

WEST VIRGINIA INFORMATIONAL LETTER

NO. 114

MAY, 1999

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 1999 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.

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S.B. 214 – Triple-X

The legislative rule designated Title 114, Series 49, which is based on the “Triple X” model regulation developed by the National Association of Insurance Commissioners (NAIC), is retroactively disapproved. As a result, no insurer is required to use the reserving method called for by the rule. The Commissioner is empowered to establish, by rule, methods of calculating reserves that are alternatives to the method set forth in the Standard Valuation Law.

This bill became effective **March 3, 1999**.

S.B. 653 – Limited License for Selling Rental Coverage

The Insurance Commissioner is authorized to issue a limited license to a person selling automobile rental coverage as agent for a rental company. “Rental company” is defined as any person or entity which is in the business of providing private motor vehicles to the public under a rental agreement for a period of not more than ninety day. The definition of “rental coverage” is insurance which is offered incidental to the renting of a vehicle.

An individual who obtains this type of license is exempt from pre-licensing education, examination and continuing education requirements. The Commissioner is granted the authority to take appropriate disciplinary action, up through license revocation, on any individual who has been found to violate the law. The commissioner is also allowed to suspend transactions of insurance at a specific rental company locations where violations of the law have occurred.

For each rental company that sells this type of insurance, there must be at least one employee who obtains a limited license. This licensee shall directly supervise and be responsible for the actions of all other employees at that location as it relates to the offer and sale of this type of insurance.

Permissible terms and conditions for issuing automobile rental coverage are listed.

This bill becomes effective **June 9, 1999**.

H.B. 2043 – Prepaid Limited Health Service Organizations (PLHSO)

Prepaid Limited Health Service Organizations (hereinafter referred to as PLHSOs) are managed care entities granted authority to write the limited health service of rental or behavioral health in this state. Before doing business in this state each entity must apply and be approved for a certificate of authority by the Insurance Commissioner. One condition in meeting certification is being domiciled within this state. Each PLHSO must have its license renewed on an annual basis since all certificates of authority expire on May 1 of each year.

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There is a minimum capital and surplus mandate. For a PLHSO which does not offer inpatient services, the requirement is the greater of two hundred fifty thousand dollars (\$250,000) or ten percent (10%) of its expenses for the previous twelve (12) month period as reported in its most recent financial statement. Regarding a PLHSO which does offer inpatient services, the requirement is the greater of one million (\$1,000,000) or ten percent of its expenses for the previous twelve (12) month period as reported in its most recent financial statement.

Certain PLHSO requirements mirror the laws which govern HMO entities. They include the following: grievance procedures; annual and quarterly financial reporting; provider contracts; evidence of coverage; rates and forms filings; examinations; agents licensing and continuing education; prohibited practices; rehabilitation and liquidation; suspension or revocation of certificate of authority; and penalties and enforcement.

Each PLHSO must submit to the Insurance Commissioner in writing certain prescribed details surrounding the plans quality assurance program. The quality assurance program is subject to approval of the Insurance Commissioner. This section of the law became effective May 1, 1999.

This bill became effective **March 11, 1999**.

H.B. 2570 - Authorization Of Administrative Regulations

This bill authorizes the promulgation of the following administrative rules: Individual Accident and Sickness Insurance Minimum Standards, 114 CSR 12; Aids, 14 CSR 27; Individual and Employer Group Minimum Benefits Accident and Sickness Insurance Policies, 114 CSR 33; Group Accident and Sickness Insurance Minimum Policy Coverage Standards, 114 CSR 39; Recognizing Annuity Mortality Tables for Use in Determining Reserve Liabilities for Annuities, 114 CSR 45; Group Accident and Sickness Insurance Issuance, Portability and Marketing Requirements, 114 CSR 54; Guaranteed Issue of Individual Accident and Sickness Insurance, 114 CSR 55; and Quality Assurance, 114 CSR 53.

This bill became effective **March 10, 1999**.

H.B. 2757 - Excess Line Brokers

The excess line broker shall collect from the policyholder and remit to the Insurance Commissioner the four percent (4%) tax on the gross premiums and fees received on excess line policies. They are further required to submit an annual return to the Insurance Commissioner on or before March 1 of every year of the gross amount of premiums charged by the insurers and of the gross amount of fees charged by brokers during the previous calendar year.

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When a policy is canceled, the excess line broker is to return to the policyholder the tax on any unearned portion of the premium returned to the policyholder.

The excess line broker may not pay any portion of the tax on nor rebate all or part of the tax as an inducement to a policyholder to purchase insurance.

The excess line broker may charge a prospective policyholder a fee for the cost of underwriting, issuing, inspecting, processing, servicing or auditing a policy if such services are actually incurred by the broker. The excess line broker must make full written disclosure to the policyholder on such matters as the total amount of the premium, any fees charged and the total amount of tax on the premium and fee.

This bill becomes effective **June 10, 1999**.

H.B. 2836 – Agents’ Licensing and Continuing Education Requirements

Persons, applying for a resident agent’s license in West Virginia and who are licensed as resident agents in good standing in another state during the sixty (60) days immediately preceding their application in West Virginia, are exempted from pre-licensing educational requirements. These applicants will, however, be required to take and successfully complete the portion of the pre-licensing examination pertaining to the laws of this state for each kind of insurance for which application is made.

Currently agents, who have been licensed on July 1, 1989, and who subsequently terminate a contractual relationship with companies or employing agents, are exempted from complying with pre-licensing requirements if they request renewal of their license within five (5) years of termination of their contracts. The bill removes this specific provision from the law.

The law is further amended to authorize the Insurance Commissioner to automatically suspend the license of any agent who fails to satisfy his/her continuing education requirements or who submits to the Commissioner a false or fraudulent certificate of compliance with the continuing education requirements. The Commissioner is required to notify the person of his/her suspension by certified mail, return receipt requested. Any person who has had a suspension order entered against him/her may, within thirty (30) calendar days of receipt of the order, request a hearing for reconsideration of the matter. If that person does not satisfy the continuing education requirements by the last day of the next reporting period (2 years), the Commissioner is authorized to cancel automatically his/her license, and that person is subjected to pre-licensing education and examination requirements if he/she subsequently applies for a new license.

This bill becomes effective **June 10, 1999**.