WEST VIRGINIA CODE CHAPTER 29 ARTICLE 12

WV Legislature

§29-12-1. Intent and objects.

Recognition is given to the fact that the State of West Virginia owns extensive properties of varied types and descriptions representing the investment of vast sums of money; that the state and its officials, agents and employees engage in many governmental activities and services and incur and undertake numerous governmental responsibilities and obligations; that such properties are subject to losses, damage, destruction, risks and hazards and such activities and responsibilities are subject to liabilities which can and should be covered by a sound and adequate insurance program; and that good business and insurance practices and principles necessitate the centralization of responsibility for the purchase, control and supervision of insurance coverage on all state properties, activities and responsibilities and the cooperation and coordination of all state officials, departments and employees in the development and success of such centralized state insurance program. Wherefore, in order to accomplish these desired ends and objectives, the provisions of this article are hereby enacted into law in response to manifest needs and requirements therefor and in the interest of the establishment and development of an adequate, economical and sound state insurance and bonding service on all state property, activities and responsibilities.

WV Legislature

§29-12-2. Definitions.

As used in this article, unless the context otherwise clearly requires:

(a) "Board" means the state Board of Risk and Insurance Management.

(b) "Company" means and includes corporations, associations, partnerships and individuals.

(c) "Insurance" means all forms of insurance and bonding services available for protection and indemnification of the state and its officials, employees, properties, activities and responsibilities against loss or damage or liability, including fire, marine, casualty, and surety insurance.

(d) "Insurance company" means all insurers or insurance carriers, including, but not limited to, stock insurance companies, mutual insurance companies, reciprocal and interinsurance exchanges, and all other types of insurers and insurance carriers, including life, accident, health, fidelity, indemnity, casualty, hospitalization and other types and kinds of insurance companies, organizations and associations, but excepting and excluding workers' compensation coverage.

(e) "State property activities" and "state responsibilities" means and includes all operations, boards, commissions, works, projects and functions of the state, its properties, officials, agents and employees which, within the scope and in the course of governmental employment, may be subject to liability, loss, damage, risks and hazards recognized to be and normally included within insurance and bond coverages.

(f) "State property" means all property belonging to the State of West Virginia and any boards or commissions thereof wherever situated and which is the subject of risk or reasonably considered to be subject to loss or damage or liability by any single occurrence of any event insured against.

WV Legislature

§29-12-3. State Board of Risk and Insurance Management; creation, composition, qualifications, and compensation.

(a)(1) The "state board of insurance of West Virginia" is hereby reestablished, reconstituted and continued as the state Board of Risk and Insurance Management. The board shall be composed of five members. One member shall be the vice chancellor of health sciences of the West Virginia Higher Education Policy Commission. The remaining four members shall be appointed by the Governor with the advice and consent of the Senate. One member shall be appointed by the Governor from a list of three eligible persons submitted to the Governor by the President of the Senate, and one member shall be appointed by the Governor from a list of three eligible persons submitted to the Governor by the Speaker of the House of Delegates. Each member shall be a resident of West Virginia and shall have experience in one or more of the following areas: law, accounting, business, insurance or actuarial science.

(2) Initial appointment of the members other than the vice chancellor for health sciences shall be for the following terms:

One member shall be appointed for a term ending June 30, 2003;

One member shall be appointed for a term ending June 30, 2004;

One member shall be appointed for a term ending June 30, 2005; and

One member shall be appointed for a term ending June 30, 2006.

(3) Except for appointments to fill vacancies, each subsequent appointment shall be for a term ending June 30 of the fourth year following the year the preceding term expired. In the event a vacancy occurs it shall be filled by appointment for the unexpired term. A member whose term has expired shall continue in office until a successor has been duly appointed and qualified. No member of the board may be removed from office by the Governor except for official misconduct, incompetency, neglect of duty, or gross immorality.

(4) Members of the board appointed prior to the reenactment of this article during the sixth extraordinary session of the 2001 Legislature, shall serve until December 15, 2001.

(b) The Insurance Commissioner of West Virginia shall serve as secretary of the board without vote and shall make available to the board the information, facilities and services of the office of the state Insurance Commissioner.

(c) The members of the board shall receive from the executive director of the board the same compensation authorized by law for members of the Legislature for the interim duties for each day, or portion thereof, the member is engaged in the discharge of official duties. All board members shall be reimbursed for their actual and necessary expenses incurred in the discharge of official duties, except that mileage shall be reimbursed at the same rate as that authorized for members of the Legislature.

WV Legislature

(d) Notwithstanding any provision of this section to the contrary, the board is subject to the provisions of section twelve of this article.

WV Legislature

§29-12-4. Organization, meetings, records and reports of board.

The board shall select one of its members as chairman and shall meet in the office of the Insurance Commissioner upon call of the chairman. The board shall keep records of all of its proceedings which shall be public and open to inspection, shall adopt a seal and shall exercise and perform the duties prescribed by this article.

The board shall report in writing to the Governor, Legislative Auditor and budget director on or before the thirty-first day of August of each year. Such report shall contain a summary of the board's proceedings during the preceding fiscal year including a detailed and itemized statement and summary of all state insurance procured by the board during such fiscal year.

WV Legislature

§29-12-5. Powers and duties of board.

(a)(1) The board has, without limitation and in its discretion as it seems necessary for the benefit of the insurance program, general supervision and control over the insurance of state property, activities and responsibilities, including:

(A) The acquisition and cancellation of state insurance;

(B) Determination of the kind or kinds of coverage;

(C) Determination of the amount or limits for each kind of coverage;

(D) Determination of the conditions, limitations, exclusions, endorsements, amendments and deductible forms of insurance coverage;

(E) Inspections or examinations relating to insurance coverage of state property, activities and responsibilities;

(F) Reinsurance; and

(G) Any and all matters, factors and considerations entering into negotiations for advantageous rates on and coverage of such state property, activities and responsibilities.

(2) The board shall endeavor to secure reasonably broad protection against loss, damage or liability to state property and on account of state activities and responsibilities by proper, adequate, available and affordable insurance coverage and through the introduction and employment of sound and accepted principles of insurance, methods of protection and principles of loss control and risk.

(3) The board is not required to provide insurance for every state property, activity or responsibility.

(4) Any policy of insurance purchased or contracted for by the board shall provide that the insurer shall be barred and estopped from relying upon the Constitutional immunity of the State of West Virginia against claims or suits: *Provided*, That nothing herein shall bar a state agency or state instrumentality from relying on the Constitutional immunity granted the State of West Virginia against claims or suits arising from or out of any state property, activity or responsibility not covered by a policy or policies of insurance: *Provided, however*, That nothing herein shall bar the insurer of political subdivisions from relying upon any statutory immunity granted such political subdivisions against claims or suits.

(5) The board shall make a complete survey of all presently owned and subsequently acquired state property subject to insurance coverage by any form of insurance, which survey shall include and reflect inspections, appraisals, exposures, fire hazards, construction and any other objectives or factors affecting or which might affect the insurance protection and coverage required.

WV Legislature

(6) The board shall keep itself currently informed on new and continuing state activities and responsibilities within the insurance coverage herein contemplated. The board shall work closely in cooperation with the state Fire Marshal's office in applying the rules of that office insofar as the appropriations and other factors peculiar to state property will permit.

(7) The board may negotiate and effect settlement of any and all insurance claims arising on or incident to losses of and damages to covered state properties, activities and responsibilities hereunder and shall have authority to execute and deliver proper releases of all such claims when settled. The board may adopt rules and procedures for handling, negotiating and settlement of all such claims. Any discussion or consideration of the financial or personal information of an insured may be held by the board in executive session closed to the public, notwithstanding the provisions of article nine-a, chapter six of this code.

(8) The board may employ an executive director and such other employees, including legal counsel, as may be necessary to carry out its duties. The executive director shall receive an annual salary as provided in section two-a, article seven, chapter six of this code. The legal counsel may represent the board before any judicial or administrative tribunal and perform such other duties as may be requested by the board.

(9) The board may enter into any contracts necessary to the execution of the powers granted to it by this article or to further the intent of this article.

(10) The board may make rules governing its functions and operations and the procurement of state insurance. Except where otherwise provided by statute, rules of the board are subject to the provisions of article three, chapter twenty-nine-a of this code.

(11) The funds received by the board, including, but not limited to, state agency premiums, mine subsidence premiums and political subdivision premiums, shall be deposited with the West Virginia Investment Management Board with the interest income and returns on investment a proper credit to such property insurance trust fund or liability insurance trust fund as applicable.

(b) (1) Definitions. — The following words and phrases when used in this subsection, for the purposes of this subsection, have the meanings respectively ascribed to them in this subsection;

(A) "Political subdivision" has the same meaning as in section three, article twelve-a of this chapter;

(B) "Charitable" or "public service organization" means any hospital in this state which has been certified as a critical access hospital by the federal Centers for Medicare and Medicaid upon the designation of the state Office of Rural Health Policy, the Office of Community and Rural Health Services, the Bureau for Public Health or the Department of Health and any bona fide, not-for-profit, tax-exempt, benevolent, educational, philanthropic, humane, patriotic, civic, religious, eleemosynary, incorporated or unincorporated association or

WV Legislature

organization or a rescue unit or other similar volunteer community service organization or association, but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any candidate for public office; and

(C) "Emergency medical service agency" has the same meaning as in §16-4C-3 of this code.

(2) If requested by a political subdivision, a charitable or public service organization or an emergency medical services agency, the board may, but is not required to, provide property and liability insurance to insure the property, activities and responsibilities of the political subdivision, charitable or public service organization or emergency medical services agency. The board may enter into any contract necessary to the execution of the powers granted by this article or to further the intent of this article.

(A) Property insurance provided by the board pursuant to this subsection may also include insurance on property leased to or loaned to the political subdivision, a charitable or public service organization or an emergency medical services agency which is required to be insured under a written agreement.

(B) The cost of insurance, as determined by the board, shall be paid by the political subdivision, the charitable or public service organization or the emergency medical services agency and may include administrative expenses. For purposes of this section, if an emergency medical services agency is a for-profit entity, its claims history may not adversely affect other participants' rates in the same class.

(c)(1) The board has general supervision and control over the optional medical liability insurance programs providing coverage to health care providers as authorized by the provisions of article twelve-b of this chapter. The board is hereby granted and may exercise all powers necessary or appropriate to carry out and effectuate the purposes of this article.

(2) The board shall:

(A) Administer the preferred medical liability program and the high risk medical liability program and exercise and perform other powers, duties and functions specified in this article;

(B) Obtain and implement, at least annually, from an independent outside source, such as a medical liability actuary or a rating organization experienced with the medical liability line of insurance, written rating plans for the preferred medical liability program and high-risk medical liability program on which premiums shall be based;

(C) Prepare and annually review written underwriting criteria for the preferred medical liability program and the high-risk medical liability program. The board may utilize review panels, including, but not limited to, the same specialty review panels to assist in establishing criteria;

WV Legislature

(D) Prepare and publish, before each regular session of the Legislature, separate summaries for the preferred medical liability program and high-risk medical liability program activity during the preceding fiscal year, each summary to be included in the board of Risk and Insurance Management audited financial statements as "other financial information" and which shall include a balance sheet, income statement and cash flow statement, an actuarial opinion addressing adequacy of reserves, the highest and lowest premiums assessed, the number of claims filed with the program by provider type, the number of judgments and amounts paid from the program, the number of settlements and amounts paid from the program and the number of dismissals without payment;

(E) Determine and annually review the claims history debit or surcharge for the high-risk medical liability program;

(F) Determine and annually review the criteria for transfer from the preferred medical liability program to the high-risk medical liability program;

(G) Determine and annually review the role of independent agents, the amount of commission, if any, to be paid therefor and agent appointment criteria;

(H) Study and annually evaluate the operation of the preferred medical liability program and the high-risk medical liability program and make recommendations to the Legislature, as may be appropriate, to ensure their viability, including, but not limited to, recommendations for civil justice reform with an associated cost-benefit analysis, recommendations on the feasibility and desirability of a plan which would require all health care providers in the state to participate with an associated cost-benefit analysis, recommendations on additional funding of other state-run insurance plans with an associated cost-benefit analysis and recommendations on the desirability of ceasing to offer a state plan with an associated analysis of a potential transfer to the private sector with a cost-benefit analysis, including impact on premiums;

(I) Establish a five-year financial plan to ensure an adequate premium base to cover the long-tail nature of the claims-made coverage provided by the preferred medical liability program and the high-risk medical liability program. The plan shall be designed to meet the program's estimated total financial requirements, taking into account all revenues projected to be made available to the program and apportioning necessary costs equitably among participating classes of health care providers. For these purposes, the board shall:

(i) Retain the services of an impartial, professional actuary, with demonstrated experience in analysis of large group malpractice plans, to estimate the total financial requirements of the program for each fiscal year and to review and render written professional opinions as to financial plans proposed by the board. The actuary shall also assist in the development of alternative financing options and perform any other services requested by the board or the executive director. All reasonable fees and expenses for actuarial services shall be paid by the board. Any financial plan or modifications to a financial plan approved or proposed by the board pursuant to this section shall be submitted to and reviewed by the actuary and

WV Legislature

may not be finally approved and submitted to the Governor and to the Legislature without the actuary's written professional opinion that the plan may be reasonably expected to generate sufficient revenues to meet all estimated program and administrative costs, including incurred but not reported claims, for the fiscal year for which the plan is proposed. The actuary's opinion for any fiscal year shall include a requirement for establishment of a reserve fund;

(ii) Submit its final, approved five-year financial plan, after obtaining the necessary actuary's opinion, to the Governor and to the Legislature no later than January 1, preceding the fiscal year. The financial plan for a fiscal year becomes effective and shall be implemented by the executive director on July 1, of the fiscal year. In addition to each final, approved financial plan required under this section, the board shall also simultaneously submit an audited financial statement based on generally accepted accounting practices (GAAP) and which shall include allowances for incurred but not reported claims: *Provided*, That the financial statement and the accrual-based financial plan restatement shall not affect the approved financial plan. The provisions of chapter twenty-nine-a of this code shall not apply to the preparation, approval and implementation of the financial plans required by this section;

(iii) Submit to the Governor and the Legislature a prospective five-year financial plan beginning on January 1, 2003, and every year thereafter, for the programs established by the provisions of article twelve-b of this chapter. Factors that the board shall consider include, but shall not be limited to, the trends for the program and the industry; claims history, number and category of participants in each program; settlements and claims payments; and judicial results;

(iv) Obtain annually certification from participants that they have made a diligent search for comparable coverage in the voluntary insurance market and have been unable to obtain the same;

(J) Meet on at least a quarterly basis to review implementation of its current financial plan in light of the actual experience of the medical liability programs established in article twelve-b of this chapter. The board shall review actual costs incurred, any revised cost estimates provided by the actuary, expenditures and any other factors affecting the fiscal stability of the plan and may make any additional modifications to the plan necessary to ensure that the total financial requirements of these programs for the current fiscal year are met;

(K) To analyze the benefit of and necessity for excess verdict liability coverage;

(L) Consider purchasing reinsurance, in the amounts as it may, from time to time, determine is appropriate, and the cost thereof shall be considered to be an operating expense of the board;

(M) Make available to participants optional extended reporting coverage or tail coverage: *Provided*, That, at least five working days prior to offering such coverage to a participant or participants, the board shall notify the President of the Senate and the Speaker of the House

WV Legislature

of Delegates in writing of its intention to do so and such notice shall include the terms and conditions of the coverage proposed;

(N) Review and approve, reject or modify rules that are proposed by the executive director to implement, clarify or explain administration of the preferred medical liability program and the high-risk medical liability program. Notwithstanding any provisions in this code to the contrary, rules promulgated pursuant to this paragraph are not subject to the provisions of sections nine through sixteen, inclusive, article three, chapter twenty-nine-a of this code. The board shall comply with the remaining provisions of article three and shall hold hearings or receive public comments before promulgating any proposed rule filed with the Secretary of State: *Provided*, That the initial rules proposed by the executive director and promulgated by the board shall become effective upon approval by the board notwithstanding any provision of this code;

(O) Enter into settlements and structured settlement agreements whenever appropriate. The policy may not require as a condition precedent to settlement or compromise of any claim the consent or acquiescence of the policyholder. The board may own or assign any annuity purchased by the board to a company licensed to do business in the state;

(P) Refuse to provide insurance coverage for individual physicians whose prior loss experience or current professional training and capability are such that the physician represents an unacceptable risk of loss if coverage is provided;

(Q) Terminate coverage for nonpayment of premiums upon written notice of the termination forwarded to the health care provider not less than thirty days prior to termination of coverage;

(R) Assign coverage or transfer insurance obligations and/or risks of existing or in-force contracts of insurance to a third-party medical professional liability insurance carrier with the comparable coverage conditions as determined by the board. Any transfer of obligation or risk shall effect a novation of the transferred contract of insurance and if the terms of the assumption reinsurance agreement extinguish all liability of the board and the State of West Virginia, such extinguishment shall be absolute as to any and all parties; and

(S) Meet and consult with and consider recommendations from the Medical Malpractice Advisory Panel established by the provisions of article twelve-b of this chapter.

(d) If, after September 1, 2002, the board has assigned coverages or transferred all insurance obligations and/or risks of existing or in-force contracts of insurance to a third-party medical professional liability insurance carrier, and the board otherwise has no covered participants, then the board shall not thereafter offer or provide professional liability insurance to any health care provider pursuant to the provisions of subsection (c) of this section or the provisions of article twelve-b of this chapter unless the Legislature adopts a concurrent resolution authorizing the board to reestablish medical liability insurance programs.

§29-12-5a. Liability insurance for county boards of education, their employees and members, the county superintendent of schools, and public charter schools electing to obtain coverage; written notice of coverage to insureds.

(a) In accordance with the provisions of this article, the State Board of Risk and Insurance Management shall provide appropriate professional or other liability insurance for all county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, and school board members: *Provided*, That the Board of Risk and Insurance Management is not required to provide insurance for every property, activity, or responsibility of county boards of education, teachers, supervisory, and administrative staff members, service personnel, county superintendents of schools, and school board members.

(b) Insurance provided by the Board of Risk and Insurance Management pursuant to the provisions of subsection (a) of this section shall cover claims, demands, actions, suits, or judgments by reason of alleged negligence or other acts resulting in bodily injury or property damage to any person within or without any school building if, at the time of the alleged injury, the teacher, supervisor, administrator, service personnel employee, county superintendent, or school board member was acting in the discharge of his or her duties, within the scope of his or her office, position or employment, under the direction of the county board of education, or in an official capacity as a county superintendent or as a school board member.

(c) Insurance coverage provided by the Board of Risk and Insurance Management pursuant to subsection (a) of this section shall be in an amount to be determined by the State Board of Risk and Insurance Management, but in no event less than $1,250,000 for each occurrence. In addition, each county board of education shall purchase, through the Board of Risk and Insurance Management, excess coverage of at least $5 million for each occurrence. The cost of this excess coverage will be paid by the respective county boards of education. Any insurance purchased under this section shall be obtained from a company licensed to do business in this state.

(d) The insurance policy provided by the Board of Risk and Insurance Management pursuant to subsection (a) of this section shall include comprehensive coverage, personal injury coverage, malpractice coverage, corporal punishment coverage, legal liability coverage, as well as a provision for the payment of the cost of attorney’s fees in connection with any claim, demand, action, suit, or judgment arising from such alleged negligence or other act resulting in bodily injury under the conditions specified in this section.

(e) The county superintendent and other school personnel shall be defended by the county board or an insurer in the case of suit, unless the act or omission shall not have been within the course or scope of employment or official responsibility or was motivated by malicious or criminal intent.

(f) At least annually, beginning with the 2019-2020 school year, county boards shall provide

WV Legislature

written notice of insurance coverage to each of its insureds, including teachers, supervisors, administrators, service personnel employees, county superintendent, and school board members. The notice shall identify the coverages, monetary limits of insurance, and duty to defend for each occurrence as provided to insureds by the Board of Risk and Insurance Management under this section. The written notice may be sent via email, or via first-class mail to the insured's last mailing address known to the county board. The written notice shall also include contact information for the Board of Risk and Insurance Management.

(g) The provisions of this section apply to public charter schools that have been authorized pursuant to §18-5G-1 *et seq.* of this code and have included in their charter contract entered into pursuant to §18-5G-7 of this code a determination to obtain insurance coverage from the Board of Risk and Insurance Management pursuant to this section. If a public charter school elects to obtain coverage pursuant to this section:

(1) Any provision in this section applicable to a county board also applies to a charter school governing board;

(2) Any provision in this section applicable to a school board member also applies to a member of a charter school governing board; and

(3) Any provision of this section applicable to teachers, supervisory and administrative staff members, and service personnel employed by a county board also applies to teachers, supervisory or administrative staff members, and service personnel employed by a public charter school.

(h) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for fiscal years beginning on or after July 1, 2019: Provided, That the amendment to subsection (c) of this section during the 2019 First Extraordinary Session of the Legislature shall be effective for fiscal years beginning on or after July 1, 2020.

WV Legislature

§29-12-5b. Transit insurance.

In accordance with the terms and provisions of this article the state board of risk and management shall provide appropriate aid and assistance to the transit authorities in this state in the procurement of fleet liability insurance for all vehicles operated by any such authorities and any and all expense associated with the procurement of purchase of said insurance coverage shall be borne by the transit authorities.

WV Legislature

§29-12-5c.

Repealed.

Acts, 2002 Reg. Sess., Ch. 170.

WV Legislature

§29-12-6. Reports to be furnished board by state officers and departments; state records.

(a) It shall be the duty of every officer, department and employee of the state having custody or control of any state property, activities or responsibilities, as defined in section two of this article, to make a written report thereof to the board, on forms prepared and prescribed by it, briefly describing said property, activities or responsibilities, showing the nature, location and estimated fair market value of potential liability thereof and stating whether such property, activities or responsibilities are covered by insurance and, if insured, the nature, amount and contract expiration date of such insurance and the name and address of the insuring company or companies. Such reports shall be made annually on or before May 1 and separate reports shall be made on newly acquired state property from time to time within thirty days next following the acquisition thereof. When any such insured state property is sold, destroyed or otherwise disposed of, the officer, department or employee of the state having had the custody or control thereof shall make a written report of such sale, destruction or other disposition of such property to the board within thirty days next following the date of sale, destruction or other disposition thereof.

(b) The board shall assemble and organize all pertinent information and data received and obtained by it on new and continuing state property, activities and responsibilities within the insurance coverage herein contemplated and shall compile and currently maintain a summary record thereon, in such form and detail as may be found practicable, as basis for insurance services on all such state property, activities and responsibilities.

WV Legislature

§29-12-7. Placement of insurance on state property, activities and responsibilities.

(a) No officer, department or employee of the state having control or custody of any state property, or being in charge of any state activities, or being charged with any state responsibilities as herein contemplated, shall pay out any state money for the purpose of insurance against loss, damage or liability to any such state property or on account of any such state activity or responsibility or incur any obligation or indebtedness against the state for such insurance, except (1) upon the board's prior approval and placement of such insurance coverage and (2) its subsequent approval of invoices and charges therefor.

(b) All state insurance shall be placed only with solvent insurance companies licensed by the Insurance Commissioner to transact insurance in West Virginia.

(c) All state insurance shall be placed only through agents duly licensed by the Insurance Commissioner of West Virginia and no more than five percent of the total premium volume of state insurance shall be placed through any one agent or agency. For the purpose of this paragraph, agent or agency shall include all employees, relatives, partners or affiliates out of the agency with whom such insurance is placed. In addition thereto no more than fifteen percent of the total premium volume of state insurance shall be placed in agencies in any one county.

(d) No insurance shall be placed with any member of the board, the state Insurance Commissioner, official, officer or employee of the State of West Virginia, member of the Legislature, member or officer of any state or county political party executive committee, nor with the spouse, parent or child of any such person, nor with any corporation, any stockholder of which falls within the classes herein enumerated.

WV Legislature

§29-12-8. Powers, duties, etc., of department of purchases pertaining to state insurance transferred to board.

On the effective date of this article, all powers, duties and functions vested in the department of purchases relating to insurance on state properties, activities and responsibilities and all records and equipment relating thereto shall be transferred by the department of purchases to the state board of insurance.

WV Legislature

§29-12-9. Penalties for violation of article.

Any person placing or aiding, abetting, or conspiring to place state insurance in violation of any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof shall be fined not to exceed $1,000 or imprisoned for a period not to exceed six months, or may be punished by both such fine and imprisonment.

WV Legislature

§29-12-10. Repeal of inconsistent laws.

All laws or parts of laws inconsistent with the provisions of this article are hereby repealed, except in cases where the plain meaning and context hereof otherwise provide for coordinate interpretation and application of the provision of this article with any other laws.

WV Legislature

§29-12-11. Interpretation and purpose; Constitutionality.

The provisions of this article are considered remedial and shall be liberally construed and interpreted so as to effect and accomplish the general purposes and objectives hereof. In the event any part or provision of the article be held to be unconstitutional by any court of competent jurisdiction, such holding and decision of the court shall not affect the validity and Constitutionality of the remaining parts and provisions of the article.

WV Legislature

§29-12-12.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

WV Legislature

§29-12-13. Premium tax liability.

Notwithstanding any other provision of this code to the contrary, the amount of any gross direct premiums attributable to a policy or contract of insurance entered into with the board of Risk and Insurance Management shall be separately reported on the annual financial statement of the insurer. These gross direct premiums so reported may not be subject to the tax imposed on gross direct premiums pursuant to article three, chapter thirty-three of this code. The provisions of this section shall be effective upon passage and shall apply to any amount of premium tax owed and not yet paid upon the effective date of this section. When any spending unit makes payment to the board of Risk and Insurance Management for payment of premiums attributable to a policy or contract of insurance after the effective date of this section, an amount equal to the amount of gross premium tax attributable to the amount of the premium shall be paid to the board: Provided, That these amounts shall be deposited in a special revenue account hereby created known as the "Premium Tax Savings Fund". Expenditures from the fund shall not be made from collections but shall only be made in accordance with appropriation by the Legislature.

WV Legislature

§29-12-14. Promulgation of rules.

The Board of Risk and Insurance Management is authorized to propose rules for legislative approval, pursuant to the provisions of article three, chapter twenty-nine-a of this code, setting minimum contract terms for entities participating in insurance programs and mandatory waiting periods for reentry into insurance programs for entities which have terminated coverage through the board.

WV Legislature

§29-12-15. Moratorium on providing new or additional insurance coverage for any permissive entity, property, activity, etc.

There is a moratorium on the board's authority under this article to provide new or additional property or liability insurance coverage for certain entities as of the effective date of the enactment of this section during the regular session of the Legislature, 2024. This moratorium prohibits new or additional insurance coverage by the board of those entities to which coverage is permissive, not mandatory, under this article, including, but not limited to, a political subdivision, charitable or public service organization, or an emergency medical services agency, each as defined in §29-12-5(b)(1) of this code. For the purposes of this section, "coverage" includes property or liability insurance to insure the property, activities, and responsibilities of an entity. This moratorium shall remain in effect until July 1, 2025: *Provided*, That this moratorium shall have no effect upon any contracts or agreements which are currently in effect, or the status of any insurance coverage in place on the effective date of this section, nor does it prohibit the board from extending any contracts or agreements which are currently in effect, or any insurance coverage in place on the effective date of this section: *Provided, however*, That this moratorium shall not apply to county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, school board members, public charter schools, and any other entity or person required to be insured by the board pursuant to §29-12-5a of this code.

WV Legislature

§29-12-16. Non-renewal of policies for permissive non-governmental entities.

Notwithstanding any provision of law to the contrary, and notwithstanding the decision of the West Virginia Supreme Court of Appeals in State ex rel. Human Res. Dev. & Empl. v. Bd. of Risk & Ins. Mgmt. of W. Va., 214 W. Va. 460 (2003), the board may, upon 60 days' advance notice to the insured, non-renew any policy of liability insurance or other insurance by the board to a non-governmental entity for which coverage is permissive, and not mandatory, pursuant to §29-12-5(b)(1) of this code.

WV Legislature