

WEST VIRGINIA ADMINISTRATIVE REGULATION
INSURANCE COMMISSIONER

No. 9
1972

MASS MARKETING OF PROPERTY AND
LIABILITY INSURANCE

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Administrative Law Division

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Title 114
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~~WEST VIRGINIA ADMINISTRATIVE REGULATION~~
INSURANCE COMMISSIONER

Series ^e No. 9
1972 ^e

Mass Marketing of Property
and Liability Insurance

Section 1. General

1:01 Identification of Rule - This regulation is a Legislative Rule, as defined by the provisions of Chapter 29A, Article 1, Section 2(d) of the Code of West Virginia of 1931, as amended.

1:02 Reference - This regulation relates to Chapter 33, Article 6, Section 8; Chapter 33, Article 6, Section 9; Chapter 33, Article 11; Chapter 33, Article 12; and Chapter 33, Article 20 of the Code of West Virginia of 1931, as amended.

1:03 Authority - This regulation is promulgated under the authority vested in the Insurance Commissioner by Chapter 33, Article 2, Section 10 and Chapter 33, Article 11, Section 6 of the Code of West Virginia of 1931, as amended.

1:04 ^{Scope} Purpose - The purpose of this regulation is to prescribe rules to prevent abuses in connection with the sale of property-liability insurance in West Virginia pursuant to mass marketing plans, while preserving for consumers the potential benefits of this form of marketing.

1:05 Scope - This regulation encompasses regulatory safeguards and requirements which primarily focus on significant potential abuses unique to the mass marketing of property-liability insurance.

1:06 Effective Date - This regulation is promulgated on March 24, 1972, and shall become effective on May 15, 1972.

1:07 Filing Date - This regulation was filed in the Office of the Secretary of State on March 24, 1972.

1:08 Certification - This regulation is certified authentic by the Insurance Commissioner of West Virginia by Certificate Number 9.

Section 2. Applicability

2:01 Applicability - This regulation shall be applicable only to insurance policies issued or renewed in West Virginia

after the effective date of this regulation, and is in addition to, and not in substitution for, other applicable requirements of the insurance laws of West Virginia and regulations of the Insurance Commissioner. The requirements of this regulation are not applicable to methods of marketing other than mass marketing plans.

Section 3. Definitions

3:01 Mass Marketing Plan - "Mass Marketing Plan" means a method of selling property-liability insurance wherein (i) such insurance is offered to employees of particular employers or to members of particular associations or organizations or to persons grouped in other ways and (ii) the employer, association or organization, if any, has agreed to or otherwise affiliated itself with, the sale of such insurance to its employees or members.

3:02 Property-Liability Insurance - "Property-Liability Insurance" means insurance as defined in subsections (c), (d), and (e), section ten, article one, chapter thirty-three of the West Virginia Code of 1931, as amended.

Section 4. Standards and Requirements

4:01 Premium Rates - Premium rates under a mass marketing plan shall comply with the standards prescribed by the insurance laws of West Virginia, including, but not limited to, the standards that rates not be excessive, inadequate, or unfairly discriminatory. Rates shall not be deemed to be unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy. Rates shall not be deemed to be unfairly discriminatory if they are averaged broadly among persons insured under a mass marketing plan.

4:02 Statistics - An insurer selling insurance pursuant to mass marketing plans shall maintain separate statistics as to loss and expense experience pertinent thereto.

4:03 Disclosure Required - Every insurer, agent, or broker selling insurance pursuant to a mass marketing plan shall, prior to sale, make full and fair disclosure to prospective insureds of all features of such plan, whether favorable or unfavorable, including but not limited to premium rates, benefits, duration of coverage, policyholder services, conversion privileges available, and the financial interests in the plan, if any, of the sponsoring employer, association, organization or the group.

4:04 Underwriting Standards - No insurer shall use underwriting standards for individual risk selection in a mass marketing plan which are, on the whole, more restrictive than the standards used by such insurer for individual risk selection in the sale of the same kind of insurance in West Virginia other than pursuant to mass marketing plans. In the event insurer does not sell such kind of insurance in West Virginia other than pursuant to mass marketing plans, its underwriting standards for individual risk selection in such plans shall, on the whole, be no more restrictive than the standards used by its principal affiliate, if any, for individual risk selection in the sale of such kind of insurance in West Virginia other than pursuant to mass marketing plans.

4:05 Compulsory Facilities - An insurer, agent, or broker selling insurance pursuant to a mass marketing plan shall, with respect to any employees or members who apply for but are denied insurance under such plan, assist such persons in obtaining insurance through any other appropriate insurance plan, such as the assigned risk plan.

Section 5. Prohibitions

5:01 Producers - No person shall act as an insurance agent or an insurance broker in connection with a mass marketing plan for any kind of insurance unless such person is duly licensed, pursuant to the provisions of article twelve, chapter thirty-three of the West Virginia Code of 1931, as amended.

5:02 Fictitious Arrangement Prohibited - No insurer shall, without the approval of the Insurance Commissioner sell insurance pursuant to a mass marketing plan to members of any association or organization formed principally for the purpose of obtaining such insurance.

5:03 Compulsory Participation Prohibited - No insurer shall sell insurance pursuant to a mass marketing plan if it is a condition of employment or of membership in an association, organization, or other group that any employee or member purchase insurance pursuant to such plan, or if any employee or member shall be subject to any penalty by reason of his non-participation.

5:04 Tie-in Sales Prohibited - No insurer shall sell insurance pursuant to a mass marketing plan if (i) the purchase of insurance available under such plan is contingent upon the purchase of any other insurance, product, or service, or (ii) the purchase or price of any other insurance, product, or service is contingent upon the purchase of insurance available under such plan. This provision shall not be deemed to prohibit the reasonable requirement of safety devices, such as heat detectors, lightning rods, theft prevention equipment and the like.

5:05 Cancellation and Nonrenewal -

(A) The failure of an employer, association, organization or other group to remit premiums when due for any reason (including but not limited to interruption or termination of employment or membership) shall not be regarded as "nonpayment of premium" by any insured under any such plan providing for remittance of premium by such employer, association, organization or other group, unless such insured shall have been given written notice of such failure to remit and shall not himself have paid such premium by the later of (i) twenty days after such notice or (ii) the due date of such premium remittance under the mass marketing plan.

(B) All mass marketing plans shall provide that upon termination of employment or membership or upon the discontinuance of the mass marketing plan, the insured employee or member may maintain his policy in force for at least 60 days in the same amount, upon payment of the premium applicable to the class of risk to which he belongs on an individual basis. The option to maintain the insurance in force shall be exercised within 30 days following the date of termination. Any notice of cancellation or nonrenewal of any policy of an employee or member insured under a mass marketing plan shall be accompanied by a notice to the employee or member that, at his request, the insurer will afford the employer, association, organization, or other group a reasonable opportunity to consult with the insured and to present facts in opposition to cancellation or nonrenewal.