WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1994

ENROLLED

HOUSE BILL No. 4199

(By Delegates Phillips, Gallagher, Collins, Ashley, Riggs, Mezzatiata and Rowe)

Passed March 12, 1994

In Effect 90 Days from Passage
AN ACT to amend and reenact section six, article twenty, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to insurance rating organizations; requiring certain applications and filings; establishing fees; required notices; rules of the insurance commissioner; subscribers to the rating organization service; prohibited acts; cooperation among rating organizations and insurers; review and examinations; permitting subscription to actuarial, technical or other services; establishing time frames for commencement and completion of classification inspections; requiring notification of adjustments, written evaluations and publications of classifications; and requiring classification lists, changes in established classifications and guidelines to be submitted to the insurance commissioner within a certain time period.

Be it enacted by the Legislature of West Virginia:

That section six, article twenty, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 20. LICENSING, FEES AND TAXATION OF INSURERS.

§33-20-6. Rating organizations.

1 (a) A corporation, an unincorporated association, a partnership or an individual, whether located within or
outside this state, may make application to the commis-

sioner for license as a rating organization for such kinds
of casualty insurance or subdivisions thereof, or for such
kinds of fire and marine insurance or subdivision or
class of risk or a part or combination thereof as are
specified in its application and shall file therewith (1)
a copy of its constitution, its articles of agreement or
association or its certificates of incorporation, and of its
bylaws, rules governing the conduct of its business, (2)
a list of its members and subscribers, (3) the name and
address of a resident of this state as attorney-in-fact
upon whom notices or orders of the commissioner or
process affecting such rating organization may be
served and (4) a statement of its qualifications as a
rating organization. If the commissioner finds that the
applicant is competent, trustworthy and otherwise
qualified to act as a rating organization and that its
constitution, articles of agreement or association or
certificate of incorporation, and its bylaws, rules
governing the conduct of its business conform to the
requirements of law, he shall issue a license specifying
the kinds of insurance or subdivisions thereof for which
the applicant is authorized to act as a rating organiza-
tion. Every application shall be granted or denied in
whole or in part by the commissioner within sixty days
of the date of its filing with him. Licenses issued
pursuant to this section shall remain in effect for three
years unless sooner suspended or revoked by the
commissioner. The fee for the license shall be one
hundred dollars, and the fee shall be in lieu of all other
fees, licenses or taxes to which a rating organization
might otherwise be subject, all fees so collected to be
used for the purposes specified in section thirteen,
article three of this chapter. Licenses issued pursuant
to this section may be suspended or revoked by the
commissioner, after notice and hearing, in the event the
rating organization ceases to meet the requirements of
this article. Every rating organization shall notify the
commissioner promptly of every change in (1) its
constitution, its articles of agreement or association or
its certificate of incorporation, and its bylaws, rules
governing the conduct of its business, (2) its list of
members and subscribers and (3) the name and address
of the resident of this state designated as attorney-in-
fact by it upon whom notices or orders of the commis-
sioner or process affecting such rating organization may
be served.

(b) Subject to rules which have been approved by the
commissioner as reasonable, each rating organization
shall permit any insurer, not a member, to be a
subscriber to its rating services for any kind of casualty
insurance or subdivision thereof, or for any kind of fire
and marine insurance or subdivision or class of risk or
a part or combination thereof, or any kind of surety
insurance or subdivision thereof, for which it is
authorized to act as a rating organization. Notice of
proposed changes in such rules shall be given to
subscribers. Each rating organization shall furnish its
rating services without discrimination to its members
and subscribers. The reasonableness of any rule or
regulation in its application to subscribers, or the
refusal of any rating organization to admit an insurer
as a subscriber, shall, at the request of any subscriber
or any such insurer, be reviewed by the commissioner.
If, after notice and hearing, the commissioner finds that
the rule or regulation is unreasonable in its application
to subscribers, he shall order that such rule or regula-
tion shall not be applicable to subscribers. If the rating
organization fails to grant or reject an insurer's
application for subscribership within thirty days after
it was made, the insurer may request a review by the
commissioner as if the application had been rejected. If,
after notice and hearing, the commissioner finds that
the insurer has been refused admittance to the rating
organization as a subscriber without justification, he
shall order the rating organization to admit the insurer
as a subscriber. If he finds that the action of the rating
organization was justified, he shall make an order
affirming its action.

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

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

(e) Any rating organization for casualty, marine or surety insurance may provide for the examination of policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. The rules shall contain a provision that in the event any insurer does not within sixty days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, it shall be the duty of the rating organization to notify the commissioner thereof. All information so submitted for examination shall be confidential.

(f) Any rating organization may subscribe for or purchase actuarial, technical or other services, and these services shall be available to all members and subscribers without discrimination.

(g) Any rating organization responsible for establishing fire rate classifications for West Virginia cities, towns, and fire districts shall:

(1) Review a request for classification revision within ninety days after receiving said request in writing from an entity for which the rating organization provides a public fire protection classification. Such written
requests for classification revision must be made by the chief official of the city, town or fire district and must outline the specific changes in conditions in the entity that would warrant a classification revision.

(a) If the changed conditions in the entity do not warrant a revision to the applicable classification, the rating organization must provide the entity with a written response outlining the reasons why such changes in condition will not impact the classification.

(b) If the changed conditions in the entity indicate a potential revision to the applicable classification, the rating organization may request reasonable additional information from the entity. Upon receipt of such information, and upon determination that a classification revision may be indicated, the rating organization must schedule a survey of the entity.

(2) Complete any required survey, analysis, and written evaluation of the entity and develop any applicable classification revision within sixty days after all necessary information about changed conditions has been received in writing by the rating organization from the entity.

(3) Advise its participating insurers within sixty days after the revised public fire protection classification has been developed reflecting the changed conditions in the entity.

(4) Have the option to request a reasonable extension of the above described time frames from the insurance commissioner if unusual conditions exist, including, but not limited to, unusual weather conditions or difficulty in scheduling a mutually convenient survey time.

(5) File the following with the insurance commissioner:

(A) Within thirty days of its publication:

(i) A copy of a current list of all classifications established in West Virginia. Such list shall be published on at least a quarterly basis and;

(ii) All changes in established classifications during
the previous month. Such list shall be published on a monthly basis.

(B) Within thirty days after being requested by the insurance commissioner pursuant to this paragraph, a copy of guidelines used to establish classifications, stating the minimum qualifications, standards and requirements for each classification (classes one through ten).
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Ernest C. Moore
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 of the House of Delegates

The within is approved this the 30th day of March, 1994.

Governor