurers in rate making or in  
89 other matters within the scope of this article is hereby  
90 authorized, provided the filings resulting from such  
91 cooperation are subject to all the provisions of this  
92 article which are applicable to filings generally. The  
93 commissioner may review such cooperative activities  
94 and practices, and if after a hearing he finds that any  
95 such activity or practice is unfair or unreasonable or  
96 otherwise inconsistent with the provisions of this article,  
97 he may issue a written order specifying in what respects  
98 such activity or practice is unfair or unreasonable or  
99 otherwise inconsistent with the provisions of this article,  
100 and requiring the discontinuance of such activity or  
101 practice.

102 (e) Any rating organization for casualty, marine or  
103 surety insurance may provide for the examination of  
104 policies, daily reports, binders, renewal certificates,  
105 endorsements or other evidences of insurance, or the

106 cancellation thereof, and may make reasonable rules  
107 governing their submission. The rules shall contain a  
108 provision that in the event any insurer does not within  
109 sixty days furnish satisfactory evidence to the rating  
110 organization of the correction of any error or omission  
111 previously called to its attention by the rating organi-  
112 zation, it shall be the duty of the rating organization to  
113 notify the commissioner thereof. All information so  
114 submitted for examination shall be confidential. Such  
115 services for fire insurance shall be governed by the  
116 provisions of section ten, article seventeen of this  
117 chapter.

118 (f) Any rating organization may subscribe for or  
119 purchase actuarial, technical or other services, and these  
120 services shall be available to all members and subscrib-  
121 ers without discrimination.

**ARTICLE 21. RECIPROCAL INSURERS.**

**§33-21-12. Process and venue; annual fee.**

1 (a) Concurrently with the filing of the application  
2 provided for by the terms of section six of this article,  
3 the attorney shall file with the commissioner an  
4 instrument in writing, executed by him for said  
5 subscribers, conditioned that upon the issuance of the  
6 license provided for in section seven of this article any  
7 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,  
12 or in the county of this state wherein the person insured  
13 had a legal residence at the date of his death or at the  
14 time the right of action accrued, and that service of any  
15 process or notice may be had upon the secretary of state  
16 in all actions, suits or other proceedings in this state  
17 arising out of such policies, contracts, agreements or  
18 other business of insurance transacted under such  
19 license, and that said secretary of state may accept  
20 service of any such process or notice.

21 (b) Such service or acceptance of service shall be valid  
22 and binding upon the attorney and upon all subscribers

23 exchanging at any time reciprocal or interinsurance  
 24 contracts through the attorney. Two copies of such  
 25 process or notice, in addition to the original, shall be  
 26 furnished the secretary of state, and he shall file one  
 27 copy, forward one copy to the attorney and return the  
 28 original with his acceptance of service or for return of  
 29 service. But no process or notice shall be served on the  
 30 secretary of state or accepted by him less than ten days  
 31 before the return day thereof. Where the principal office  
 32 of the attorney is located in this state, service of process  
 33 may be had upon all subscribers by serving same upon  
 34 the attorney at said office. Service of process shall not  
 35 be had upon said subscribers or any of them in any suit  
 36 or other proceeding in this state except in the manner  
 37 provided in this section, and any action, suit, or other  
 38 proceeding may be begun and prosecuted against or  
 39 defended by them under the name or designation  
 40 adopted by them.

41 (c) The attorney shall pay to the secretary of state an  
 42 annual fee of twenty dollars.

## ARTICLE 22. FARMERS' MUTUAL FIRE INSURANCE COMPANIES.

### §33-22-2. Other provisions of chapter applicable.

1 Each such company to the same extent such provisions  
 2 are applicable to domestic mutual insurers shall be  
 3 governed by and be subject to the following articles of  
 4 this chapter: Article one (definitions), article two  
 5 (insurance commissioner), article four (general provi-  
 6 sions) except that section sixteen of article four shall not  
 7 be applicable thereto, article ten (rehabilitation and  
 8 liquidation) except that under the provisions of section  
 9 thirty-two of said article ten no assessment shall be  
 10 levied against any former member of a farmers' mutual  
 11 fire insurance company who is no longer a member of  
 12 the company at the time the order to show cause was  
 13 issued, article eleven (unfair practices and frauds),  
 14 article twelve (agents, brokers and solicitors) except that  
 15 the agents' license fee shall be five dollars, article  
 16 twenty-six (West Virginia Insurance Guaranty Associ-  
 17 ation Act), and article thirty (mine subsidence insu-  
 18 rance) except that under the provisions of section six,

19 article thirty, a farmers' mutual insurance company  
20 shall have the option of offering mine subsidence  
21 coverage to all of its policyholders but shall not be  
22 required to do so; but only to the extent these provisions  
23 are not inconsistent with the provisions of this article.

**§33-22-16. Fees.**

1 Such company at the time of making its annual report  
2 shall pay to the commissioner a filing fee of twenty-five  
3 dollars, all fees so collected to be used for the purposes  
4 specified in section thirteen, article three of this chapter.  
5 No other fees or taxes shall be levied against such  
6 companies except the agent's license fee and the  
7 expenses of examination thereof by the commissioner.

**ARTICLE 23. FRATERNAL BENEFIT SOCIETIES.**

**§33-23-29. Fees; exemption of funds and assets from taxation.**

1 (a) Each society shall pay to the commissioner an  
2 annual license fee of fifty dollars and a fee of twenty-  
3 five dollars for filing the annual statement of the society,  
4 all fees so collected to be used for the purposes specified  
5 in section thirteen, article three of this chapter.

6 (b) Every society licensed under this article is hereby  
7 declared to be a charitable and benevolent institution,  
8 and all of its funds and assets shall be exempt from all  
9 state, county, district and municipal taxes except taxes  
10 on real property and office equipment.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL  
SERVICE CORPORATIONS AND DENTAL SER-  
VICE CORPORATIONS.**

**§33-24-4. Exemptions; applicability of other laws.**

1 Every such corporation is hereby declared to be a  
2 scientific, nonprofit institution and as such exempt from  
3 the payment of all property and other taxes. Every such  
4 corporation, to the same extent such provisions are  
5 applicable to insurers transacting similar kinds of  
6 insurance and not inconsistent with the provisions of this  
7 article, shall be governed by and be subject to the  
8 provisions, as hereinbelow indicated, of the following

9 articles of this chapter: Article two (insurance commis-  
 10 sioner) except that under section nine of article two  
 11 examinations shall be conducted at least once every four  
 12 years, article four (general provisions) except that  
 13 section sixteen of article four shall not be applicable  
 14 thereto, article ten (rehabilitation and liquidation),  
 15 article eleven (unfair practices and frauds), article  
 16 twelve (agents, brokers and solicitors) except that the  
 17 agent's license fee shall be five dollars, section three-c,  
 18 article sixteen (group accident and sickness insurance),  
 19 section three-d, article sixteen (medicare supplement),  
 20 and article twenty-eight (individual accident and  
 21 sickness insurance minimum standards); and no other  
 22 provision of this chapter shall apply to such corporations  
 23 unless specifically made applicable by the provisions of  
 24 this article. If, however, any such corporation shall be  
 25 converted into a corporation organized for a pecuniary  
 26 profit, or if it shall transact business without having  
 27 obtained a license as required by section five of this  
 28 article, it shall thereupon forfeit its right to these  
 29 exemptions.

**§33-24-5. Licenses; name of corporation.**

- 1 (a) No such corporation shall enter into any contract  
 2 with a subscriber until it has obtained from the  
 3 commissioner a license as provided in this section.  
 4 Application for a license shall be made on forms to be  
 5 prescribed and furnished by the commissioner.
- 6 (b) The application shall be accompanied by a copy of  
 7 the following documents: (1) Certificate of incorporation;  
 8 (2) bylaws; (3) contracts between the corporation and  
 9 participating hospitals, physicians, dentists or other  
 10 health agencies; (4) proposed contracts to be issued to  
 11 subscribers, setting forth the hospital, medical or dental  
 12 service, to which subscribers are entitled, and the table  
 13 of rates to be charged for such service; and (5) financial  
 14 statement showing the amount of contributions paid, or  
 15 agreed to be paid, to the corporation for working capital,  
 16 the name or names of each contributor and the terms  
 17 of each contribution.
- 18 (c) Within thirty days after receipt of an application,

19 the commissioner shall, upon payment to him of a  
20 license fee of two hundred dollars, issue a license  
21 authorizing the corporation to transact business in this  
22 state in the area to be served by it, if he is satisfied (1)  
23 that the applicant is incorporated in this state under the  
24 provisions of article one, chapter thirty-one of this code,  
25 as a bona fide nonprofit corporation, (2) that the  
26 contracts between the corporation and participating  
27 hospitals, physicians, dentists and other health agencies  
28 contain all the terms required by section seven of this  
29 article, (3) that the working capital available to the  
30 corporation will be sufficient to pay all operating  
31 expenses, other than payment for hospital, medical or  
32 dental services, for a reasonable period after the  
33 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,  
36 regardless of their race, color or economic status. Any  
37 license so issued may be renewed annually upon  
38 payment to the commissioner of a renewal fee of two  
39 hundred dollars.

40 (d) The term of such license, renewal, refusal to  
41 license, revocation, suspension or penalty in lieu thereof,  
42 shall be governed by the provisions of sections eight,  
43 nine, ten and eleven, article three of this chapter, in the  
44 same manner that these sections are applicable to  
45 insurers generally.

46 (e) No such corporation shall include in its name the  
47 words "insurance," "casualty," "surety," "health and  
48 accident," "accident and sickness," "mutual," or any  
49 other words descriptive of the insurance business; nor  
50 shall its name be so similar to that of any insurer which  
51 was licensed to transact insurance in this state when  
52 such corporation was formed, as to tend, in the opinion  
53 of the commissioner, to confuse the public.

#### ARTICLE 25. HEALTH CARE CORPORATIONS.

##### §33-25-7. Licenses.

1 (a) Before it may issue any contract to a subscriber,  
2 a corporation desiring to establish, maintain and operate  
3 a direct health care plan must first obtain from the

4 commissioner a license as provided in this section.

5 (b) Applications for an original license shall be made  
6 on forms prescribed and furnished by the commissioner  
7 and shall be accompanied by the following documents  
8 and information: (1) Certificate of incorporation; (2)  
9 bylaws; (3) list of names and residence addresses of all  
10 officers and board of directors of the corporation; (4)  
11 contracts between the corporation and persons, firms,  
12 corporations or associations to render direct health care  
13 services; (5) proposed contracts to be issued to subscrib-  
14 ers setting forth in detail the direct health care services  
15 to which subscribers are entitled and the table of rates  
16 to be charged for such services; (6) financial statement  
17 showing the assets and liabilities of the corporation, the  
18 amount of contributions paid, or agreed to be paid, to  
19 the corporation for working capital, the names or name  
20 of each contributor and the terms of each contribution;  
21 and (7) any additional information as the commissioner  
22 may require.

23 (c) Within thirty days after receipt of an application,  
24 the commissioner shall, upon payment to him of a  
25 license fee of two hundred dollars, issue a license  
26 authorizing the corporation to transact business in this  
27 state in the area to be served by it, if he is satisfied (1)  
28 that the applicant is incorporated in this state under the  
29 provisions of article one, chapter thirty-one of the code  
30 of West Virginia as a bona fide, nonprofit corporation,  
31 (2) that the health care plan which the corporation  
32 proposes to operate, as well as the forms of all contracts  
33 which it proposes to issue under such health care plan,  
34 are based upon sound business principles and will be in  
35 every respect equitable, just and fair to the subscriber,  
36 (3) that the working capital available to the corporation  
37 will be sufficient to pay all operating expenses during  
38 the subscription period, and (4) that the proposed plan  
39 will adequately serve the best interests of all the people  
40 of the area in which the corporation intends to operate,  
41 regardless of their race, color or religion.

42 (d) The commissioner may refuse to license a corpo-  
43 ration when he determines that such corporation has not  
44 complied with the laws of this state, or that it is not in



45 the best interest of the people of the state that such  
46 corporation be licensed, or that such corporation would  
47 transact business in this state in an improper, illegal or  
48 unjust manner. In such event, the commissioner shall  
49 enter an order refusing the license and the applicant  
50 therefor may have a hearing and judicial review in  
51 accordance with the applicable provisions of article two  
52 of this chapter relating to hearings before and judicial  
53 review of orders entered by the commissioner.

54 (e) All licenses issued under the provisions of this  
55 article shall expire at midnight on the thirty-first day  
56 of March next following the date of issuance. The  
57 commissioner shall renew annually the license of all  
58 corporations which qualify and make applications  
59 therefor upon a form prescribed by the commissioner  
60 upon payment to the commissioner of a renewal fee of  
61 two hundred dollars.

62 (f) The commissioner shall, after notice and hearing,  
63 refuse to renew or shall revoke or suspend the license  
64 of a corporation, if the corporation: (1) Violates any  
65 provision of this article; (2) fails to comply with any  
66 lawful rule, regulation or order of the commissioner; (3)  
67 is transacting its business in an illegal, improper or  
68 unjust manner, or is operating in contravention of its  
69 articles of incorporation or any amendments thereto, of  
70 its bylaws, or of its health care plan; (4) is found by the  
71 commissioner to be in an unsound condition or in such  
72 condition as to jeopardize its obligations to subscribers  
73 and those with whom it has contracted; (5) compels  
74 subscribers to its health care program to accept less  
75 than the obligation due them under their contracts or  
76 agreements with the corporation; (6) refuses to be  
77 examined or to produce its accounts, records and files  
78 for examination by the commissioner when required; (7)  
79 fails to pay any final judgment rendered against it in  
80 West Virginia within thirty days after the judgment  
81 became final or time for appeal expired, whichever is  
82 later; (8) fails to pay when due to the state of West  
83 Virginia any fees, charges or penalties required by this  
84 chapter.

85 In those cases where the commissioner has the right

86 to revoke, suspend or terminate the license or any  
87 renewal thereof of said corporation, the commissioner  
88 shall, by order, require the corporation to pay to the  
89 state of West Virginia a penalty in the sum not  
90 exceeding one thousand dollars, and on the failure of the  
91 corporation to pay the penalty within thirty days after  
92 notice thereof, the commissioner shall revoke or suspend  
93 the license of the corporation.

94 When any license has been revoked, suspended or  
95 terminated, the commissioner may reinstate the license  
96 when he is satisfied that the conditions causing the  
97 revocation, suspension or termination have ceased to  
98 exist and are unlikely to recur.

99 In the event the commissioner revokes, suspends or  
100 terminates a license, the corporation may demand a  
101 hearing in the manner provided in article two of this  
102 chapter.

#### ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

##### §33-25A-22. Fees.

1 Every health maintenance organization subject to this  
2 article shall pay to the commissioner the following fees:  
3 For filing an application for a certificate of authority  
4 or amendment thereto, two hundred dollars; and for  
5 filing each annual report, twenty-five dollars. Fees  
6 charged under this section shall be for the purposes set  
7 forth in section thirteen, article three of this chapter.

Enr. Com. Sub. for H. B. 1520] 18

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

*Bruce O. Williams*  
Chairman Senate Committee

*Floyd Fuller*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Isabel C. Smith*  
Clerk of the Senate

*Donald G. Kopp*  
Clerk of the House of Delegates

*Don Tonkonil*  
President of the Senate

*Joseph P. Allright*  
Speaker of the House of Delegates

The within *approved* this the *26th*  
day of *March*, 1986.

*Arch A. Phares Jr.*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/21/86

Time 4:51 p.m.

RECEIVED

1036 MAR 20 PM 6 57

SECRETARY OF STATE

FILED IN THE OFFICE OF  
SECRETARY OF STATE OF  
WEST VIRGINIA

THIS DATE 3/26/86