

No. 296

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

—●—
ENROLLED

SENATE BILL NO. 296

(By Senator Lucken, Mr. President, et al.)

—●—
PASSED April 6, 1989

In Effect 90 days from Passage

ENROLLED

Senate Bill No. 296

(BY SENATORS TUCKER, MR. PRESIDENT, AND HARMAN,

BY REQUEST OF THE EXECUTIVE)

[Passed April 6, 1989; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article twenty-a, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to providing that insurers and not insureds be charged with a deficit incurred by the West Virginia essential insurance association as the result of loss due to any rate plan pursuant to the plan of operation.

Be it enacted by the Legislature of West Virginia:

That section five, article twenty-a, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 20A. WEST VIRGINIA ESSENTIAL INSURANCE COVERAGE ACT.

§33-20A-5. General powers.

- 1 (a) The association has, for purposes of this article
- 2 and to the extent approved by the commissioner, the
- 3 general powers and authority granted under the laws
- 4 of this state to insurers licensed to transact the kinds
- 5 of insurance as defined in chapter thirty-three, article
- 6 one of this code.

7 (b) The association may take any necessary action to
8 make available necessary insurance including, but not
9 limited to, the following:

10 (1) Assess participating insurers amounts necessary
11 to pay the obligations of the association, administration
12 expenses, the cost of examinations and other expenses
13 authorized under this article. The assessment of each
14 member insurer for the kind or kinds of insurance
15 designated in the plan shall be in the proportion that
16 the net direct written premiums of the member
17 insurer for the preceding calendar year bear to the net
18 direct written premiums of all members for the
19 preceding calendar year. A member insurer may not
20 be assessed in any year an amount greater than five
21 percent of his net direct written premiums for the
22 preceding calendar year. Each member insurer shall
23 be allowed a premium tax credit at the rate of twenty
24 percent per year for five successive years following
25 termination of the association. Each member insurer
26 shall be allowed a premium tax credit at the rate of
27 twenty percent per year for five successive years
28 following payment of the assessment by the member
29 insurer for any deficit in the plan.

30 (2) Enter into such contracts as are necessary or
31 proper to carry out the provisions and purposes of the
32 provisions of this article.

33 (3) Sue or be sued, including taking legal action
34 necessary to recover any assessments for, on behalf of,
35 or against participant insurers.

36 (4) Investigate claims brought against the fund and
37 adjust, compromise, settle, and pay covered claims to
38 the extent of the association's obligation and deny all
39 other claims. Claims may be processed through the
40 association's employees or through one or more
41 member insurers or other persons designated as
42 servicing facilities. Designation of a service facility is
43 subject to the approval of the commissioner, but such
44 designation may be declined by a member insurer.

45 (5) Classify risks as may be applicable and equitable.

46 (6) Establish appropriate rates, rate classifications
47 and rating adjustments, and file such rates with the
48 commissioner as may be required. Rates, rating plans
49 and any provision for recoupment shall be based upon
50 the association's loss and expense experience and
51 investment income from unearned premium and loss
52 reserves. Premium rates, including initial premiums,
53 shall be on an actuarially sound basis and shall be
54 calculated to be self-supporting.

55 (7) Administer any type of reinsurance program for
56 or on behalf of the association or any participating
57 carriers.

58 (8) Pool risks among participating carriers.

59 (9) Issue and market through agents, policies of
60 insurance providing coverage required by this article
61 in its own name or on behalf of participating carriers.

62 (10) Administer separate pools, separate accounts, or
63 other plans as may be deemed appropriate for separate
64 carriers or groups of carriers.

65 (11) Invest, reinvest and administer all funds and
66 moneys held by the association.

67 (12) Borrow funds needed by the association to effect
68 the purposes of this section.

69 (13) Develop, effectuate and promulgate any loss
70 prevention programs aimed at the best interests of the
71 association and the insured public.

72 (14) Operate and administer any combination of
73 plans, pools, reinsurance arrangements or other
74 mechanisms as deemed appropriate to best accomplish
75 the fair and equitable operation of the association for
76 the purposes of making available essential insurance
77 coverage.

78 (15) Provide for the method of recoupment of
79 deficits that may be incurred by any plan pursuant to
80 the plan of operation. In no event shall a deficit
81 incurred by the association be charged directly or
82 indirectly to any person other than insurers under its
83 fire and extended coverage or essential insurance

84 policy. The provisions of article seventeen, section
85 nine of this chapter shall not apply to this article.

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

Frederick Parker
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Joseph C. Stubb
.....
Clerk of the Senate

Donald T. Hoyle
.....
Clerk of the House of Delegates

James T. Tucker
.....
President of the Senate

W. B. C. C.
.....
Speaker House of Delegates

The within *is approved* this the *25th*
day of *April*, 1989.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/14/89

Time 5:17