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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**

*Regular Session, 2005*

**ENROLLED**

*Committee Substitute for*

**SENATE BILL NO. 30**

(By Senator Minard )

**PASSED April 9, 2005**

**In Effect 90 days from Passage**

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COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 30**

(SENATOR MINARD, *original sponsor*)

[Passed April 9, 2005; in effect ninety days from passage.]

AN ACT to amend and reenact §33-2-20 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §33-2-21; to amend and reenact §33-6-8 of said code; to amend said code by adding thereto a new section, designated §33-6-15a; to amend and reenact §33-16-2 of said code; to amend and reenact §33-16B-1 and §33-16B-3 of said code; to amend and reenact §33-17-8 and §33-17-9 of said code; to amend said code by adding thereto three new sections, designated §33-17A-4a, §33-17A-4b and §33-17A-4c; and to amend and reenact §33-20-4 of said code, all relating to insurance law reforms and modifications generally; allowing the Commissioner to permit automobile insurers to withdraw from doing business in this state; requiring insurer to submit a plan; permitting promulgation of rules; redesignating a section of the insurance code enacted as part of the bill assigning workers' compensation duties to the Insurance Commissioner; clarifying that certain

rules remain in effect; exempting commercial insurance lines from the requirement of prior approval of rates and forms; establishing requirements for prior approval; providing for suspension of review period when additional information is requested; providing definitions; clarifying that certain health insurance forms marketed to associations must be filed with the Commissioner; providing that commercial and certain health insurance forms marketed to associations are effective upon first use after filing; providing certain requirements for association policies; providing for a notation of savings on policies; clarifying that prior rate approval applies to health insurance certificates and endorsements; providing for filing of fire and marine insurance rider or endorsement review; adding a ground for nonrenewal of property insurance policies; providing an alternative method for nonrenewal of property insurance; providing a manner of electing an alternative method; requiring report to the Legislature; and making certain technical changes.

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

That §33-2-20 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §33-2-21; that §33-6-8 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §33-6-15a; that §33-16-2 of said code be amended and reenacted; that §33-16B-1 and §33-16B-3 of said code be amended and reenacted; that §33-17-8 and §33-17-9 of said code be amended and reenacted; that said code be amended by adding thereto three new sections, designated §33-17A-4a, §33-17A-4b and §33-17A-4c; and that §33-20-4 of said code be amended and reenacted, all to read as follows:

**ARTICLE 2. INSURANCE COMMISSIONER.**

**§33-2-20. Authority of Commissioner to allow withdrawal of insurance carriers from doing business in the state.**

1 (a) Notwithstanding any provision of the code to the  
2 contrary, the Commissioner may, consistent with the  
3 provisions of this section, authorize an insurer to with-  
4 draw from the line of automobile liability insurance for  
5 personal, private passenger automobiles covered by article  
6 six-a of this chapter or from doing business entirely in this  
7 state if:

8 (1) The insurer has submitted and received approval  
9 from the Commissioner of a withdrawal plan; and

10 (2) The insurer demonstrates to the satisfaction of the  
11 Commissioner that allowing the insurer to withdraw  
12 would be in the best interest of the insurer, its policyhold-  
13 ers and the citizens of this state.

14 (b) Any insurer that elects to nonrenew or cancel the  
15 particular type or line of insurance coverage provided by  
16 section five, article seventeen-a of this chapter shall  
17 submit to the Insurance Commissioner a withdrawal plan  
18 for informational purposes only prior to cancellation or  
19 nonrenewal of all its business in this state.

20 (c) The Commissioner shall promulgate rules pursuant to  
21 chapter twenty-nine-a of this code setting forth the  
22 criteria for withdrawal plans: *Provided*, That the proce-  
23 dural rules previously promulgated setting forth the  
24 criteria for withdrawal plans, which rules were made  
25 effective the twenty-fifth day of September, two thousand  
26 four, shall continue in effect in the same manner as if this  
27 section had not been amended during the first extraordi-  
28 nary session of the Legislature in two thousand five.

**§33-2-21. Authority of Insurance Commissioner to regulate  
worker's compensation industry; authority of  
Insurance Commissioner to administer chapter  
twenty-three of the Code of West Virginia.**

1 (a) Upon the termination of the Workers' Compensation  
2 Commission pursuant to chapter twenty-three of this code,  
3 the powers and duties heretofore imposed upon the Work-

4 ers' Compensation Commission as they relate to general  
5 administration of the provisions of said chapter are hereby  
6 transferred to and imposed upon the Insurance Commis-  
7 sioner.

8 (b) Unless otherwise specified in chapter twenty-three of  
9 this code, upon termination of the Workers' Compensation  
10 Commission, the duties imposed upon the Workers'  
11 Compensation Commission as they relate to the award and  
12 payment of disability and death benefits and the review of  
13 claims in articles four and five, chapter twenty-three of  
14 this code will be imposed upon the Employers Mutual  
15 Insurance Company established pursuant to article two-c  
16 of said chapter, a private carrier offering workers' com-  
17 pensation insurance in this state and self-insured employ-  
18 ers. Whenever reference is made to the Workers' Compen-  
19 sation Commissioner in those articles, the duty prescribed  
20 shall apply to the Employers Mutual Insurance Company,  
21 a private carrier or self-insured employer, as applicable.

22 (c) From the effective date of this enactment, the Insur-  
23 ance Commissioner shall regulate all insurers licensed to  
24 transact workers' compensation insurance in this state and  
25 all of the provisions of this chapter shall apply to such  
26 insurers, unless otherwise exempted by statute.

**ARTICLE 6. THE INSURANCE POLICY.**

**§33-6-8. Filing of forms.**

1 (a) No insurance policy form, no group certificate form,  
2 no insurance application form where a written application  
3 is required and is to be made a part of the policy and no  
4 rider, endorsement or other form to be attached to any  
5 policy shall be delivered or issued for delivery in this state  
6 by an insurer unless it has been filed with the Commis-  
7 sioner and, to the extent required by subdivision (1),  
8 subsection (b) of this section, approved by the Commis-  
9 sioner, except that as to group insurance policies delivered  
10 outside this state, only the group certificates to be deliv-  
11 ered or issued for delivery in this state shall be filed for

12 approval with the Commissioner. This section does not  
13 apply to policies, riders, endorsements or forms of unique  
14 character designed for and used with relation to insurance  
15 upon a particular subject, or which relate to the manner of  
16 distribution of benefits or to the reservation of rights and  
17 benefits under life or accident and sickness insurance  
18 policies, and are used at the request of the individual  
19 policyholder, contract holder or certificate holder, nor to  
20 the surety bond forms.

21 (b)(1) Forms for non-commercial lines shall be filed by  
22 an insurer no less than sixty days in advance of any  
23 delivery. At the expiration of the sixty-day period, unless  
24 the period was extended by the commissioner to obtain  
25 additional information from the insurer, the form is  
26 deemed to be approved unless prior thereto it was affirma-  
27 tively approved or disapproved by the Commissioner.  
28 Approval of any form by the Commissioner constitutes a  
29 waiver of any unexpired portion of the sixty-day period.

30 (2) Forms for: (A) Commercial lines property and casu-  
31 alty risks; and (B) any mass marketed life and/or health  
32 insurance policy offered to members of any association by  
33 the association, shall be filed with the Commissioner and  
34 need not be approved by the Commissioner prior to use.  
35 The Commissioner may, within the first thirty days after  
36 receipt of the form, request information to ensure compli-  
37 ance with applicable statutory provisions and may disap-  
38 prove forms not in compliance with the provisions of this  
39 chapter. If the Commissioner does not disapprove the  
40 form within the thirty-day period, the form is effective  
41 upon its first use after filing.

42 (c) When an insurer does not submit supporting informa-  
43 tion with the form filing that allows the Commissioner to  
44 determine whether the form meets all applicable statutory  
45 requirements, the Commissioner shall require the insurer  
46 to furnish supporting information. The sixty-day period  
47 for personal lines risks shall be suspended on the date the  
48 Commissioner requests additional information and shall

49 recommence on the date the Commissioner receives the  
50 supporting information: *Provided*, That the Commissioner  
51 shall have no less than fifteen days from receipt of the  
52 supporting information to act. The Commissioner may  
53 request additional information after the initial sixty-day  
54 period with respect to noncommercial lines, or thirty-day  
55 period with respect to commercial lines and mass-mar-  
56 keted life and/or health insurance to associations, to  
57 ensure continuing compliance with applicable statutory  
58 provisions and may at any time, after notice and for cause  
59 shown, withdraw any approval or disapprove any form:  
60 *Provided, however*, That any disapproval by the Commis-  
61 sioner of any form or withdrawal of a previous approval  
62 shall state the grounds therefor and shall include a notice  
63 that the insurer may request a hearing on the denial or  
64 withdrawal of approval.

65 (d) The Commissioner may, by order, exempt from the  
66 requirements of this section for so long as he or she  
67 considers proper any insurance document or form or type  
68 specified in the order, to which, in his or her opinion, this  
69 section may not practicably be applied, or the filing and  
70 approval of which are, in his or her opinion, not desirable  
71 or necessary for the protection of the public.

72 (e) For purposes of this section:

73 (1) An association must have a minimum of sixty-one  
74 members at the outset of the issuance of the mass-mar-  
75 keted life and/or health insurance policy and shall have  
76 been organized and maintained in good faith for purposes  
77 other than that of obtaining or providing insurance. The  
78 association shall also have been in active existence for at  
79 least two years and shall have a constitution and bylaws  
80 which provide that: (A) The association holds annual  
81 meetings to further purposes of its members; (B) except in  
82 the case of credit unions, the association collects dues or  
83 solicits contributions from members; and (C) the members  
84 have voting privileges and representation on the governing  
85 board and committees that exist under the authority of the

86 association: *Provided*, That upon written application by  
87 an association and for good cause shown, the Commis-  
88 sioner may grant an exemption to the association from the  
89 minimum member requirements of this section.

90 (2) "Commercial lines" means insurance for business and  
91 professional interests, except that it does not include  
92 medical malpractice insurance.

93 (3) "Noncommercial lines" means all insurance other  
94 than commercial lines and includes medical malpractice  
95 and insurance for personal, family and household needs.

96 (f) This section also applies to any form used by domestic  
97 insurers for delivery in a jurisdiction outside West Virginia  
98 if the insurance supervisory official of the jurisdiction  
99 informs the Commissioner that the form is not subject to  
100 approval or disapproval by the official and upon the  
101 Commissioner's order requiring the form to be submitted  
102 to him or her for that purpose. The same standards  
103 applicable to forms for domestic use apply to forms used  
104 by domestic insurers for delivery in a jurisdiction outside  
105 West Virginia.

**§33-6-15a. Notation of consumer cost savings.**

1 Each policy issued following enactment of this provision  
2 during the two thousand five regular session, during the  
3 year following the effective date, shall display in a promi-  
4 nent location on the policy itself or on an insert included  
5 with each policy and provided to each policyholder,  
6 statements as following:

7 (1) "YOUR COSTS FOR THIS POLICY (HAVE/HAVE  
8 NOT) BEEN REDUCED BY (insert savings amount here)  
9 BECAUSE OF INSURANCE LAW REFORMS ENACTED  
10 BY THE WEST VIRGINIA LEGISLATURE IN 2005, AND  
11 SIGNED INTO LAW BY THE GOVERNOR."

12 If the insurer did not offer the type of insurance pro-  
13 vided by the policy in two thousand four, the requirement  
14 for these statements do not apply.



**ARTICLE 16. GROUP ACCIDENT AND SICKNESS.**

**§33-16-2. Eligible groups.**

1 Any insurer licensed to transact accident and sickness  
2 insurance in this state may issue group accident and  
3 sickness policies coming within any of the following  
4 classifications:

5 (1) A policy issued to an employer, who shall be consid-  
6 ered the policyholder, insuring at least ten employees of  
7 the employer, for the benefit of persons other than the  
8 employer, and conforming to the following requirements:

9 (A) If the premium is paid by the employer the group  
10 shall comprise all employees or all of any class or classes  
11 thereof determined by conditions pertaining to the em-  
12 ployment; or

13 (B) If the premium is paid by the employer and employ-  
14 ees jointly, or by the employees, the group shall comprise  
15 not less than seventy percent of all employees of the  
16 employer or not less than seventy-five percent of all  
17 employees of any class or classes determined by conditions  
18 pertaining to the employment;

19 (C) The term "employee" as used herein is considered to  
20 include the officers, managers and employees of the  
21 employer, the partners, if the employer is a partnership,  
22 the officers, managers and employees of subsidiary or  
23 affiliated corporations of a corporate employer, and the  
24 individual proprietors, partners and employees of individ-  
25 uals and firms, the business of which is controlled by the  
26 insured employer through stock ownership, contract or  
27 otherwise. The term "employer" as used herein may  
28 include any municipal or governmental corporation, unit,  
29 agency or department and the proper officers of any  
30 unincorporated municipality or department, as well as  
31 private individuals, partnerships and corporations.

32 (2) A policy issued to an association or to a trust or to the  
33 trustees of a fund established, created or maintained for

34 the benefit of members of one or more associations. The  
35 association or associations shall have at the issuance of the  
36 policy a minimum of one hundred persons and have been  
37 organized and maintained in good faith for purposes other  
38 than that of obtaining insurance; shall have been in active  
39 existence for at least one year; and shall have a constitu-  
40 tion and bylaws that provide that: The association or  
41 associations hold regular meetings not less than annually  
42 to further the purposes of the members; except for credit  
43 unions, the association or associations collect dues or  
44 solicit contributions from members; and the members have  
45 voting privileges and representation on the governing  
46 board and committees. The policy is subject to the follow-  
47 ing requirements:

48 (A) The policy may insure members of the association or  
49 associations, employees thereof or employees of members,  
50 or one or more of the preceding or all of any class or  
51 classes for the benefit of persons other than the employee's  
52 employer.

53 (B) The premium for the policy shall be paid from:

54 (i) Funds contributed by the association or associations;

55 (ii) Funds contributed by covered employer members;

56 (iii) Funds contributed by both covered employer  
57 members and the association or associations;

58 (iv) Funds contributed by the covered persons; or

59 (v) Funds contributed by both the covered persons and  
60 the association, associations or employer members.

61 (C) Except as provided in paragraph (D) of this  
62 subdivision, a policy on which no part of the premium is to  
63 be derived from funds contributed by the covered persons  
64 specifically for their insurance must insure all eligible  
65 persons, except those who reject coverage in writing.

66 (D) An insurer may exclude or limit the coverage on any  
67 person as to whom evidence of individual insurability is  
68 not satisfactory to the insurer.

69 (E) A small employer, as defined in subdivision (r),  
70 section two, article sixteen-d of this chapter, insured under  
71 an eligible group policy provided in this subdivision shall  
72 also be subject to the marketing and rate practices provi-  
73 sions in said article.

74 (3) A policy issued to a bona fide association;

75 (4) A policy issued to a college, school or other institu-  
76 tion of learning or to the head or principal thereof, insur-  
77 ing at least ten students, or students and employees, of the  
78 institution;

79 (5) A policy issued to or in the name of any volunteer fire  
80 department, insuring all of the members of the department  
81 or all of any class or classes thereof against any one or  
82 more of the hazards to which they are exposed by reason  
83 of the membership but in each case not less than ten  
84 members;

85 (6) A policy issued to any person or organization to  
86 which a policy of group life insurance may be issued or  
87 delivered in this state, to insure any class or classes of  
88 individuals that could be insured under the group life  
89 policy; and

90 (7) A policy issued to cover any other substantially  
91 similar group which in the discretion of the Commissioner  
92 may be subject to the issuance of a group accident and  
93 sickness policy or contract.

**ARTICLE 16B. ACCIDENT AND SICKNESS RATES.**

**§33-16B-1. Filing and approval of accident and sickness rates.**

1 Premium rate charges for any individual or group  
2 accident and sickness insurance policy, certificate or other  
3 evidence of insurance issued, endorsed or delivered in this

4 state shall be filed with the Commissioner for a waiting  
5 period of sixty days before the charges become effective.  
6 At the expiration of sixty days the premium rate charges  
7 filed are deemed approved unless prior thereto the  
8 charges have been affirmatively approved or disapproved  
9 by the Commissioner.

10 The Commissioner shall disapprove accident and health  
11 insurance premium rates which are not in compliance with  
12 the requirements of this chapter or any rule promulgated  
13 by the Commissioner pursuant to section two of this  
14 article. The Commissioner shall send written notice of the  
15 disapproval to the insurer. The Commissioner may  
16 approve the premium rates before the sixty-day period  
17 expires by giving written notice of approval.

**§33-16B-3. Exceptions.**

1 This article does not apply to policies issued to group  
2 accident and health insurance plans upon which premiums  
3 are negotiated with the group policyholder and are  
4 experienced rated.

**ARTICLE 17. FIRE AND MARINE INSURANCE.**

**§33-17-8. Filing of forms.**

1 (a) No fire or marine policy, rider or endorsement to be  
2 attached to any policy covering any risk located or to be  
3 performed in West Virginia shall be delivered or issued for  
4 delivery in this state unless that form is: (1) Filed with and  
5 approved by the Commissioner; (2) conforms to applicable  
6 legislative rules of the Commissioner; (3) is identical as to  
7 language to a policy, rider or endorsement approved by the  
8 Commissioner; or (4) qualifies under subsection (c) of this  
9 section. If the use of any form under the provisions of  
10 subdivision (2) of this subsection by any insurer or by the  
11 members and subscribers of any rating organization is so  
12 extensive that in the opinion of the Commissioner the  
13 public interest requires, the Commissioner may require  
14 that the form be filed with him or her by the insurer or by

15 the rating organization on behalf of its members and  
16 subscribers.

17 (b) The procedure for filing and approval or disapproval  
18 of forms under this section is provided in section eight,  
19 article six of this chapter. Grounds for disapproval  
20 are those set forth in section nine of said article. Filings  
21 may be made on behalf of any insurer by a rating organi-  
22 zation licensed under the provisions of article twenty of  
23 this chapter. This section does not apply to ocean marine  
24 policies, riders or endorsements, or to forms on specially  
25 rated inland marine risks.

26 (c) For commercial lines risks, a fire or marine policy,  
27 rider or endorsement is subject to the provisions of section  
28 six, article eight of this chapter governing other commer-  
29 cial lines form filings as defined in section eight, article six  
30 of this chapter.

**§33-17-9. Total or partial fire loss.**

1 (a) All insurers providing fire insurance on real property  
2 in West Virginia shall be liable, in case of total loss by fire  
3 or otherwise, as stated in the policy, for the whole amount  
4 of insurance stated in the policy, upon such real property;  
5 and in case of partial loss by fire or otherwise, as afore-  
6 said, of the real property insured, the liability shall be for  
7 the total amount of the partial loss, not to exceed the  
8 whole amount of insurance upon the real property as  
9 stated in the policy. This section does not apply where  
10 such insurance has been procured from two or more  
11 insurers covering the same interest in such real property.

**ARTICLE 17A. PROPERTY INSURANCE DECLINATION, TERMINATION  
AND DISCLOSURE.**

**§33-17A-4a. Alternative method for nonrenewal for property  
insurance.**

1 (a) On or after the first day of July, two thousand five, an  
2 insurer may nonrenew a property insurance policy for any  
3 reason that is consistent with its underwriting standards.

4 (b) Notwithstanding any other provisions in this section,  
5 race, religion, nationality, ethnic group, age, sex, marital  
6 status or other reason prohibited by the provisions of this  
7 chapter may not be considered as a reason for nonrenewal.

8 (c) Notwithstanding the provisions of subsection (c),  
9 section four of this article, a nonrenewal may only be  
10 issued pursuant to the provisions of this section upon  
11 notice to the named insured at least thirty days before the  
12 end of the policy period of the insurer's election not to  
13 renew the policy.

14 (d) Commencing the first day of July, two thousand five,  
15 the total number of nonrenewal notices issued by the  
16 insurer each year pursuant to this section that result in  
17 nonrenewals may not exceed one percent per year of the  
18 total number of the policies of the insurer in force at the  
19 end of the previous calendar year in this state: *Provided,*  
20 That the total number of such nonrenewal notices issued  
21 each year to insureds within any given county in this state  
22 that result in nonrenewals may not exceed one percent per  
23 year of the total number of policies in force in that county  
24 at the end of the previous calendar year: *Provided,*  
25 *however,* That an insurer may nonrenew one policy per  
26 year in any county if the applicable percentage limitation  
27 results in less than one policy.

28 (e) A notice issued pursuant to this section shall state the  
29 specific reason or reasons for refusal to renew and shall  
30 advise the named insured that nonrenewal of the policy for  
31 any reason is subject to a hearing and review as provided  
32 in section seven of this article: *Provided,* That the hearing  
33 shall relate to whether the nonrenewal of the policy was  
34 issued for a discriminatory reason, was based upon  
35 inadequate notice, was based on an underwriting standard  
36 found by the Commissioner to be in violation of this  
37 chapter or causes the insurer to exceed the percentage  
38 limitations, or percentage limitations by county, of  
39 nonrenewal notices set forth in this section. The notice  
40 shall also advise the insured of possible eligibility for

41 coverage through the West Virginia Essential Property  
42 Insurance Association.

43 (f) Each insurer licensed to write property insurance  
44 policies in this state shall file with the Commissioner a  
45 copy of its underwriting standards, including any amend-  
46 ments or supplements. The Commissioner shall review and  
47 examine the underwriting standards to ensure that they  
48 are consistent with generally accepted underwriting  
49 principles. The underwriting standards filed with the  
50 Commissioner shall be considered confidential by law and  
51 privileged, are exempt from disclosure pursuant to chapter  
52 twenty-nine-b of this code, are not open to public inspec-  
53 tion, are not subject to subpoena, are not subject to  
54 discovery or admissible in evidence in any criminal, civil  
55 or administrative action and are not subject to production  
56 pursuant to court order. The Commissioner may promul-  
57 gate legislative rules pursuant to chapter twenty-nine-a of  
58 this code to implement the provisions of this section.

59 (g) Each insurer that has elected to issue nonrenewal  
60 notices pursuant to the percentage limitations provided in  
61 this section shall report to the Commissioner, on or before  
62 the thirtieth day of September of each year, the total  
63 number of nonrenewal notices issued in this state and in  
64 each county of this state for the preceding year and the  
65 specific reason or reasons for the nonrenewals by county.

**§33-17A-4b. Manner of making election relating to nonrenewals.**

1 (a) Each insurer licensed to write property insurance  
2 policies in this state as of the first day of July, two thou-  
3 sand five, may elect to issue all nonrenewal notices either  
4 pursuant to subsection (c), section four of this article or  
5 section four-a of this article. Each insurer must notify the  
6 Commissioner of its election on or before the first day of  
7 July, two thousand five, and shall remain bound by the  
8 election for a period of five years. For each subsequent  
9 five-year period, each insurer shall notify the Commis-  
10 sioner of its election to issue all nonrenewal notices either

11 pursuant to subsection (c), section four of this article or  
12 section four-a of this article. The failure of an insurer to  
13 notify the Commissioner of its election by the first day of  
14 July, two thousand five, will be considered to be an  
15 election by the insurer to issue all nonrenewal notices  
16 pursuant to subsection (c), section four of this article and  
17 the insurer will be bound by the election for a period of  
18 five years.

19 (b) An insurer that is not licensed to write property  
20 insurance policies in this state as of the first day of July,  
21 two thousand five, but which becomes licensed to write  
22 property insurance policies after that date shall, no later  
23 than four years after the date the insurer becomes licensed  
24 to write the policies, make an election to issue all  
25 nonrenewal notices either pursuant to subsection (c),  
26 section four of this article or section four-a of this article  
27 and shall notify the Commissioner of its election. If the  
28 insurer elects to issue all nonrenewal notices pursuant to  
29 section four-a of this article, the total number of  
30 nonrenewals may not exceed the percentage limitations set  
31 forth in that section. An insurer first becoming licensed to  
32 issue property insurance policies in this state after the first  
33 day of July, two thousand five, shall be bound by its  
34 election for a period of five years and for each subsequent  
35 five-year period shall notify the Commissioner of its  
36 election to issue all nonrenewal notices either pursuant to  
37 subsection (c), section four of this article or section four-a  
38 of this article.

39 (c) An insurer that elects to issue nonrenewals pursuant  
40 to subsection (c), section four of this article may include as  
41 a permitted reason for nonrenewal of a policy, in addition  
42 to the reasons enumerated in section five of this article,  
43 two or more paid claims under a policy within a period of  
44 thirty-six months, each of which occurs after the first day  
45 of July, two thousand five.



**§33-17A-4c. Report to the Legislature.**

1 By the first day of January, two thousand ten, the  
2 Commissioner shall submit a report to the Legislature.  
3 The report shall contain the following:

4 (1) An analysis of the impact of legislation enacted  
5 during the two thousand five legislative session upon rates  
6 and insurance availability in the state; and

7 (2) Statistics reflecting the rate history of insurers  
8 conducting business in West Virginia from the first day of  
9 July, two thousand five, until the first day of July, two  
10 thousand nine.

**ARTICLE 20. RATES AND RATING ORGANIZATIONS.**

**§33-20-4. Rate filings.**

1 (a) (1) Every insurer shall file with the Commissioner  
2 every manual of classifications, territorial rate areas  
3 established pursuant to subdivision (2), subsection (c),  
4 section three of this article, rules and rates, every rating  
5 plan and every modification of any of the foregoing which  
6 it proposes to use for casualty insurance to which this  
7 article applies.

8 (2) Every insurer shall file with the Commissioner,  
9 except as to inland marine risks which by general custom  
10 of the business are not written according to manual rates  
11 or rating plans, every manual, minimum, class rate, rating  
12 schedule or rating plan and every other rating rule and  
13 every modification of any of the foregoing which it  
14 proposes to use for fire and marine insurance to which this  
15 article applies. Specific inland marine rates on risks  
16 specially rated, made by a rating organization, shall be  
17 filed with the Commissioner.

18 (b) Every filing shall state the proposed effective date  
19 and shall indicate the character and extent of the coverage  
20 contemplated. When a filing is not accompanied by the  
21 information upon which the insurer supports the filing and  
22 the Commissioner does not have sufficient information to

23 determine whether the filing meets the requirements of  
24 this article, he or she shall require the insurer to furnish  
25 the information upon which it supports the filing and in  
26 that event the waiting period shall commence as of the  
27 date the information is furnished. The information  
28 furnished in support of a filing may include: (1) The  
29 experience or judgment of the insurer or rating organiza-  
30 tion making the filing; (2) the experience or judgment of  
31 the insurer or rating organization in the territorial rate  
32 areas established by subdivision (2), subsection (c), section  
33 three of this article; (3) its interpretation of any statistical  
34 data it relies upon; (4) the experience of other insurers or  
35 rating organizations; or (5) any other relevant factors. A  
36 filing and any supporting information is open to public  
37 inspection as soon as the filing is received by the Commis-  
38 sioner. Any interested party may file a brief with the  
39 Commissioner supporting his or her position concerning  
40 the filing. Any person or organization may file with the  
41 Commissioner a signed statement declaring and support-  
42 ing his or her or its position concerning the filing. Upon  
43 receipt of the statement prior to the effective date of the  
44 filing, the Commissioner shall mail or deliver a copy of the  
45 statement to the filer, which may file a reply as it may  
46 desire to make. This section is not applicable to any  
47 memorandum or statement of any kind by any employee of  
48 the Commissioner.

49 (c) An insurer may satisfy its obligation to make a filing  
50 by becoming a member of, or a subscriber to, a licensed  
51 rating organization which makes filings and by authoriz-  
52 ing the Commissioner to accept filings on its behalf:  
53 *Provided*, That nothing contained in this article shall be  
54 construed as requiring any insurer to become a member of  
55 or a subscriber to any rating organization.

56 (d) The Commissioner shall review filings as soon as  
57 reasonably possible after they have been made in order to  
58 determine whether they meet the requirements of this  
59 article.

60 (e) Subject to the exceptions specified in subsections (f),  
61 (g) and (h) of this section, each filing shall be on file for a  
62 waiting period of sixty days before it becomes effective.  
63 Upon written application by an insurer or rating organiza-  
64 tion, the Commissioner may authorize a filing which he or  
65 she has reviewed to become effective before the expiration  
66 of the waiting period. A filing shall be deemed to meet the  
67 requirements of this article unless disapproved by the  
68 Commissioner within the waiting period.

69 (f) Any special filing with respect to a surety bond  
70 required by law or by court or executive order or by order,  
71 rule or regulation of a public body, not covered by a  
72 previous filing, shall become effective when filed and shall  
73 be deemed to meet the requirements of this article until  
74 the Commissioner reviews the filing and so long thereafter  
75 as the filing remains in effect.

76 (g) Specific inland marine rates on risks specially rated  
77 by a rating organization shall become effective when filed  
78 and shall be deemed to meet the requirements of this  
79 article until the Commissioner reviews the filing and so  
80 long thereafter as the filing remains in effect.

81 (h) Rates for commercial lines property and casualty  
82 risks must be filed with the Commissioner and the filings  
83 need not be approved by the Commissioner. The Commis-  
84 sioner may request additional information to ensure  
85 compliance with applicable statutory standards, but if the  
86 Commissioner does not disapprove the filing within the  
87 initial thirty-day period after receipt, the rate filing will  
88 become effective upon first usage after filing: *Provided*,  
89 That the Commissioner may at any time thereafter, after  
90 notice and for cause shown, disapprove any rate filing.

91 (i) Under legislative rules the Commissioner may, by  
92 written order, suspend or modify the requirement of filing  
93 as to any kind of insurance, subdivision or combination  
94 thereof, or as to classes of risks, the rates for which cannot  
95 practicably be filed before they are used. These orders and

96 rules shall be made known to insurers and rating organiza-  
97 tions affected thereby. The Commissioner may make any  
98 examination he or she may consider advisable to ascertain  
99 whether any rates affected by an order meet the standards  
100 set forth in subsection (b), section three of this article.

101 (j) Upon the written application of the insured, stating  
102 his or her reasons therefor, filed with and approved by the  
103 Commissioner, a rate in excess of that provided by a filing  
104 otherwise applicable may be used on any specific risks.

105 (k) No insurer shall make or issue a contract or policy  
106 except in accordance with the filings which are in effect  
107 for that insurer as provided in this article. This subsection  
108 does not apply to contracts or policies for inland marine  
109 risks as to which filings are not required.

110 (l) In instances when an insurer files a request for an  
111 increase of automobile liability insurance rates in the  
112 amount of fifteen percent or more, the Insurance Commis-  
113 sioner shall provide notice of the increase with the office  
114 of the Secretary of State to be filed in the state register  
115 and shall provide interested persons the opportunity to  
116 comment on the request up to the time the Commissioner  
117 approves or disapproves the rate increase.

118 (m) For purposes of this section, "commercial" means  
119 commercial lines as defined in subdivision (2), subsection  
120 (e), section eight, article six of this chapter.

Enr. Com. Sub. for S. B. No. 30] 20

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

  
.....  
Chairman Senate Committee

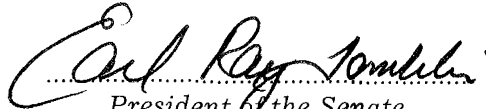
  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within is approved this the 29<sup>th</sup>  
Day of April, 2005.

  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 27 2005

Time 10:05 am