WEST VIRGINIA CODE CHAPTER 33 ARTICLE 22

WV Legislature

§33-22-1. Scope of article.

Every farmers' mutual fire insurance company, hereinafter called "company," organized under the laws of this state shall be governed by the provisions of this article and by no other provisions of this chapter except such provisions as are specifically made applicable and referred to in this article. No law hereafter enacted shall apply to such companies unless such law shall declare that it is specifically applicable to farmers' mutual fire insurance companies.

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§33-22-2. Applicability of other provisions.

Each company to the same extent that provisions are applicable to domestic mutual insurers shall be governed by and be subject to the following provisions of this chapter, but only to the extent these provisions are not inconsistent with this article: Article one (definitions); article two (Insurance Commissioner); article four (general provisions), except that section sixteen, article four, may not be applicable; article seven (assets and liabilities); article eight-a (use of clearing corporations and federal reserve book-entry system); article ten (rehabilitation and liquidation), except that under section thirty-two, article ten, assessments may not be levied against any former member of a farmers' mutual fire insurance company who is no longer a member of the company at the time the order to show cause was issued; article eleven (unfair trade practices); article twelve (insurance producers and solicitors), except that the agent's license fee shall be $5; section six-a, article seventeen (notice of noncoverage of flood damages and the availability of flood insurance); section nine-b, article seventeen (claims for total loss; debris removal proceeds); article twenty-six (West Virginia Insurance Guaranty Association Act); article twenty-seven (insurance holding company systems); article thirty (mine subsidence insurance), except that under section six, article thirty, a farmers' mutual insurance company shall have the option of offering mine subsidence coverage to all of its policyholders, but may not be required to do so; article thirty-three (annual audited financial report); article thirty-four (administrative supervision); article thirty-five (criminal sanctions for failure to report impairment); article thirty-six (business transacted with Producer-Controlled Property-Casualty Insurer Act); article thirty-seven (managing general agents); article thirty-nine (disclosure of material transactions); article forty (risk-based capital for insurers); and article forty-one (Insurance Fraud Prevention Act).

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§33-22-2a.

Repealed.

Acts, 2005 Reg. Sess., Ch. 142.

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§33-22-3. Incorporation.

Such company may be organized and incorporated without capital stock for the purpose of insuring property against loss or damage as hereinafter authorized, in the same manner as nonstock companies generally are organized and incorporated, except that the Secretary of State of this state shall not issue a certificate of incorporation until the commissioner shall have examined the charter and approved same in writing upon being satisfied that the company is in a position to comply with the provisions of this article.

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§33-22-4. License.

No such company shall transact insurance in West Virginia except as authorized by a license issued by the commissioner. Such company shall apply to the commissioner for such license and shall file with such application a certified copy of its charter and bylaws, together with applications from residents of this state for not less than $100,000 of insurance of the type such companies are permitted to transact on property located in this state. The term of such license, renewal, refusal to license, revocation, suspension or penalty in lieu thereof, and reissuance, shall be governed by the provisions of sections eight, nine, ten, and eleven, of article three of this chapter, in the same manner that such sections are applicable to insurers generally, to the extent such provisions are not inconsistent with the provisions of this article.

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§33-22-5. Corporate organization and procedure.

(a) The number of directors of any such company shall not be less than six nor more than fifteen, a majority of whom shall constitute a quorum to do business, to be elected from the incorporators by ballot, of whom one third shall be elected for one year, one third for two years and one third for three years, until their successors are elected and qualified. At all subsequent elections, except to fill vacancies, one third of such board of directors shall be elected for three years, such election to be held at the annual meeting of the company. In the election of the first board of directors each incorporator shall be entitled to one vote. At every subsequent election every member shall be entitled to one vote and may cast the same in person or by proxy. Regular meetings of the board of directors shall be held as often as the bylaws may provide, and special meetings may be held at the call of the president, secretary, or a majority of the board of directors.

(b) The directors shall elect from their number a president and a treasurer, and shall also employ a secretary, who may or may not be a member of the company, all of whom shall hold their office for one year and until their successors are elected and qualified. Any two of the above-named offices except the office of president may be held by the same person. The directors shall also prescribe the duties of the officers and fix their compensation, not inconsistent with the charter and bylaws.

(c) The treasurer and secretary shall give bonds to the company for the faithful performance of their duties in such amounts as shall be prescribed by the board of directors, only one bond being required where the Office of Treasurer and secretary is held by the same person. Bonds may be required of other employees and agents of the company at the discretion of the board of directors.

(d) The board of directors shall notify all members of the time and place of the annual meeting of such members, either by printing the same on their policies or by written notice.

(e) Each such company when so licensed to transact insurance shall possess all the powers necessary to carry out its corporate purposes and not inconsistent with this article or the laws of this state. Amendments to the charter or bylaws may be offered by the board or any member at any regular or special meeting of the members upon written notice to all members of the intention to propose such amendments not less than thirty days prior to such meeting, and such amendments may be adopted by the approval of a majority of the members present and voting in person or by proxy. No such amendment shall be effective unless and until approved by the commissioner.

(f) The president or vice-president, and secretary or assistant secretary of every such company shall prepare annually, under oath, a full, true and complete statement of the condition of such company as of December 31, and present the same to the annual meeting.

WV Legislature

§33-22-6. Members.

(a) Each policyholder of such company is a member thereof and is entitled to all the rights and privileges and subject to all liabilities connected with such membership.

(b) Whenever any public or private corporation, board or association in this state holds a policy in any such company, any officer, stockholder or trustee of any such corporation, board or association may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this state to participate as a member of such company is hereby declared to be incidental to the purpose for which such corporation is organized and as much granted as the rights and powers expressly conferred.

WV Legislature

§33-22-7. Filing and approval of policy; setting out terms and conditions; limiting liability; standard forms or provisions.

(a) No policy form shall be issued or used by any such company unless such form has been filed with and approved by the commissioner. The filing, approval and disapproval of such forms shall be governed by the provisions of sections eight and nine, article six of this chapter and section eight, article seventeen of this chapter in the same manner as form filings of other insurers.

(b) All terms and conditions of such policies shall be set forth in full in the policy or endorsements attached thereto including the contingent liability, if any, of the policyholder and no provision purporting to make any portion of the charter, bylaws or other documents a part of the policy shall be valid unless such portion is set forth in full in the policy.

(c) Policies may limit the liability of the company to a fixed percent of the value of the property insured.

(d) Whenever the commissioner believes the public interest requires a standard form for a particular kind of coverage, the commissioner may prescribe a standard form of policy for such companies, or a standard specific provision to be inserted in such policies, and all policies thereafter issued by such companies shall conform to such standard forms or provisions.

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§33-22-8. Kinds of coverage authorized.

(a) Any company subject to the provisions of this article may issue the following types of policies of insurance:

(1) Fire insurance, which is insurance on real or personal property of every kind and interest therein, against loss or damage from any or all hazard or cause and against loss consequential upon such loss or damage, other than noncontractual liability for the loss or damage;

(2) Loss or damage by insects or disease to farm crops or products and loss of rental value of land used in producing those crops or products;

(3) Loss or damage to domestic farm animals by dogs or wild animals;

(4) Loss or damage to property by burglary, theft, larceny, robbery, vandalism, malicious mischief or wrongful conversion, or any attempt at any of the foregoing;

(5) Personal property floater insurance, which is insurance upon personal effects against loss or damage from any cause; and

(6) Glass insurance, which is insurance against loss or damage to glass, including its ornamentation and fittings.

(b) In addition to the policies of insurance permitted by subsection (a) of this section, a company may apply to the commissioner for an extension of its license and upon complying with reasonable standards established by the commissioner to assure the solvency of the company and the protection of its policyholders, may, in the discretion of the commissioner, be granted an extension of its license upon such conditions and for such period as the commissioner may prescribe to permit the company to issue policies of insurance on risks insuring against one or more of the following:

Legal liability for the death, injury or disability of any human being, or for damage to property, excluding liability resulting from the ownership, maintenance or use of vehicles or aircraft; and provisions for medical, hospital, surgical and disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to the liability coverage. For the purposes of this subsection, the term "vehicle" does not include a "farm tractor", "implement of husbandry", as defined in section one, article one, chapter seventeen-a of this code; a "wheelchair", as defined in section sixty-five, article one, chapter seventeen-c of this code and any similar vehicle used by persons with disabilities; a "golf cart" while used for golfing; or other motorized vehicle used to service the premises.

(c) The commissioner may, for good cause shown or on application of the company, limit the license of a company to make insurance to any one or more of the perils or coverages set

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forth in subsection (a) or (b) of this section.

(d) A farm mutual insurance company insuring property located outside this state must meet the capital and surplus requirements of section five-b, article three of this chapter.

(e) On and after January 1, 2007, any company subject to the provisions of this article must have a majority of its book of business, as determined by either gross direct premiums or policy count, in underserved areas of the insurance market in the State of West Virginia. For purposes of this article, "underserved areas of the insurance market in the State of West Virginia" means any of the following or any combination thereof: Persons or property insured that have a public fire protection classification of five or higher, or the equivalent thereof, according to a rating organization licensed pursuant to section six, article twenty of this chapter; residential structures or dwellings insured on an actual cash-value basis; residential structures or dwellings over forty years of age; vacant or seasonally occupied residential structures or dwellings; property or persons who have had insurance canceled or declined by any insurance company licensed to do business in this state; and farm property or structures. Upon determination, after notice and hearing, that any farm mutual fire insurance company has failed to comply with this subsection, the commissioner may require the company to pay all taxes, additional taxes, surcharges and fees pursuant to article three of this chapter, require conversion under section nineteen of this article, or revoke its license under section four of this article, or any combination thereof.

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§33-22-9. Premiums, membership fees, assessments and dividends.

(a) Such company shall collect from its members such initial fees or charges as its bylaws provide.

(b) Any such company may levy assessments or collect premiums for the purpose of paying losses and expenses already incurred, or for estimated future losses and expenses, and for reserve or surplus fund purposes. The secretary of any such company shall notify every member of the company of the amount due by a written or printed notice, mailed to the last-known address of each member, stating the amount due the company from the member and the time and place and to whom it shall be paid. Such payment shall be made by the member within sixty days from date of mailing such notice, or within a lesser period, as the bylaws may provide. The company may maintain an action against any member thereof to recover all such assessments which he may neglect or refuse to pay when legally due and payable.

(c) Any such company issuing policies at rates other than uniform or class rates or levying assessments on other than a uniform or class basis shall as to such policies be a subscriber to a rating organization licensed under the provisions of article twenty of this chapter.

(d) Such company may return to its members in the form of dividends or otherwise savings or earnings of such company.

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§33-22-10. Contingent liability of member.

The contingent liability of a member of such company may, with the approval of the commissioner, be limited to one or more times the annual premium as computed for the policy and the company may issue a policy without contingent liability to the member if at the time of issuance the net premium written to surplus as to policyholders does not exceed four to one and the company maintains unearned premium and other reserves on the same basis as that required of domestic insurers transacting like kinds of insurance. In the absence of such limitation of contingent liability each member shall be liable for his or her pro rata share of losses and expenses of the company, including a reasonable contribution to a surplus fund.

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§33-22-11. Surplus or emergency fund.

(a) Each company may accumulate a surplus or emergency fund in an amount determined advisable by its board of directors.

(b) The first $25,000 of the accumulated surplus shall be in cash or invested in government securities described in subdivision (1) or (2), subsection (a), section twenty-four, article eight of this chapter or subdivision (1), (2) or (3), subsection (c) of said section, and the balance of the surplus may be invested in any of the other classes of investments described in article eight of this chapter subject to the limitations as to each class provided therein.

(c) All assets of the company other than the accumulated surplus shall be in cash or invested in the government securities described in subdivision (1) or (2), subsection (a), section twenty-four, article eight of this chapter or subdivision (1), (2) or (3), subsection (c) of said section: Provided, That any company having received an extension of its license to permit it to issue policies of insurance pursuant to subsection (c), section eight, article twenty-two of this chapter shall with the prior approval of the commissioner be permitted to invest all assets of the company other than the accumulated surplus in the investments that are authorized by sections twenty-three through thirty-two, inclusive, of said article.

WV Legislature

§33-22-12. Limit of risk.

No such company shall insure any single risk comprising a building and contents or other property so located as to be subject to destruction by a single fire for a greater amount than $1,000 until its insurance in force shall be as much as $500,000, nor shall it then insure any such risks for an amount greater than one fifth of one percent of the net insurance in force under its policies or ten percent of its surplus, whichever is greater, unless the risks insured by the company in excess of the amounts above stipulated are simultaneously covered by reinsurance.

Any company having received an extension of its license to permit it to issue policies of insurance pursuant to subsection (c), section eight of this article shall be subject to the provisions of section sixteen, article four of this chapter.

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§33-22-13. Reinsurance; joint policies.

(a) Such company may procure reinsurance or issue policies of reinsurance to other licensed insurers transacting like kinds of insurance, subject to the provisions of section fifteen, article four of this chapter.

(b) Two or more such companies may issue policies jointly.

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§33-22-14. Notices to members.

All notices of cancellation of policies or reduction thereof and all other notices to members required by this article shall be delivered personally or mailed in a sealed envelope addressed to the last-known address of the member and when so given they shall be deemed sufficient and binding upon the member so notified.

WV Legislature

§33-22-15. Termination, cancellation or suspension of membership.

(a) Any member of a company may withdraw therefrom upon written notice to the company. Every member so withdrawing shall immediately surrender his policy and pay to the extent of his liability as stated in the policy, all of his indebtedness legally due the company.

(b) No member shall be liable for losses or expenses occurring subsequent to the time of termination of his membership.

(c) The company may cancel any policy upon at least five days' written notice to the holder.

(d) A company may, in its bylaws, provide for the suspension of its liability for loss upon any policy from the date when an unpaid assessment becomes due if notice is given to the member five days before the suspension is to become effective, and the payment of such assessment shall only reinstate such policy from the date of such payment, but no allowance shall be made in any assessment because of such suspension.

WV Legislature

§33-22-16. Fees.

Such company at the time of making its annual report shall pay to the commissioner a filing fee of $25, all fees so collected to be used for the purposes specified in section thirteen, article three of this chapter. No other fees or taxes shall be levied against such companies except the agent's license fee, the form filing fee required by the provisions of section thirty-four, article six of this chapter and the expenses of examination thereof by the commissioner.

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§33-22-17. Member's share of assets upon liquidation.

Upon the liquidation of any such company, the share of each member in the assets shall be computed and distributed in the manner provided in section twenty-nine of article five of this chapter for computing and distributing the share of members of other types of domestic mutual insurers.

WV Legislature

§33-22-18. Mergers and consolidations.

(a) A farmers' mutual fire insurance company may not merge or consolidate with any stock insurer.

(b) A farmers' mutual fire insurance company may merge or consolidate with another farmers' mutual fire insurance company or merge with a domestic mutual insurer in the manner provided in section twenty-eight, article five of this chapter for the merger or consolidation of other types of domestic mutual insurers.

WV Legislature

§33-22-19. Conversion to stock or mutual insurer.

(a) A farmers' mutual fire insurance company may become a stock insurer in the manner provided in section twenty-four of article five of this chapter for converting other types of domestic mutual insurers to domestic stock insurers, or

(b) A farmers' mutual fire insurance company may become a domestic mutual insurer pursuant to such plan and procedure as may be approved in advance by the commissioner, subject to approval by vote of not less than three fourths of the company's current members voting thereon in person, by proxy, or by mail at a meeting of members called for that purpose pursuant to such notice and procedure as may be approved by the commissioner, and subject to such company as reorganized complying with all requirements of this chapter relating to the initial organization and licensing of a domestic mutual insurer transacting like kinds of insurance as those proposed to be transacted by the reorganized company.

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