

SB 0344

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 377

(By Senator WAGNER)



PASSED MARCH 9, 1995
In Effect 90 DAYS FROM Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 377

(SENATOR WAGNER, *original sponsor*)

[Passed March 9, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three and four, article sixteen-e, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to excluding accident and sickness disability insurance from the definition of limited benefits accident and sickness insurance policies and certificates; and to amend the refund requirements for limited benefits policies and certificates.

Be it enacted by the Legislature of West Virginia:

That sections two, three and four, article sixteen-e, 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 16E. LIMITED BENEFITS ACCIDENT AND SICKNESS INSURANCE POLICIES AND CERTIFICATES.

§33-16E-2. Definitions.

1 For purposes of this article:

2 (a) "Limited benefits policy or certificate" means any
3 individual or group accident and sickness insurance
4 policy that is not required to offer or provide all benefits
5 mandated by any other applicable provision of this
6 chapter. Such policies include, but are not limited to,
7 accident only, sickness only disability, sickness only,
8 accident only disability, hospital indemnity, specified
9 disease and travel accident insurance policies: *Provided,*
10 That the following types of policies and certificates are
11 excluded from the definition of "limited benefits policy
12 or certificate" for purposes of this article:

13 (1) Credit accident and sickness insurance;

14 (2) Long-term care insurance;

15 (3) Medicare supplement insurance; and

16 (4) Minimum benefits accident and sickness insurance
17 issued pursuant to section fifteen, article fifteen of this
18 chapter or article sixteen-c of this chapter;

19 (5) Accident and sickness policies which provide
20 benefits for loss of income due to disability;

21 (6) Major medical policies;

22 (7) Dental policies; and

23 (8) Vision policies.

24 (b) "Experience period" means the period beginning on
25 the first day of the calendar year during which a pre-
26 mium rate first takes effect and ending on the last day of
27 the calendar year during which the insurer earns five
28 hundred thousand dollars in premiums on the form in
29 West Virginia or, if the annual premium earned on the
30 form in West Virginia is less than five hundred thousand
31 dollars, earns nationally.

32 (c) "Successive experience period" means the experi-
33 ence period beginning on the first day following the end

34 of the preceding experience period.

35 (d) "Annual loss ratio" is the ratio of earned premium
36 received by the insurer on a given form during the
37 experience period compared to the incurred losses paid
38 out by the insurer on the same form during the same
39 experience period and expressed in percentage of earned
40 premiums paid out.

**§33-16E-3. Premium rate increase requests; loss ratio re-
quirements.**

1 (a) To be eligible to make a premium rate increase
2 request after the first day of July, one thousand nine
3 hundred ninety-three, any insurer offering a limited
4 benefits policy form or certificate form in West Virginia
5 which was not delivered or issued for delivery in West
6 Virginia prior to the effective date of this article shall be
7 expected to return to policyholders and certifi-
8 cateholders in the form of five-year aggregate loss ratios
9 under the policy form or certificate form:

10 (1) At least seventy-five percent of the earned premi-
11 ums in the case of a group policy or certificate; and

12 (2) At least sixty-five percent of the earned premiums
13 in the case of an individual policy.

14 (b) To be eligible to make a premium rate increase
15 request after the first day of July, one thousand nine
16 hundred ninety-three, any insurer renewing a limited
17 benefits policy form or certificate form which was in
18 force in West Virginia on the effective date of this
19 article, shall be expected to return to policyholders and
20 certificateholders in the form of annual loss ratios under
21 the policy or certificate a percentage of the earned
22 premium which is equal to the anticipated loss ratio
23 originally filed with the insurance commissioner.

24 (c) With respect to a policy form or certificate form
25 which has been offered by an insurer in West Virginia or
26 nationally for five years or less the insurer may use the

27 anticipated loss ratio filed with and approved by the
28 commissioner for that form to determine compliance
29 with the requirements of this section.

30 (d) For purposes of this section, limited benefits
31 policies and certificates issued as a result of solicitation
32 of individuals through the mail or mass media advertis-
33 ing, including both print and broadcast advertising, shall
34 be treated as individual policies.

**§33-16E-4. Premium refunds; calculation of refunds; pay-
ments.**

1 (a) Beginning on the first day of July, one thousand
2 nine hundred ninety-four, any insurer offering a limited
3 benefits policy or certificate which was not delivered or
4 issued for delivery in West Virginia prior to the effective
5 date of this article shall make premium refunds to
6 policyholders and certificateholders if it fails to return
7 to such policyholders and certificateholders in the form
8 of annual loss ratios under the policy or certificate:

9 (1) At least sixty-five percent of the earned premiums
10 in the case of a group policy or certificate; and

11 (2) At least fifty-five percent of the earned premiums
12 in the case of an individual policy.

13 (b) Any insurer offering a limited benefits policy or
14 certificate which was in force in West Virginia on the
15 effective date of this article, shall make premiums
16 refunds to policyholders and certificateholders if it fails
17 to return to such policyholders and certificateholders in
18 the form of annual loss ratios under the policy or certifi-
19 cate a percentage of the earned premium which is the
20 anticipated loss ratio originally filed by the insurer with
21 the insurance commissioner less five percent.

22 (c) With respect to a policy form or certificate form
23 which has been in force or offered by an insurer either in
24 West Virginia or nationally for more than five years,
25 refunds to West Virginia policyholders or certifi-

26 cateholders made pursuant to the requirements of this
27 section and based upon annual earned premium volume
28 in West Virginia shall be calculated by multiplying the
29 anticipated loss ratio by the applicable earned premium
30 during the experience period and subtracting from that
31 result the actual incurred claims during the experience
32 period.

33 (d) With respect to a policy form or certificate form
34 which has been in force or offered by an insurer for more
35 than five years, refunds to West Virginia policyholders or
36 certificateholders made pursuant to the requirements of
37 this section and based upon national annual earned
38 premium volume shall be calculated by:

39 (1) Multiplying the mandated loss ratio by the applica-
40 ble earned premium during the experience period and
41 subtracting from that result the actual incurred claims
42 during the experience period; and

43 (2) Multiplying the results of subdivision (1) of this
44 subsection by the total earned premium during the
45 experience period from all West Virginia policyholders
46 or certificateholders eligible for refunds; and

47 (3) Dividing the results of subdivision (2) of this
48 subsection by the total earned premium during that
49 period in all states on the policy form.

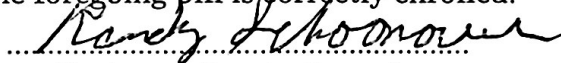
50 (e) With respect to a policy form or certificate form
51 which has been offered by an insurer in West Virginia or
52 nationally for five years or less, the insurer may use the
53 anticipated loss ratio filed with and approved by the
54 commissioner to determine the amount of premium
55 refunds, if any, that must be made pursuant to subsec-
56 tion (a) of this section.

57 (f) Refunds shall be made to all West Virginia policy-
58 holders and certificateholders who are insured under the
59 applicable policy form or certificate as of the last day of
60 the experience period. Such refund shall include inter-
61 est, at the current accident and health reserve interest

62 rate established by the national association of insurance
63 commissioners, from the end of the experience period
64 until the date of payment. Payment shall be made
65 during the third quarter of the year following the
66 experience period for which a refund is determined to be
67 due.

68 (g) Refunds of less than ten dollars shall be aggregated
69 and held by the insurer in a policyholders' and cer-
70 tificateholders' liability fund and shall be used to offset
71 any future rate increases.

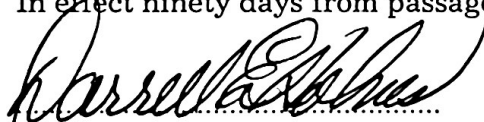
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


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Chairman Senate Committee


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Chairman House Committee


Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 17th

day of March 1995.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/16/95

Time

10:36a