

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2690**

BY DELEGATES WESTFALL, AZINGER, NELSON, WILLIAMS

AND PORTERFIELD

[Passed February 28, 2019; in effect ninety days from  
passage.]



1 AN ACT to amend and reenact §33-26A-19 of the Code of West Virginia, 1931, as amended,  
2 relating to guaranty associations; and making revisions consistent with the National  
3 Association of Insurance Commissioners Life and Health Insurance Guaranty Association  
4 Model Act.

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

**ARTICLE 26A. WEST VIRGINIA LIFE AND HEALTH INSURANCE GUARANTY.**

**§33-26A-19. Prohibited advertisement of insurance guaranty association act in insurance sales; notice to policyholders.**

1 (a) A person, including a member insurer, agent, or affiliate of a member insurer, shall not  
2 make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to  
3 be made, published, disseminated, circulated, or placed before the public, in any newspaper,  
4 magazine, or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or  
5 over any radio station or television station, or in any other way, any advertisement,  
6 announcement, or statement, written or oral, which uses the existence of the insurance guaranty  
7 association of this state for the purpose of sales, solicitation, or inducement to purchase any form  
8 of insurance or other coverage covered by the West Virginia Life and Health Insurance Guaranty  
9 Association Act: *Provided*, That this section shall not apply to the association or any other entity  
10 which does not sell or solicit insurance or coverage by a health maintenance organization.

11 (b) Within 180 days of the effective date of this article, the association shall prepare a  
12 summary document describing the general purposes and current limitations of the act and  
13 complying with §33-26A-19(c) of this code. This document shall be submitted to the commissioner  
14 for approval. Sixty days after receiving such approval, no member insurer may deliver a policy or  
15 contract described in §33-26A-3(b)(1) of this code to a policy owner, contract owner, certificate  
16 holder, or enrollee unless the summary document is delivered to the policy owner, contract owner,  
17 certificate holder, or enrollee prior to or at the time of delivery of the policy or contract. The  
18 document shall also be available upon request by a policy owner, contract owner, certificate

19 holder, or enrollee. The distribution, delivery, or contents or interpretation of this document shall  
20 not guarantee that either the policy or the contract or the policy owner, contract owner, certificate  
21 holder, or enrollee is covered in the event of the impairment or insolvency of a member insurer.  
22 The description document shall be revised by the association as amendments to the article may  
23 require. Failure to receive this document does not give the policy owner, contract owner,  
24 certificate holder, enrollee, or insured any greater rights than those stated in this article.

25 (c) The document prepared under §33-26A-19(b) of this code shall contain a clear and  
26 conspicuous disclaimer on its face. The commissioner shall establish the form and content of the  
27 disclaimer. The disclaimer shall:

28 (1) State the name and address of the association and insurance department;

29 (2) Prominently warn the policy owner, contract owner, certificate holder, or enrollee that  
30 the association may not cover the policy or contract or, if coverage is available, it will be subject  
31 to substantial limitations and exclusions and conditioned on continued residence in the state;

32 (3) State the types of policies or contracts for which guaranty funds will provide coverage;

33 (4) State that the member insurer and its agents are prohibited by law from using the  
34 existence of the association for the purpose of sales, solicitation, or inducement to purchase any  
35 form of insurance or health maintenance organization coverage;

36 (5) Emphasize that the policy owner, contract owner, certificate holder, or enrollee should  
37 not rely on coverage under the association when selecting an insurer or health maintenance  
38 organization;

39 (6) Explain rights available and procedures for filing a complaint to allege a violation of  
40 any provisions of this article; and

41 (7) Provide other information as directed by the commissioner.

42 (d) A member insurer shall retain evidence of compliance with §33-26A-19(b) of this code  
43 for so long as the policy or contract for which the notice is given remains in effect.

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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2019.

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*Governor*