

STATE OF WEST VIRGINIA



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WEST VIRGINIA INFORMATIONAL LETTER

NO. 52

JUNE, 1988

TO: All Insurance Companies Licensed To Do Business
In The State Of West Virginia, Insurance Trade
Associations, Insurance Media Publications And
All Other Interested Persons

The purpose of this Informational Letter is to briefly summarize significant insurance legislation enacted during the 1988 regular session of the West Virginia Legislature. This letter is not to be construed as inclusive of all legislation which may affect the insurance industry or insurance consumers, but rather, is intended to highlight the more important bills.

Persons seeking a copy of particular legislation should contact West Virginia Legislature, Senate Clerk's Office, Main Unit, State Capitol, Charleston, West Virginia 25305, telephone 304/357-7800 or House Clerk's Office telephone 304/340-3200.

SUMMARY OF 1988 LEGISLATION

House Bill No. 2027 - Smoke Detectors In One and Two Family Dwellings

This bill establishes requirements for installation and maintenance of smoke detectors in one and two family dwellings. Violation of the statute's provisions will not constitute evidence of contributory or comparative negligence or a defense in any civil action or proceeding involving an insurance policy. This legislation becomes effective on June 8, 1988.

House Bill No. 4010 - Prelicensing Education Of Insurance Agents

This bill contains a prelicensing education requirement as a condition of licensure for insurance agents on or after July 1, 1989. A Board of Insurance Agent Education is established which must submit proposed criteria for the prelicensing program to the Insurance Commissioner on or before December 31, 1988. The Insurance Commissioner and the Board are required to approve any course or program of instruction used in satisfaction of the education requirement. This legislation becomes effective on June 10, 1988.

House Bill No. 4034 - Immunity From Liability For Qualified Directors Of Certain Governmental And Non-Profit Entities

This bill establishes the parameters of personal liability of directors of certain governmental and non-profit entities. Please see the bill for a specific discussion of the directors and entities to which the bill is applicable and the nature of the immunity granted to such directors. This legislation becomes effective on June 10, 1988.

House Bill No. 4084 - Licensing And Regulation Of Insurance Adjusters

This bill establishes standards for the licensing and regulation by the Insurance Commissioner of individuals who adjust property, casualty and surety claims on and after July 1, 1989. Individuals engaged in the practice of professional insurance adjusting prior to July 1, 1989, are exempted from the examination provisions of the bill, but are subject to all other licensing requirements. Two classes of licenses are established: company adjusters who represents the interests of the insurer and public adjusters who represents the interests of the insured. This legislation becomes effective on June 10, 1988.

House Bill No. 4222 - West Virginia Public Employees Insurance Act

This bill replaces the Public Employees Insurance Board with the Public Employees Insurance Agency effective July 1, 1988. The Agency will consist of a Director, his employees and a nine member advisory board, of which the Insurance Commissioner is a member. Please consult the bill for specifics concerning operation of the Agency. This legislation became effective March 4, 1988.

House Bill No. 4356 - Financially Related Services By Banks And Bank Holding Companies

This bill permits state-chartered banks and bank holding companies to provide certain defined financially related services. Insurance activities regulated by the Insurance Commissioner are specifically excluded from the definition of financially related services. This legislation becomes effective on June 10, 1988.

House Bill No. 4385 - State Building Code

This bill requires the State Fire Commission to develop a state building code. All municipal and county building codes are voided one (1) year after adoption of the state building code. This legislation becomes effective on July 1, 1988.

House Bill No. 4470 - Amusement Rides And Amusement Attractions Safety Act

This bill directs the West Virginia Department of Labor to promulgate rules for the safe installation, repair, maintenance, use, operation and inspection of amusement rides and amusement attractions. No amusement ride or attraction may be operated unless there in existence a liability insurance policy or bond in amounts of not less than \$300,000/\$1,000,000. This legislation becomes effective June 9, 1988.

House Bill No. 4562 - Aftermarket Crash Parts

This bill requires that automobile body shops make certain disclosures to automobile owners when aftermarket crash parts are to be used as replacement crash parts. This legislation becomes effective on July 1, 1988.

Senate Bill No. 85 - Underground Storage Tank Act

This bill creates a program to control the installation, operation and abandonment of underground tanks which store petroleum and hazardous substances. The Insurance Commissioner is made a member of a seven member Underground Storage Tank Advisory Committee. The Director of National Resources is required to promulgate rules concerning financial responsibility for bodily injury and property damage caused by accidental releases arising from operating an underground storage tank. This legislation becomes effective on June 10, 1988.

Senate Bill No. 86 - Uninsured Motorist And Underinsured Motorist Coverage; Restrictive Endorsements

This bill makes several changes in existing Code provisions governing uninsured motorist and underinsured motorist coverages, including: uninsured motorist coverage is made mandatory in limits not less than the compulsory liability limits of Code §17d-4-2; and, sums payable as a result of underinsured motorist coverage may not be offset by payments made under the insured's policy or any other policy. Underinsured motorist coverage remains optional. Additionally, the bill provides that an owner of a policy who receives notice of cancellation of coverage based upon violation of law by an insured under the policy may by restrictive endorsement specifically exclude from coverage that insured. The restrictive endorsement is specifically made applicable in regard to the compulsory liability limits of Code §17d-4-2. This legislation becomes effective on June 10, 1988.

Senate Bill No. 180 - Community Care Program


This bill creates a community of care program, as part of the continuum of care system of services, to be administered by the State Commission on Aging. This legislation becomes effective on July 1, 1988.

Senate Bill No. 257 - Death Benefit Limits Of Fraternal Benefit Societies

This bill increases from one thousand dollars (\$1,000.00) to two thousand dollars (\$2,000.00) the death benefit limit which may be provided by domestic benefit societies which are of a purely religious, charitable or benevolent purpose. This legislation becomes effective on June 8, 1988.

Senate Bill No. 397 - Authorization Of Administrative Regulations

This bill authorizes the Insurance Commissioner to promulgate three administrative regulations governing the West Virginia Essential Property Insurance Association, medical malpractice annual reporting requirements and medical malpractice loss experience and loss expense reporting requirements. This legislation became effective on March 12, 1988.

A handwritten signature in cursive script, reading "Fred E. Wright".

Fred E. Wright
Insurance Commissioner of
the State of West Virginia