

HB 4199
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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

HOUSE BILL No. 4199

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



Passed March 12, 1994

In Effect 90 Days From Passage

ENROLLED
H. B. 4199

(By DELEGATES PHILLIPS, GALLAGHER, COLLINS,
ASHLEY, RIGGS, MEZZATESTA AND ROWE)

[Passed March 12, 1994; in effect ninety 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
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 governing the conduct of its business, (2)
12 a list of its members and subscribers, (3) the name and
13 address of a resident of this state as attorney-in-fact
14 upon whom notices or orders of the commissioner or
15 process affecting such rating organization may be
16 served and (4) a statement of its qualifications as a
17 rating organization. If the commissioner finds that the
18 applicant is competent, trustworthy and otherwise
19 qualified to act as a rating organization and that its
20 constitution, articles of agreement or association or
21 certificate of incorporation, and its bylaws, rules
22 governing the conduct of its business conform to the
23 requirements of law, he shall issue a license specifying
24 the kinds of insurance or subdivisions thereof for which
25 the applicant is authorized to act as a rating organiza-
26 tion. Every application shall be granted or denied in
27 whole or in part by the commissioner within sixty days
28 of the date of its filing with him. Licenses issued
29 pursuant to this section shall remain in effect for three
30 years unless sooner suspended or revoked by the
31 commissioner. The fee for the license shall be one
32 hundred dollars, and the fee shall be in lieu of all other
33 fees, licenses or taxes to which a rating organization
34 might otherwise be subject, all fees so collected to be
35 used for the purposes specified in section thirteen,
36 article three of this chapter. Licenses issued pursuant
37 to this section may be suspended or revoked by the
38 commissioner, after notice and hearing, in the event the
39 rating organization ceases to meet the requirements of
40 this article. Every rating organization shall notify the
41 commissioner promptly of every change in (1) its
42 constitution, its articles of agreement or association or
43 its certificate of incorporation, and its bylaws, rules
44 governing the conduct of its business, (2) its list of

45 members and subscribers and (3) the name and address
46 of the resident of this state designated as attorney-in-
47 fact by it upon whom notices or orders of the commis-
48 sioner or process affecting such rating organization may
49 be served.

50 (b) Subject to rules which have been approved by the
51 commissioner as reasonable, each rating organization
52 shall permit any insurer, not a member, to be a
53 subscriber to its rating services for any kind of casualty
54 insurance or subdivision thereof, or for any kind of fire
55 and marine insurance or subdivision or class of risk or
56 a part or combination thereof, or any kind of surety
57 insurance or subdivision thereof, for which it is
58 authorized to act as a rating organization. Notice of
59 proposed changes in such rules shall be given to
60 subscribers. Each rating organization shall furnish its
61 rating services without discrimination to its members
62 and subscribers. The reasonableness of any rule or
63 regulation in its application to subscribers, or the
64 refusal of any rating organization to admit an insurer
65 as a subscriber, shall, at the request of any subscriber
66 or any such insurer, be reviewed by the commissioner.
67 If, after notice and hearing, the commissioner finds that
68 the rule or regulation is unreasonable in its application
69 to subscribers, he shall order that such rule or regula-
70 tion shall not be applicable to subscribers. If the rating
71 organization fails to grant or reject an insurer's
72 application for subscribership within thirty days after
73 it was made, the insurer may request a review by the
74 commissioner as if the application had been rejected. If,
75 after notice and hearing, the commissioner finds that
76 the insurer has been refused admittance to the rating
77 organization as a subscriber without justification, he
78 shall order the rating organization to admit the insurer
79 as a subscriber. If he finds that the action of the rating
80 organization was justified, he shall make an order
81 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.

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

119 (g) Any rating organization responsible for establish-
120 ing fire rate classifications for West Virginia cities,
121 towns, and fire districts shall:

122 (1) Review a request for classification revision within
123 ninety days after receiving said request in writing from
124 an entity for which the rating organization provides a
125 public fire protection classification. Such written

126 requests for classification revision must be made by the
127 chief official of the city, town or fire district and must
128 outline the specific changes in conditions in the entity
129 that would warrant a classification revision.

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

135 (b) If the changed conditions in the entity indicate a
136 potential revision to the applicable classification, the
137 rating organization may request reasonable additional
138 information from the entity. Upon receipt of such
139 information, and upon determination that a classifica-
140 tion revision may be indicated, the rating organization
141 must schedule a survey of the entity.

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

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

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

157 (5) File the following with the insurance
158 commissioner:

159 (A) Within thirty days of its publication:

160 (i) A copy of a current list of all classifications
161 established in West Virginia. Such list shall be pub-
162 lished on at least a quarterly basis and;

163 (ii) All changes in established classifications during

164 the previous month. Such list shall be published on a
165 monthly basis.

166 (B) Within thirty days after being requested by the
167 insurance commissioner pursuant to this paragraph, a
168 copy of guidelines used to establish classifications,
169 stating the minimum qualifications, standards and
170 requirements for each classification (classes one through
171 ten).

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

[Handwritten Signature]

Chairman Senate Committee

Ernest C. Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Handwritten Signature]

Clerk of the Senate

Donald L. Kepp

Clerk of the House of Delegates

[Handwritten Signature]

President of the Senate

[Handwritten Signature]

Speaker of the House of Delegates

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

[Handwritten Signature]

Governor



PRESENTED TO THE

GOVERNOR

Date 3/28/94

Time 9:27 am