

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2129**

BY DELEGATE CAPUTO

[ Introduced January 9, 2019; Referred  
to the Committee on Banking and Insurance then  
Judiciary.]

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

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

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

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

1 (a) If within the waiting period or any extension thereof as provided in §33-20-4(e) of this  
 2 code, the commissioner finds that a filing does not meet the requirements of this article, he or she  
 3 shall send to the insurer or rating organization which made ~~such~~ the filing, written notice of  
 4 disapproval of ~~such~~ the filing specifying ~~therein~~ in what respects he or she finds ~~such~~ the filing  
 5 fails to meet the requirements of this article and stating that ~~such~~ the filing ~~shall~~ does not become  
 6 effective.

7 (b) If within 30 days after a special surety filing subject to §33-20-4(f) of this code or if  
 8 within 30 days after a specific inland marine rate on a risk specially rated by a rating organization  
 9 subject to §33-20-4(g) of this code has become effective, the commissioner finds that ~~such~~ the  
 10 filing does not meet the requirements of this article, he or she shall send to the rating organization  
 11 which made ~~such~~ the filing written notice of disapproval of ~~such~~ the filing specifying ~~therein~~ in  
 12 what respects he or she finds that ~~such~~ the filing fails to meet the requirements of this article and  
 13 stating when, within a reasonable period, ~~thereafter, such filing shall be deemed~~ the filing is no  
 14 longer effective. ~~Said~~ The disapproval ~~shall~~ does not affect any contract made or issued prior to  
 15 the expiration of the period set forth in ~~said~~ the notice.

16 (c) If ~~at any time~~ subsequent to the applicable review period provided ~~for~~ in §33-20-5(a)  
 17 or §33-20-5 (b) of this code, the commissioner finds that a filing does not meet the requirements  
 18 of this article, he or she shall, after notice and hearing to every insurer and rating organization  
 19 which made ~~such~~ the filing, issue an order specifying in what respects he or she finds that ~~such~~  
 20 the filing fails to meet the requirements of this article and ~~stating when, within a reasonable period~~

21 ~~thereafter, such filing shall be deemed~~ state when, within a reasonable period, the filing is no  
22 longer effective. Copies of ~~said~~ the order shall be sent to every such insurer and rating  
23 organization. ~~Said~~ The order ~~shall~~ does not affect any contract or policy made or issued prior to  
24 the expiration of the period set forth in ~~said~~ the order.

25 (d) ~~Any~~ A person or organization aggrieved with respect to any filing ~~which is~~ in effect may  
26 demand a hearing. ~~thereon.~~ If, after ~~such~~ the hearing, the commissioner finds that the filing does  
27 not meet the requirements of this article, he or she shall issue an order specifying in what respects  
28 he or she finds that ~~such~~ the filing fails to meet the requirements of this article and ~~stating when,~~  
29 ~~within a reasonable period thereafter, such filing shall be deemed~~ state when, within a reasonable  
30 period, the filing is no longer effective. ~~Said~~ The order ~~shall~~ does not affect any contract or policy  
31 made or issued prior to the expiration of the period set forth in ~~said~~ the order.

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

34 (f) No manual of classifications, rules, rating plans or any modification of any of the  
35 foregoing which establishes standards for measuring variations in hazards or expense provisions,  
36 or both, in the case of casualty insurance to which this article applies and no manual, minimum,  
37 class rate, rating schedule, rating plan, rating rule or any modification of any of the foregoing, in  
38 the case of fire insurance to which this article applies, and which has been filed pursuant to the  
39 requirements of §33-20-4 of this code, shall be disapproved if the rates thereby produced meet  
40 the requirements of this article. None of the foregoing may consider credit scores as a factor.

41 (g) If, in the opinion of the commissioner, the rate or form filing made by an insurer is of  
42 such import that it will affect the public, he or she may, at his or her discretion, issue notice to  
43 ~~such~~ the insurer of a public hearing. The notice of public hearing to the insurer making ~~such~~ the  
44 form or rate filing shall be made by United States mail at least 15 days prior to the hearing date.  
45 Notice to the public shall be given by ~~appropriate~~ publication in a newspaper in the form and  
46 manner prescribed by chapter 29A of this code. The holding of a public hearing as outlined in

- 47 this subsection ~~shall have the effect of eliminating~~ eliminates the right of the party making such  
48 the filing to demand a hearing as stated in §33-20-5(d) and §33-20-5(e) of this code.

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 a heading or the present law and underscoring indicates new language that would be added.