

# West Virginia Trial Lawyers Association

## News Release

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### *2004 Omnibus Bill for Insurance Affordability & Availability Benefits All West Virginians*

Charleston, W.Va. – A coalition of organizations today unveiled the 2004 Omnibus Bill for Insurance Affordability and Availability. Provisions in the draft legislation include an independent consumer advocate for the West Virginia Insurance Commission, detailed rate filings that show claims expenses broken down by line items rather than a lump sum, disallowing rate setting based on credit reports and prohibiting companies from declining a potential policyholder because of the number of inquiries made on his or her credit or Comprehensive Loss Underwriting Exchange (CLUE) reports.

It also contains legislation, based on an amendment passed in Texas during that state's tort reform debates, which mandates premium rollbacks for consumers as a quid pro quo for the Legislature passing any tort reform provisions.

The coalition includes West Virginia Citizen Action Group, the West Virginia Consumers and Victims Coalition for Insurance Reform, the Consumer Attorneys of West Virginia and the West Virginia Trial Lawyers Association.

“Our coalition agrees that something must be done about insurance affordability and availability, but these so-called tort reforms that strip consumer protections and take away their right to a jury trial are not the answer. Even insurance industry insiders admit that tort reforms will not lead to lower premiums. It's time to look at real solutions,” said Marvin Masters, president of the West Virginia Trial Lawyers Association.

“Other states have faced similar problems, including California and Texas. What helped there were insurance reforms, not tort reforms. That is why this coalition has worked hard over the last few months to develop this omnibus bill which puts the best interests of West Virginia consumers ahead of profits—profits for the insurance industry and profits for trial lawyers.”

“The provisions this legislation provides will help all West Virginia policyholders. Indeed, one of the most important parts of this bill—the elimination of rate setting based on a person's credit report—has already been added to the fraud bill this week. The majority of calls that we have

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## **2/2 2004 Omnibus Bill on Insurance Affordability and Availability**

received to our insurance hotline have involved customers who are paying outrageous premiums—not because of their driving or claims history, but because of their credit report. It’s outrageous, and we applaud those delegates who are trying to end it here,” said Norm Steenstra, executive director of WV CAG.

“We were also pleased to learn that the House Judiciary Committee expanded the role of the West Virginia Insurance Commission’s consumer advocate to all areas of insurance. But, we still need to go a step farther. It is also critical that the position become independent from the Commission—similar to the position at the Public Service Commission, which helps residents with utility rates. The advocate should be appointed by the governor, and the office needs to be funded separately from the commission. It’s difficult to advocate in the best interest of the consumer when your paycheck is tied to the commission.”

Masters also cited the bill’s provision that would require full disclosure for all rate filings with the Insurance Commission.

“Currently, insurance companies file their claims expenses as a lump sum. Those expenses are not broken down. As a result, there is no explanation of what the costs were—and no way to tell claims payments versus costs associated with bad business practices like bad faith payments, unfair claims settlements and other costs associated with bad business practices that hurt West Virginia consumers,” Masters said.

The bill also includes a measure that would legislatively mandate premium rollbacks for any tort reform measures that the Legislature passes.

“Insurance corporations claim that they increased premiums because our consumer protection laws have driven up their costs. If those laws increased their expenses and raised premiums, then you would think changes to those laws would lower their costs and premiums would be decreased. This measure will ensure that if any of those laws are passed, insurance corporations won’t pocket the increased savings, but pass those savings on to those who really need it—West Virginia consumers,” Steenstra said.

Tort reform advocates said in the past that civil justice system changes will not affect insurance premiums—just lower their own business expenses. The American Insurance Association said, “The insurance industry never promised that tort reform would achieve specific premium savings” (March 13, 2002). The American Tort Reform Association stated, “We wouldn’t tell you or anyone that the reason to pass tort reform would be to reduce insurance rates” (July 19, 1999).

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