

WEST VIRGINIA INFORMATIONAL LETTER

NO. 91

APRIL, 1994

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 1994 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 1994 LEGISLATION

Senate Bill 186 -- Authorization of Administrative Regulations

This bill authorizes the promulgation of the following administrative rules: Insurance Holding Company Systems Reporting Forms; Substandard Motor Vehicle Insurance Notice Requirements; Filing Fees for Purchasing Groups and Risk Retention Groups Not Chartered in this State; Continuation of Coverage under Automobile Liability Policies; West Virginia Life and Health Insurance Guaranty Association Act Notice Requirements; and Group Accident and Sickness Insurance Minimum Policy Coverage Standards.

This legislation became **effective March 12, 1994.**

Senate Bill 390 -- Prior Approval of Group Certificates Issued by Trusts and Associations

This bill expands the Insurance Commissioners authority in requiring prior approval of out-of-state group certificate forms delivered or issued for delivery in this State. Mass marketed life and/or health insurance policies offered to members of any association by the association are exempt from this provision, if the association meets certain criteria cited in this bill.

This legislation becomes **effective June 8, 1994.**

Senate Bill 434 -- NAIC Accreditation Legislation

This bill adopts NAIC Model legislation and conforms existing statutes to meet the NAICs accreditation standards. The bill does the following:

Valuation of Investments: The bill amends the Insurance Commissioners existing authority to determine the value of an insurers investments in bonds and securities to be consistent with the values and methods of the Committee on Valuation of Securities of the NAIC. The Insurance Commissioners authority to approve increases to the value of real property owned by an insurer after an appraisal is repealed. Real property owned by an insurer shall be valued at the cost of the property and additional cost of permanent improvements.

Senate Bill 434 -- NAIC Accreditation Legislation (continued)

Insurance Holding Company Act: The bill amends the Holding Company Act to require an insurer member of a holding company system to disclose all management and service contracts, all cost-sharing arrangements and all reinsurance agreements in their annual registration statement. The bill further amends the Holding Company Act to apply the existing standards for transactions between affiliates to all transactions between affiliates and not just material transactions between affiliates. The Insurance Commissioners prior approval of all management agreements, service contracts and cost-sharing arrangements is required.

Risk Retention Groups: The bill removes language from Article 31 of the West Virginia Code which states that product liability risk retention groups may be organized and be licensed as captive insurance companies.

Disclosure of Material Transactions: The bill adds Article 39 to the West Virginia Code. This article requires domestic insurers who are not members of a holding company to report material acquisitions and dispositions of assets, and material nonrenewals, cancellations or revisions of ceded reinsurance programs to the Insurance Commissioner.

Risk Based Capital Requirements for Life Insurers: The bill adds another new article to the West Virginia Code, Article 40. This article establishes risk based capital requirements for life and/or health insurers. These requirements determine the amount of capital a life and/or health insurer must maintain due to the amount, kind or combinations of insurance transacted. These levels must factor in the insurers risk associated with the insurers assets, adverse insurance experience, interest rates and all other business risks that could affect the insurers solvency. This article establishes four risk based capital levels and notes specific actions and/or remedies that must be taken by the insurer and the Insurance Commissioner when the insurer's capital is at any one of these levels.

This bill becomes **effective June 8, 1994.**

Senate Bill 522 -- No Exclusion of Insureds Children from Coverage, Required Services and Coordination of Benefits

This bill meets the mandates set forth in the Omnibus Budget Reconciliation Act of 1993 (OBRA '93). Certain reasons for which an insurer cannot deny enrollment of an insureds child are noted. The obligations an insurer must meet on a childs coverage when its insured is the noncustodial parent are identified. The responsibilities that an insurer must meet when an insured is required by court order to provide health coverage for a child are stated. An insurer is prohibited from considering Medicaid eligibility when considering eligibility for coverage or making payments under its plan for policyholders or certificate holders. An insurer cannot impose requirements on a state agency assigned the rights of an individual eligible under medicaid and covered under its health plan which differ from requirements applicable to an agent or assignee of any other individual so covered.

These provisions apply to all individual and group accident and sickness policies. Insurers, hospital service organizations, medical service corporations, dental service corporations, health service corporations, health care corporations and health maintenance organizations must comply with these mandates.

This bill became **effective March 11, 1994.**

Senate Bill 524 -- Preneed Burial Agents Continuing Education Requirements

Individuals selling only preneed burial insurance are exempted from completing the continuing education hours required of other agents. Instead these persons must complete six (6) hours of continuing education biennially. The educational program is to be developed by the board of insurance agent education.

This bill becomes **effective June 8, 1994.**

H.B. 4020 -- Cancellation of Insureds Auto Liability Policy Prohibited Due to Youthful Drivers Suspension of License

A named insureds automobile liability policy cannot be cancelled when an insured under the age of twenty-one has had his/her motor vehicle license suspended due to DUI and said driver was covered under the named insureds policy.

This bill becomes effective June 9, 1994.

H.B. 4126 -- Credit for Reinsurance

With this bill credit for reinsurance allowed to an underwriting group when they establish a trust, is expanded to include incorporated underwriters. These incorporated members are subject to the same level of solvency regulation and control by the groups domiciliary regulator as are the unincorporated members.

This bill becomes **effective June 8, 1994.**

H.B. 4169 -- Credit Life or Health Notice for Refunds of Unearned Premiums Upon Payment of Loan

This bill amends the procedures to be followed by the creditor and debtor when a consumer credit sale or consumer loan, refinancing or consolidation is paid in full and debtor may be eligible for a refund of unearned premiums on a credit life or accident and sickness policy purchased on such loan or refinancing. If the creditor is not the seller or provider of the insurance, the creditor must inform the debtor of certain established information on a form prescribed by the Insurance Commissioner. If the creditor is seller or provider of the insurance, the creditor must make known to the debtor certain established information on a notice form consistent with the general course of the creditors business.

This bill becomes **effective June 7, 1994.**

H.B. 4199 -- Rating Organizations/Fire Protection Classifications

This bill requires fire rating organizations to perform fire rate classification revisions of towns, cities and fire districts within certain established timeframes. These organizations have the right to request a reasonable extension of these deadlines by the Insurance Commissioner if unusual conditions exist. Within thirty (30) days of publication, these organizations must file with the Insurance Commissioner a copy of all classifications in the state on a quarterly basis and all changes in established classifications on a monthly basis. Within thirty (30) days of the Insurance Commissioners request, these entities must submit guidelines used in establishing these classifications.

This bill becomes **effective June 9, 1994.**

H.B. 4384 -- Continuation of Agents Commissions

Following their withdrawal from writing personal auto lines from this State, insurers must continue to pay agents commissions, equal to the commissions the agent would have otherwise been entitled to under the contract, for a period of two (2) years from the date of termination of the contractual relationship for those policies which cannot be canceled or nonrenewed pursuant to the law. The insurer must continue the appointment of the agent for the duration of time the agent continues to service the business.

This bill becomes **effective June 9, 1994.**

H.B. 4516 -- Child Immunization Services Coverage

All health insurance policies issued in this State must provide coverage for the children of the insured for child immunization services and all costs to administer such services. These services shall be exempt from any deductible, per visit charge and/or copayment provisions. Other services provided at the time of immunization are not made exempt from deductibles and/or copayments. These provisions apply to all individual accident and sickness policies, group accident and sickness policies, small group accident and sickness policies and "no frills" or "basic" policies. Insurers, hospital service corporations, medical service corporations, dental service corporations, health service

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H.B. 4516 – Child Immunization Services Coverage (continued)

corporations, health care corporations and health maintenance organizations must comply to these mandates.

Under the "no frills" or "basic" policy the benefit, medical and laboratory services in connection with annual checkups for prostate cancer in men age fifty (50) and over, has been added as a guideline in the design of this policy.

This bill became **effective March 12, 1994.**