

FILED

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

*Regular Session, 2001*



**ENROLLED**

**SENATE BILL NO.** 513

**(By Senator** Minard **)**



**PASSED** April 14, 2001

**In Effect** 90 days from **Passage**

**ENROLLED**  
**Senate Bill No. 513**

(BY SENATOR MINARD)

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[Passed April 14, 2001; in effect ninety days from passage.]

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AN ACT to amend and reenact section four, article twenty-four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section twenty-four, article twenty-five-a of said chapter, all relating to permitting health maintenance organizations and hospital, medical and dental service corporations to borrow money for surplus funds and other operating expenses.

*Be it enacted by the Legislature of West Virginia:*

That section four, article twenty-four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section twenty-four, article twenty-five-a of said chapter be amended and reenacted, all to read as follows:

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.**

**§33-24-4. Exemptions; applicability of insurance laws.**

1 Every corporation defined in section two of this article  
2 is hereby declared to be a scientific, nonprofit institution  
3 and exempt from the payment of all property and other  
4 taxes. Every corporation, to the same extent the provi-  
5 sions are applicable to insurers transacting similar kinds  
6 of insurance and not inconsistent with the provisions of  
7 this article, shall be governed by and be subject to the  
8 provisions as hereinbelow indicated, of the following  
9 articles of this chapter: Article two (insurance commis-  
10 sioner), except that, under section nine of said article,  
11 examinations shall be conducted at least once every four  
12 years; article four (general provisions), except that section  
13 sixteen of said article shall not be applicable thereto;  
14 section twenty, article five (borrowing by insurers); section  
15 thirty-four, article six (fee for form and rate filing); article  
16 six-c (guaranteed loss ratio); article seven (assets and  
17 liabilities); article eleven (unfair trade practices); article  
18 twelve (agents, brokers and solicitors), except that the  
19 agent's license fee shall be twenty-five dollars; section  
20 two-a, article fifteen (definitions); section two-b, article  
21 fifteen (guaranteed issue); section two-d, article fifteen  
22 (exception to guaranteed renewability); section two-e,  
23 article fifteen (discontinuation of coverage); section two-f,  
24 article fifteen (certification of creditable coverage); section  
25 two-g, article fifteen (applicability); section four-e, article  
26 fifteen (benefits for mothers and newborns); section  
27 fourteen, article fifteen (individual accident and sickness  
28 insurance); section sixteen, article fifteen (coverage of  
29 children); section eighteen, article fifteen (equal treatment  
30 of state agency); section nineteen, article fifteen (coordina-  
31 tion of benefits with medicaid); article fifteen-a (long-term  
32 care insurance); article fifteen-c (diabetes insurance);  
33 section three, article sixteen (required policy provisions);  
34 section three-a, article sixteen (mental health); section  
35 three-c, article sixteen (group accident and sickness  
36 insurance); section three-d, article sixteen (medicare  
37 supplement insurance); section three-f, article sixteen

38 (treatment of temporomandibular joint disorder and  
39 craniomandibular disorder); section three-j, article sixteen  
40 (benefits for mothers and newborns); section three-k,  
41 article sixteen (preexisting condition exclusions); section  
42 three-l, article sixteen (guaranteed renewability); section  
43 three-m, article sixteen (creditable coverage); section  
44 three-n, article sixteen (eligibility for enrollment); section  
45 eleven, article sixteen (coverage of children); section  
46 thirteen, article sixteen (equal treatment of state agency);  
47 section fourteen, article sixteen (coordination of benefits  
48 with medicaid); section sixteen, article sixteen (diabetes  
49 insurance); article sixteen-a (group health insurance  
50 conversion); article sixteen-c (small employer group  
51 policies); article sixteen-d (marketing and rate practices  
52 for small employers); article twenty-six-a (West Virginia  
53 life and health insurance guaranty association act), after  
54 the first day of October, one thousand nine hundred  
55 ninety-one; article twenty-seven (insurance holding  
56 company systems); article twenty-eight (individual  
57 accident and sickness insurance minimum standards);  
58 article thirty-three (annual audited financial report);  
59 article thirty-four (administrative supervision); article  
60 thirty-four-a (standards and commissioner's authority for  
61 companies considered to be in hazardous financial condi-  
62 tion); article thirty-five (criminal sanctions for failure to  
63 report impairment); article thirty-seven (managing general  
64 agents); and article forty-one (privileges and immunity);  
65 and no other provision of this chapter may apply to these  
66 corporations unless specifically made applicable by the  
67 provisions of this article. If, however, the corporation is  
68 converted into a corporation organized for a pecuniary  
69 profit or if it transacts business without having obtained  
70 a license as required by section five of this article, it shall  
71 thereupon forfeit its right to these exemptions.

**ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

**§33-25A-24. Statutory construction and relationship to other laws.**

1 (a) Except as otherwise provided in this article, provi-  
2 sions of the insurance laws and provisions of hospital or  
3 medical service corporation laws are not applicable to any  
4 health maintenance organization granted a certificate of  
5 authority under this article. The provisions of this article  
6 shall not apply to an insurer or hospital or medical service  
7 corporation licensed and regulated pursuant to the insur-  
8 ance laws or the hospital or medical service corporation  
9 laws of this state except with respect to its health mainte-  
10 nance corporation activities authorized and regulated  
11 pursuant to this article. The provisions of this article shall  
12 not apply to an entity properly licensed by a reciprocal  
13 state to provide health care services to employer groups,  
14 where residents of West Virginia are members of an  
15 employer group and the employer group contract is  
16 entered into in the reciprocal state. For purposes of this  
17 subsection, a "reciprocal state" means a state which  
18 physically borders West Virginia and which has subscriber  
19 or enrollee hold harmless requirements substantially  
20 similar to those set out in section seven-a of this article.

21 (b) Factually accurate advertising or solicitation regard-  
22 ing the range of services provided, the premiums and  
23 copayments charged, the sites of services and hours of  
24 operation and any other quantifiable, nonprofessional  
25 aspects of its operation by a health maintenance organiza-  
26 tion granted a certificate of authority, or its representative  
27 shall not be construed to violate any provision of law  
28 relating to solicitation or advertising by health profes-  
29 sions: *Provided*, That nothing contained in this subsection  
30 shall be construed as authorizing any solicitation or  
31 advertising which identifies or refers to any individual  
32 provider or makes any qualitative judgment concerning  
33 any provider.

34 (c) Any health maintenance organization authorized  
35 under this article shall not be considered to be practicing  
36 medicine and is exempt from the provisions of chapter  
37 thirty of this code, relating to the practice of medicine.

38 (d) The provisions of sections fifteen and twenty, article  
39 four (general provisions); section seventeen, article six  
40 (noncomplying forms); section twenty, article five (bor-  
41 rowing by insurers), article six-c (guaranteed loss ratio);  
42 article seven (assets and liabilities); article eight (invest-  
43 ments); article nine (administration of deposits); article  
44 twelve (agents, brokers, solicitors and excess line); section  
45 fourteen, article fifteen (individual accident and sickness  
46 insurance); section sixteen, article fifteen (coverage of  
47 children); section eighteen, article fifteen (equal treatment  
48 of state agency); section nineteen, article fifteen (coordina-  
49 tion of benefits with medicaid); article fifteen-b (uniform  
50 health care administration act); section three, article  
51 sixteen (required policy provisions); section three-f, article  
52 sixteen (treatment of temporomandibular disorder and  
53 craniomandibular disorder); section eleven, article sixteen  
54 (coverage of children); section thirteen, article sixteen  
55 (equal treatment of state agency); section fourteen, article  
56 sixteen (coordination of benefits with medicaid); article  
57 sixteen-a (group health insurance conversion); article  
58 sixteen-d (marketing and rate practices for small employ-  
59 ers); article twenty-five-c (health maintenance organiza-  
60 tion patient bill of rights); article twenty-seven (insurance  
61 holding company systems); article thirty-four-a (standards  
62 and commissioner's authority for companies considered to  
63 be in hazardous financial condition); article thirty-five  
64 (criminal sanctions for failure to report impairment);  
65 article thirty-seven (managing general agents); article  
66 thirty-nine (disclosure of material transactions); article  
67 forty-one (privileges and immunity); and article forty-two  
68 (women's access to health care) shall be applicable to any  
69 health maintenance organization granted a certificate of  
70 authority under this article. In circumstances where the  
71 code provisions made applicable to health maintenance  
72 organizations by this section refer to the "insurer", the  
73 "corporation" or words of similar import, the language  
74 shall be construed to include health maintenance organi-  
75 zations.

76 (e) Any long-term care insurance policy delivered or  
77 issued for delivery in this state by a health maintenance  
78 organization shall comply with the provisions of article  
79 fifteen-a of this chapter.

80 (f) A health maintenance organization granted a certifi-  
81 cate of authority under this article shall be exempt from  
82 paying municipal business and occupation taxes on gross  
83 income it receives from its enrollees, or from their employ-  
84 ers or others on their behalf, for health care items or  
85 services provided directly or indirectly by the health  
86 maintenance organization. This exemption applies to all  
87 taxable years through the thirty-first day of December,  
88 one thousand nine hundred ninety-six. The commissioner  
89 and the tax department shall conduct a study of the  
90 appropriations of imposition of the municipal business and  
91 occupation tax or other tax on health maintenance organi-  
92 zations, and shall report to the regular session of the  
93 Legislature, one thousand nine hundred ninety-seven, on  
94 their findings, conclusions and recommendations, together  
95 with drafts of any legislation necessary to effectuate their  
96 recommendations.

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

*[Signature]*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within *is approved* this the *2nd*  
Day of *May* ....., 2001.

*[Signature]*  
.....  
Governor



PRESENTED TO THE  
GOVERNOR

Date 4/30/01

Time 2:45 pm