

No: 487

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



ENROLLED

SENATE BILL NO. 487

(By Senator Tennessee, Mr. President, et al
By Request)



PASSED March 14 1987

In Effect thirty days from Passage



ENROLLED

Senate Bill No. 487

(BY SENATORS TONKOVICH, MR. PRESIDENT (BY REQUEST), AND HARMAN)

[Passed March 14, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact section eight, article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article six by adding thereto two new sections, designated sections eleven-a and thirty-five, relating to approval of insurance forms by the insurance commissioner; right to return medicare supplement policy, certificate or contract; and mass marketed life and health insurance.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 6. THE INSURANCE POLICY.

§33-6-8. Approval of forms.

- 1 (a) Except as provided in section eight, article seventeen
- 2 of this chapter (fire and marine forms), no insurance policy
- 3 form, no group certificate form, no insurance application
- 4 form where written application is required and is to be
- 5 made a part of the policy, and no rider, endorsement or
- 6 other form to be attached to any policy, shall be delivered or
- 7 issued for delivery in this state by an insurer unless it has

8 been filed with and approved by the commissioner, except
9 that as to group insurance policies delivered outside this
10 state, only the group certificates to be delivered or issued
11 for delivery in this state shall be filed with the
12 commissioner upon his request. This section shall not apply
13 to policies, riders, endorsement or forms of unique
14 character designed for and used with relation to insurance
15 upon a particular subject, or which relate to the manner of
16 distribution of benefits or to the reservation of rights and
17 benefits under life or accident and sickness insurance
18 policies, and are used at the request of the individual
19 policyholder, contract holder or certificate holder, nor to
20 the surety bond forms.

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

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

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

47 (e) Notwithstanding any other provisions of this
48 section, any mass marketed life and/or health insurance
49 policy offered to members of any association by an
50 association where the primary purpose of such association

51 is other than the sale of insurance to its members, shall be
52 exempt from the provision requiring prior approval under
53 this section.

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

**§33-6-11a. Right to return medicare supplement policy,
certificate or contract.**

1 Medicare supplement or limited benefit medicare
2 supplement policies, certificates or contracts (as such terms
3 are defined by regulations issued by the commissioner)
4 issued to persons eligible for medicare by reason of age,
5 other than those issued pursuant to direct response
6 solicitation, shall have a notice prominently printed on the
7 first page of the policy, certificate or contract, attached
8 thereto stating in substance that the insured person shall
9 have the right to return the policy, and to have the premium
10 refunded if, after examination of the policy, certificate or
11 contract, the insured person is not satisfied for any reason.
12 Policies, certificates or contracts issued pursuant to a direct
13 response solicitation to persons eligible for medicare by
14 reason of age shall have a notice prominently printed on the
15 first page or attached thereto, stating in substance that the
16 policyholder, certificate holder or contract holder shall
17 have the right to return the policy, certificate or contract
18 within thirty days of its delivery and to have the premium
19 refunded if after examination the insured person is not
20 satisfied for any reason.

§33-6-35. Mass marketed life and health insurance.

1 (a) No mass marketed life or health insurance including
2 mass marketed life or health insurance under a group or
3 blanket policy issued outside this state to residents of this
4 state, shall be effected on persons in this state until the
5 commissioner finds that the total charges for the insurance

6 to the persons insured are reasonable in relation to the
7 benefits provided.

8 (1) "Direct response solicitation" means any offer by an
9 insurer to persons in this state, either directly or through a
10 third party, to effect life or health insurance coverage which
11 enables the individual to apply or enroll for the insurance
12 on the basis of the offer. It shall not include solicitations for
13 insurance through an employee benefit plan which is
14 defined in P.L. 90-406, 88 Stat. 829, nor shall it include such
15 a solicitation through the individual's creditor with respect
16 to credit life or credit health insurance.

17 (2) "Mass marketed life or health insurance" for
18 purposes of this article, means the insurance under any
19 individual, franchise, group or blanket policy of life or
20 health insurance which is offered by means of direct
21 response solicitation through a sponsoring organization or
22 through mails or other mass communications media and
23 under which the person insured pays all or substantially all
24 of the cost of his or her insurance.

25 (b) Any insurer extending mass marketed life or health
26 insurance under a group or blanket policy issued outside
27 this state to residents of this state shall comply with respect
28 to such insurance with the requirements of this state
29 relating to advertising and to claim settlement practices.

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

[Signature]
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Judd C. Skellie
.....
Clerk of the Senate

Donald L. Kopp
.....
Clerk of the House of Delegates

Sam Tomlinson
.....
President of the Senate

Robert C. Calhoun
.....
Speaker House of Delegates

The within *approved* this the *28th*
March day of 1987.

Arch A. Brown
.....
Governor



PRESENTED TO THE
GOVERNOR

Date 3/23/87

Time 3:13 p.m.

RECEIVED

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OFFICE OF THE
SECRETARY OF THE
NAVY