

1 **H. B. 2319**

2
3 (By Delegate Caputo)

4 [Introduced January 12, 2011; referred to the
5 Committee on Banking and Insurance then the Judiciary.]

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10 A BILL to amend and reenact §33-20-5 of the Code of West Virginia,
11 1931, as amended, relating to insurance generally; and
12 prohibiting the use of a credit score in casualty insurance
13 rate filings.

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

15 That §33-20-5 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

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

18 **§33-20-5. Disapproval of filings.**

19 (a) If within the waiting period or any extension ~~thereof~~ of
20 it as provided in subsection (e) of section four of this article,
21 the commissioner finds that a filing does not meet the requirements
22 of this article, he or she shall send to the insurer or rating
23 organization which made ~~such~~ the filing, written notice of
24 disapproval of such filing specifying therein in what respects he

1 or she finds ~~such~~ the filing fails to meet the requirements of this
2 article and stating that ~~such~~ the filing shall not become
3 effective.

4 (b) If within thirty days after a special surety filing
5 subject to subsection (f) of section four of this article or if
6 within thirty days after a specific inland marine rate on a risk
7 specially rated by a rating organization subject to subsection (g)
8 of section four of this article has become effective, the
9 commissioner finds that ~~such~~ the filing does not meet the
10 requirements of this article, he or she shall send to the rating
11 organization which made such filing written notice of disapproval
12 of ~~such~~ the filing specifying therein in what respects he or she
13 finds that ~~such~~ the filing fails to meet the requirements of this
14 article and stating when, within a reasonable period thereafter,
15 ~~such~~ the filing shall be deemed no longer effective. Said
16 disapproval shall not affect any contract made or issued prior to
17 the expiration of the period set forth in said notice.

18 (c) If at any time subsequent to the applicable review period
19 provided ~~for~~ in subsection (a) or (b) of this section, the
20 commissioner finds that a filing does not meet the requirements of
21 this article, he or she shall, after notice and hearing to every
22 insurer and rating organization which made ~~such~~ the filing, issue
23 an order specifying in what respects he or she finds that ~~such~~ the
24 filing fails to meet the requirements of this article, and stating

1 when, within a reasonable period thereafter, ~~such~~ the filing shall
2 be deemed no longer effective. Copies of said order shall be sent
3 to every such insurer and rating organization. Said order shall
4 not affect any contract or policy made or issued prior to the
5 expiration of the period set forth in said order.

6 (d) Any person or organization aggrieved with respect to any
7 filing which is in effect may demand a hearing thereon. If, after
8 ~~such~~ the hearing, the commissioner finds that the filing does not
9 meet the requirements of this article, he or she shall issue an
10 order specifying in what respects he or she finds that ~~such~~ the
11 filing fails to meet the requirements of this article, and stating
12 when, within a reasonable period thereafter, ~~such~~ the filing shall
13 be deemed no longer effective. Said order shall not affect any
14 contract or policy made or issued prior to the expiration of the
15 period set forth in said order.

16 (e) Any insurer or rating organization, in respect to any
17 filing made by it which is not approved by the commissioner, may
18 demand a hearing thereon.

19 (f) No manual of classifications, rules, rating plans or any
20 modification of any of the foregoing which establishes standards
21 for measuring variations in hazards or expense provisions, or both,
22 in the case of casualty insurance to which this article applies and
23 no manual, minimum, class rate, rating schedule, rating plan,
24 rating rule, or any modification of any of the foregoing, in the

1 case of fire insurance to which this article applies, and which has
2 been filed pursuant to the requirements of section four of this
3 article, shall be disapproved if the rates thereby produced meet
4 the requirements of this article. None of the foregoing can
5 consider credit score as a factor.

6 (g) If, in the opinion of the commissioner, the rate or form
7 filing made by an insurer is of such import that it will affect the
8 public he or she may, at his or her discretion, issue notice to
9 ~~such~~ the insurer of a public hearing. The notice of public hearing
10 to the insurer making ~~such~~ the form or rate filing shall be made by
11 United States mail at least fifteen days prior to hearing date.
12 Notice to the public shall be given by appropriate publication in
13 a newspaper in the form and manner prescribed by chapter twenty-
14 nine-a of this code. The holding of a public hearing as outlined
15 in this subsection shall have the effect of eliminating the right
16 of the party making such filing to demand a hearing as stated in
17 subsections (d) and (e) of this section.

NOTE: The purpose of this bill is to prohibit the use of a credit score in casualty insurance rate filings.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.