

WEST VIRGINIA INFORMATIONAL LETTER

NO. 91

[ERROR IN NUMBERING, ACTUAL NO. 92]

APRIL, 1995

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 1995 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, nor should it be construed as a comprehensive explanation of the bills addressed. Rather, it is intended to highlight the more important bills.

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

SUMMARY OF 1995 LEGISLATION

Senate Bill 131 -- Authorization of Administrative Regulations

This bill authorizes the promulgation of the following administrative rules: Individual Accident and Sickness Insurance Minimum Standards; Regulation of Credit Life Insurance and Credit Accident and Sickness Insurance; Credit for Reinsurance.

This bill became **effective March 11, 1995.**

Senate Bill 148 -- Preneed Funeral Contracts

This bill amends the definition of "preneed funeral contract" to include a contract financed by the purchase of an insurance policy or annuity. Life insurance companies selling policies or annuities used to fund preneed funeral contracts and licensed pursuant to Chapter 33 of the West Virginia Code are no longer required to obtain, from the Attorney Generals Office, a certificate of authority to sell preneed funeral contracts.

This bill becomes **effective June 5, 1995.**

Senate Bill 226 -- Notification of Coverage under Fire and Marine Insurance

This bill requires insurance companies, in cases where a structure is a total loss, to provide written notification to the insured of any coverage in a fire and marine insurance policy providing for cleanup and removal of any refuse, debris, remnants or remains of the structure.

This bill becomes **effective June 1, 1995.**

Senate Bill 309 -- Underinsured Motor Vehicle Coverage

This bill provides that for purposes of determining the total amount of underinsured motor vehicle coverage available to an insured receiving a discount for multiple motor vehicles, insurers utilizing a multiple vehicle policy shall be treated no differently than insurers utilizing separate single vehicle policies.

This bill becomes **effective June 6, 1995.**

Senate Bill 377 -- Limited Benefits Accident and Sickness Insurance

This bill amends the definition of "limited benefits policy or certificate" to specifically exclude accident and sickness policies which provide benefits for loss of income due to disability, major medical policies, dental policies, and vision policies; and provides a definition for the term "annual loss ratio." The bill also amends the requirements for premium rate increase requests and the premium refund requirements for limited benefits policies and certificates.

This bill becomes **effective June 7, 1995.**

Senate Bill 402 -- Automotive Crash Parts

This bill requires motor vehicle body shops to use genuine crash parts on all motor vehicles requiring repair in the year of their manufacture or in the two succeeding years thereafter. Unless the motor vehicle owner consents in writing at the time of the repair, insurance companies may not require the use of aftermarket crash parts when negotiating for the repairs to a motor vehicle. This prohibition is in effect for a period of three years - the year the motor vehicle was manufactured and the two succeeding years thereafter.

This bill becomes **effective June 7, 1995.**

Senate Bill 574 -- Fraudulent Schemes

This bill provides that persons who obtain money, goods or services through fraudulent schemes are guilty of larceny, and allows authorities to add up the total value of items obtained as part of a common scheme.

This bill becomes **effective June 9, 1995.**

House Bill 2264 -- Substandard Automobile Policies

This bill requires insurance companies to modify their substandard risk motor vehicle policy to include a notification that the insured may be eligible for coverage under a standard or preferred policy after a three-year period of time with a clean driving record.

House Bill 2264 – Substandard Automobile Policies (continued)

Insurance companies are further required to provide a one-time written notice to insureds who have maintained a clean driving record for three years that they may be eligible for coverage under a standard or preferred policy.

This bill becomes **effective July 1, 1995.**

House Bill 2265 -- Interest on Life Insurance Proceeds to Beneficiaries

This bill requires any life insurance company authorized to do business in the State of West Virginia to pay interest on proceeds from individual and group life insurance products from the date of the death of the insured. Settlement upon a claim by the death of the insured under a group life insurance policy must be made upon due proof of death, and such settlement period shall not exceed two months from receipt of such proof.

This bill becomes **effective May 31, 1995.**

House Bill 2266 -- Reporting Requirements for Excess Line Brokers

This bill requires each excess line broker to file a report under oath with the Commissioner with respect to each excess line policy procured during the preceding calendar year. Beginning in 1996, such reports shall be filed annually on or before the first day of March.

This bill becomes **effective May 31, 1995.**

House Bill 2413 -- Agent Continuing Education Requirements

After July 1, 1997, any individual appointed to be an agent on behalf of a licensed health maintenance organization is required to complete, as a component of his or her biennial continuing education requirements, a minimum of six credit hours on topics specific to health maintenance organizations.

Insurance agents who sell only preneed burial insurance contracts and agents engaged solely in telemarketing insurance products by an approved scripted presentation shall not be required to complete more than six hours of continuing education biennially.

This bill becomes **effective May 31, 1995.**

House Bill 2491 -- Health Care

This bill provides that before an individual major medical coverage policy can be approved for use in this State, the insurer must file documentation from a qualified actuary which provides that: (1) the premium rates for the policy do not exceed by more than 30% the premium rates charged on like policies during the five previous years; and (2) the anticipated loss ratio is equal to or greater than 65%.

Policies of accident and sickness insurance must be guaranteed to be renewable unless there is fraud, nonpayment of premium, or material misrepresentation by the insured in the application. An insurer may, however, request the Commissioner to terminate coverage. If the request for termination is not approved, the insurer may terminate coverage but shall be prohibited from writing new business on coverage for the type terminated for a period of five years.

This bill also provides for the establishment of individual medical savings accounts under individual and group health insurance policies. The individual establishing the medical savings account may designate a percentage of the account that may be withdrawn if not needed for medical expenses. Any amount remaining in a medical savings account on the date of the individuals retirement or death, whichever is earlier, may be withdrawn by the individual or his personal representative for a purpose other than the payment of medical expenses. For tax purposes, any amount withdrawn for a purpose other than the payment of medical expenses must be included in calculating West Virginia adjusted gross income.

This bill becomes **effective June 9, 1995.**

House Bill 2505 -- NAIC Accreditation Legislation

The amendments in this bill are necessary for the Commissioner to maintain an accredited status with the National Association of Insurance Commissioners. The amendments adopt NAIC Model legislation and conform existing statutes to meet the NAICs accreditation standards. The bill does the following:

Confidentiality of Information: The bill adds a new section nineteen to Article Two, Chapter Thirty-Three which establishes the duty of the Commissioner to maintain as confidential information received from the NAIC or other state departments of insurance if the information is confidential in said other jurisdiction. This section also allows the

House Bill 2505 – NAI Accreditation Legislation (continued)

Commissioner to share confidential information with other jurisdictions provided the other jurisdictions agree to maintain the same level of confidentiality as is available under West Virginia statute.

Standard Valuation Law: The bill amends the Commissioners authority to annually value, or cause to be valued, the reserve liabilities for all outstanding life insurance policies and annuity and pure endowment contracts of life insurance companies doing business in this State. The thrust of these amendments is to incorporate "the valuation actuary concept" into the standard valuation law. The amendments establish requirements for an annual actuarial opinion by a qualified actuary and the basis for actuarial analysis of reserve liabilities and the assets supporting the reserve liabilities. They provide for asset evaluation when appropriate and allow the actuary to establish higher reserves if deemed necessary to render an opinion. The amendments provide for a memorandum, as prescribed by rule, to support the actuarial opinion.

The bill extends the Commissioners authority to include annual valuation of reserve liabilities of health (disability and accident and sickness) insurance policies.

Risk-Based Capital for Insurers: The bill amends the existing risk-based capital requirements for life and/or health insurers to include property and casualty insurers. The property and casualty provisions generally parallel the original life provisions with some exceptions. The amendments establish minimum capital requirements for insurers related to the risks to which an individual insurer may be subject. The amendments provide a uniform but flexible means of establishing capital and surplus requirements tailored to the specific risks of investment, operation and cash flow of the individual insurer. The amendments provide the Commissioner statutory authority to react to an insurers inadequate capital in an appropriate manner. The amendments extend the risk-based capital requirements to include farmers mutual fire insurance companies. The exemption language of § 33-40-9 allows the Commissioner to avoid any financial hardship these requirements may have on the small farmers mutual fire insurance companies while extending the requirements to such companies that operate in other states.

This bill becomes effective **January 1, 1996.**

House Bill 2619 -- Health Maintenance Organizations

This bill provides that the Commissioner may require any organization providing or arranging for health care services on a prepaid per capita or prepaid aggregate fixed sum basis to apply for a certificate of authority under the Health Maintenance Organization Act. An application for a certificate of authority shall include a comprehensive feasibility study performed by a qualified independent actuary and a certified public accountant showing that the HMO has adequate capital and surplus; that rates are adequate and appropriate; and that the rating methodology is proper.

This bill also sets forth conditions precedent to the issuance or maintenance of a certificate of authority including (1) an acknowledgment that a delinquency proceeding or supervision by the Commissioner is the only method for liquidation, reorganization or conservation of the HMO; and (2) a waiver of any right to file or be subject to a bankruptcy proceeding. As of June 9, 1995, as a condition precedent to the issuance of a certificate of authority, any health maintenance organization that has not yet obtained a certificate of authority shall be incorporated under the provisions of Chapter 31, Article 1 of the West Virginia Code.

Contracts between an HMO and a provider must be in writing and contain a provision that the subscriber is not liable for any services covered by the provider contract. Provider contracts executed on or after April 15, 1995 or within 180 days prior to that date, must require providers to give 60 days advance written notice to the HMO and the Commissioner before canceling the contract with the HMO for any reason.

This bill further establishes a subscriber grievance procedure which shall provide a means of resolving written grievances concerning any matter relating to the provisions of the HMO contract. The HMO shall process the formal written subscriber grievance through all phases of the grievance procedure in a reasonable length of time not to exceed 60-90 days, unless the time frame is extended by mutual agreement of the subscriber and the HMO.

Health maintenance organizations are subject to agent licensing and appointment requirements. Before a health maintenance organization can process an application changing or initiating subscriber coverage, the HMO must obtain written verification of the intent and desire of the individual subscriber.

This bill becomes **effective June 9, 1995.**