WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1987

ENROLLED

SENATE BILL NO. 487

(BY SENATOR)

PASSED

IN EFFECT
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 of this chapter (fire and marine forms), no insurance policy form, no group certificate form, no insurance application form where written application is required and is to be made a part of the policy, and no rider, endorsement or other form to be attached to any policy, shall be delivered or issued for delivery in this state by an insurer unless it has
been filed with and approved by the commissioner, except
that as to group insurance policies delivered outside this
state, only the group certificates to be delivered or issued
for delivery in this state shall be filed with the
commissioner upon his request. This section shall not apply
to policies, riders, endorsement or forms of unique
class character designed for and used with relation to insurance
upon a particular subject, or which relate to the manner of
distribution of benefits or to the reservation of rights and
benefits under life or accident and sickness insurance
policies, and are used at the request of the individual
policyholder, contract holder or certificate holder, nor to
the surety bond forms.
(b) Every such filing shall be made not less than thirty
days in advance of any such delivery. At the expiration of
such thirty days, the form so filed shall be deemed approved
unless prior thereto it has been affirmatively approved or
disapproved by the commissioner. Approval of any such
form by the commissioner shall constitute a waiver of any
unexpired portion of such waiting period. The
commissioner may extend by not more than an additional
thirty days the period within which he may so affirmatively
approve or disapprove any such form, by giving notice of
such extension before expiration of the initial thirty-day
period. At the expiration of such period as so extended, and
in the absence of such prior affirmative approval or
disapproval, any such form shall be deemed approved. The
commissioner may at any time, after notice and for cause
shown, withdraw any such approval.
(c) Any order of the commissioner disapproving any
such form or withdrawing a previous approval shall state
the grounds therefor.
(d) The commissioner may, by order, exempt from the
requirements of this section for so long as he deems proper
any insurance document or form or type thereof as specified
in such order, to which, in his opinion, this section may not
practically be applied, or the filing and approval of which
are, in his opinion, not desirable or necessary for the
protection of the public.
(e) Notwithstanding any other provisions of this
section, any mass marketed life and/or health insurance
policy offered to members of any association by an
association where the primary purpose of such association
is other than the sale of insurance to its members, shall be exempt from the provision requiring prior approval under this section.

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

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

Medicare supplement or limited benefit medicare supplement policies, certificates or contracts (as such terms are defined by regulations issued by the commissioner) issued to persons eligible for medicare by reason of age, other than those issued pursuant to direct response solicitation, shall have a notice prominently printed on the first page of the policy, certificate or contract, attached thereto stating in substance that the insured person shall have the right to return the policy, and to have the premium refunded if, after examination of the policy, certificate or contract, the insured person is not satisfied for any reason.

Policies, certificates or contracts issued pursuant to a direct response solicitation to persons eligible for medicare by reason of age shall have a notice prominently printed on the first page or attached thereto, stating in substance that the policyholder, certificate holder or contract holder shall have the right to return the policy, certificate or contract within thirty days of its delivery and to have the premium refunded if after examination the insured person is not satisfied for any reason.

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

(a) No mass marketed life or health insurance including mass marketed life or health insurance under a group or blanket policy issued outside this state to residents of this state, shall be effected on persons in this state until the commissioner finds that the total charges for the insurance
(1) "Direct response solicitation" means any offer by an insurer to persons in this state, either directly or through a third party, to effect life or health insurance coverage which enables the individual to apply or enroll for the insurance on the basis of the offer. It shall not include solicitations for insurance through an employee benefit plan which is defined in P.L. 90-406, 88 Stat. 829, nor shall it include such a solicitation through the individual's creditor with respect to credit life or credit health insurance.

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

(b) Any insurer extending mass marketed life or health insurance under a group or blanket policy issued outside this state to residents of this state shall comply with respect to such insurance with the requirements of this state relating to advertising and to claim settlement practices.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Judd C. Weeks
Clerk of the Senate

Donald D. Kopp
Clerk of the House of Delegates

Dan Treadwell
President of the Senate

John P. Olver
Speaker House of Delegates

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

Ruth A. Brown
Governor