

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

SENATE BILL No. 156

(By Mr. Garratt)



PASSED March 1 1935

In Effect from Passage

156

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**Senate Bill No. 156**

(BY MR. GARRETT) (by request)

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[Passed March 1, 1935 ; in effect from passage.]

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AN ACT to amend and reenact article five, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, relating to farmers' mutual fire insurance companies.

*Be it enacted by the Legislature of West Virginia:*

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

Section 1. A farmers' mutual fire insurance company may  
2 be organized and incorporated without capital stock under

3 the provisions of this article for the purpose of insuring prop-  
4 erty against damage by fire, lightning, hail, tornado or wind-  
5 storm.

Sec. 2. No such company shall commence the transaction  
2 of business until it receives from the insurance commissioner  
3 a certificate of authority, which shall state that such com-  
4 pany has complied with the provisions of this article, and such  
5 certificate shall continue in force until the first day of April  
6 next after its issuance, unless sooner revoked for cause. Be-  
7 fore such certificate may be issued such company shall file  
8 with the insurance commissioner a certified copy of its charter  
9 and by-laws and have same approved in writing by him. The  
10 charter and by-laws so submitted must be accompanied by  
11 applications by citizens of this state for not less than one  
12 hundred thousand dollars of insurance on property located  
13 in this state, of which amount no one risk subject to one fire shall  
14 exceed one thousand dollars. The certificate of authority shall  
15 be renewed from year to year unless cause exists to refuse  
16 such renewal.

Sec. 3. Every such company when so authorized to transact  
2 business shall possess all the powers necessary to carry out the

3 corporate purposes not inconsistent with the constitution or  
4 laws of this state. Amendments to the charter and/or by-laws  
5 may be offered by the board or any member at any regular or  
6 special meeting of members and may be adopted by the ap-  
7 proval of a majority of the members present and voting, pro-  
8 vided notice in writing of the intention to propose such  
9 amendments and the substance thereof is given to the members  
10 not less than thirty days prior to such meeting. All amend-  
11 ments shall be subject to the approval of the insurance  
12 commissioner.

Sec. 4. Any such company may insure property at any  
2 location. If insurance is granted on mercantile or industrial  
3 property the premiums or assessments shall be based on an  
4 annual inspection bureau rate on the property insured, in  
5 which case the company may pay such dividend on such  
6 insurance as the company's experience with such insurance  
7 may justify.

Sec. 5. Every such company may issue policies of insurance,  
2 signed by its president and secretary, agreeing in the name of  
3 the company to pay all damages caused by fire, lightning, hail,  
4 tornado or windstorm to the property insured during the term

5 of the policy. The form of all such policies shall be subject  
6 to regulation and approval of the insurance commissioner, who  
7 may, if he deems fit, after conferring with representatives of  
8 companies affected, prescribe a general form or forms for such  
9 policies, or specific provisions which shall be inserted in such  
10 policies, and all such policies thereafter issued shall conform  
11 to all such regulations prescribed by the insurance commis-  
12 sioner. All policies issued shall have all of their terms and  
13 provisions printed thereon or attached thereto in full. Com-  
14 panies may limit their liability in the policy to a definite per  
15 cent of the value of the property.

Sec. 6. Any such company may reinsure any or all of its  
2 risks in any fire insurance company authorized to do business  
3 in this state and may itself issue policies of reinsurance to  
4 other companies operating in this state. Two or more farmers'  
5 mutual fire insurance companies may issue policies jointly.

Sec. 7.. Whenever any public or private corporation, board  
2 or association in this state has entered into an agreement for  
3 and holds a policy in any farmers' mutual fire insurance com-  
4 pany operating under this article, any officer, stockholder or  
5 trustee of any such corporation, board or association may be

6 recognized as acting for or on its behalf for the purpose of  
7 such membership, but shall not be personally liable upon such  
8 contract of insurance by reason of acting in such representative  
9 capacity. The right of any corporation organized under the  
10 laws of this state to participate as a member of such  
11 farmers' mutual insurance company is hereby declared to be  
12 incidental to the purpose for which such corporation is organ-  
13 ized and as much granted as the rights and powers expressly  
14 conferred.

Sec. 8. No such company shall insure any single risk com-  
2 prising a building and contents or other property so located  
3 as to be subject to destruction by a single fire for a greater  
4 amount than one thousand dollars until its insurance in force  
5 shall be as much as five hundred thousand dollars, nor shall  
6 it then insure any such risks for an amount greater than one-  
7 fifth of one per cent of the net insurance in force under its  
8 policies, unless the risks insured by the company in excess of  
9 the amounts above stipulated are simultaneously covered by  
10 reinsurance.

Sec. 9. Every such company is authorized to accumulate a

2 surplus or emergency fund in such amount as may be deemed  
3 advisable by its board of directors.

Sec. 10. The number of directors of any such company  
2 shall not be less than six nor more than fifteen, a majority  
3 of whom shall constitute a quorum to do business, to be elected  
4 from the incorporators by ballot, of whom one-third shall be  
5 elected for one year, one-third for two years and one-third for  
6 three years, until their successors are elected and qualified.  
7 At all subsequent elections, except to fill vacancies, one-third  
8 of such board of directors shall be elected for three years,  
9 such election to be held at the annual meeting of the company.  
10 In the election of the first board of directors each incorporator  
11 shall be entitled to one vote. At every subsequent election,  
12 unless otherwise provided in the by-laws, every member shall  
13 be entitled to one vote and may cast the same in person or by  
14 proxy. Regular meetings of the board of directors shall be  
15 held as often as the by-laws may provide, and special meetings  
16 may be held at the call of the president, secretary, or a major-  
17 ity of the board of directors.

Sec. 11. The directors shall elect from their number a presi-  
2 dent and a treasurer, and shall also employ a secretary, who

3 may or may not be a member of the company, all of whom  
4 shall hold their office for one year and until their successors  
5 are elected and qualified. Any two of the above named offices  
6 except the office of president may be held by the same person.  
7 The directors shall also prescribe the duties of the officers and  
8 fix their compensation, not inconsistent with the charter and  
9 by-laws.

Sec. 12. The treasurer and secretary shall give bonds to  
2 the company for the faithful performance of their duties in  
3 such amounts as shall be prescribed by the board of directors,  
4 only one bond being required where the office of treasurer and  
5 secretary is held by the same person. Bonds may be required of  
6 other employees and agents of the company at the discretion  
7 of the board of directors.

Sec. 13. All notices of cancellation of policies or reduction  
2 thereof and all other notices to members required by this  
3 article shall be delivered personally or mailed in a sealed en-  
4 velope addressed to the last known address of the member  
5 and when so given they shall be deemed sufficient and binding  
6 upon the member so notified.

Sec. 14. The board of directors shall notify all members of

2 the time and place of the annual meeting of such members,  
3 either by printing the same on their policies or by written  
4 notice, as required by section thirteen of this article, and shall  
5 report at such annual meeting all matters pertaining to the  
6 operations of the company.

Sec. 15. Any person owning property may become a mem-  
2 ber of such company by insuring therein, and shall be entitled  
3 to all the rights and privileges appertaining thereto and sub-  
4 ject to all liabilities connected with such membership.

Sec. 16. The president and secretary of every such mutual  
2 company shall prepare annually, under oath, a full, true and  
3 complete statement of the condition of such company on the  
4 thirty-first day of December, and present the same to the  
5 annual meeting.

Sec. 17. Any such company may levy assessments or collect  
2 premiums for the purpose of paying losses and expenses al-  
3 ready incurred, or for estimated future losses and expenses,  
4 and for reserve or surplus fund purposes. The secretary of any  
5 such company shall notify every member of the company of  
6 the amount due by a written or printed notice, stating the  
7 amount due the company from the member and the time and

8 place and to whom it shall be paid. Such payment shall be  
9 made by the member within sixty days from date of mailing  
10 such notice, or within a less period, as the by-laws may pro-  
11 vide. The company may maintain an action against any mem-  
12 ber thereof to recover all such assessments which he may  
13 neglect or refuse to pay when legally due and payable.

Sec. 18. The contingent liability of the member may, with  
2 the approval of the insurance commissioner, be limited to one  
3 or more times the premium stated in the policy, and the com-  
4 pany may issue a policy without contingent liability to the  
5 member if at the time of issuance it has a surplus of not less  
6 than one hundred thousand dollars and maintains unearned  
7 premium and other reserves on the same basis as that required  
8 of domestic stock companies offering the same kind of insur-  
9 ance. In the absence of such limitation of contingent liability  
10 each member shall be liable for his pro rata share of losses  
11 and expenses of the company, including a reasonable contri-  
12 bution to a surplus fund.

Sec. 19. Any such company shall collect from its members  
2 such fees or initial charges as the by-laws may provide.

Sec. 20. Any member of a company may withdraw there-

2 from upon written notice to the company. Every member  
3 so withdrawing shall immediately surrender his policy and  
4 pay to the extent of his liability as stated in the policy, all of  
5 his indebtedness legally due the company. No member shall  
6 be liable for losses or expense occurring subsequent to the time  
7 of his membership. No member shall upon withdrawal have  
8 any right or interest in the surplus of the company. The com-  
9 pany may cancel any policy upon written notice to the holder.  
10 A company may, in its by-laws, provide for the suspension of  
11 its liability for loss upon any policy from the date when an  
12 unpaid assessment becomes due if notice is given to the mem-  
13 ber five days before the suspension is to become effective, and  
14 the payment of such assessment shall only reinstate such policy  
15 from the date of such payment, but no allowance shall be made  
16 in any assessment because of such suspension.

Sec. 21. Every company licensed under this article shall  
2 be required to obtain from the insurance commissioner a li-  
3 cense for each of its agents who solicits or writes insurance  
4 in this state, which license shall continue in force until the  
5 first day of April next after date of its issuance, unless sooner  
6 revoked for cause. If the license of any agent is revoked by

7 the company or not renewed at the end of the license year,  
8 the reasons for such revocation or failure to renew shall be  
9 reported by the company to the insurance commissioner on  
10 forms provided for that purpose. The information thus fur-  
11 nished to the insurance commissioner shall be available to  
12 any insurance company licensed in this state. The records  
13 containing such information shall not be open for public in-  
14 spection and neither the insurance commissioner nor the com-  
15 pany furnishing such information shall be liable for any action  
16 of damages for any statement made in complying with the  
17 provisions of this section. The name of the person or the  
18 company furnishing such information shall be held as confi-  
19 dential and not disclosed in such report. The annual fee for the  
20 licensing of all such agents shall be one dollar.

Sec. 22. No officer or other person whose duty it is to de-  
2 termine the character of the risk and upon whose decision the  
3 application shall be finally accepted or rejected shall receive  
4 as any part of his compensation a fee or commission upon the  
5 premium.

Sec. 23. Every company operating under this article shall  
2 make an annual report to the insurance commissioner on or

3 before the first day of March, showing the condition of the  
4 company on the thirty-first day of December next preceding,  
5 on such form as he shall prescribe, and shall pay the insurance  
6 commissioner a fee of five dollars at the time of filing such  
7 annual report. If the insurance commissioner finds it neces-  
8 sary in order to receive a satisfactory report he may, after con-  
9 ferring with representatives of the companies affected, pre-  
10 scribe uniform accounting forms and practices to be followed  
11 by all such companies.

Sec. 24. Every company licensed under this article shall  
2 report promptly to the fire marshal of this state, on forms  
3 provided by him, all the details in regard to each loss sus-  
4 tained by such company under its policies. The primary pur-  
5 pose of such reports shall be fire prevention and the detection  
6 and punishment of arson. The information thus furnished  
7 shall be available to any insurance company licensed in this  
8 state. The records containing such information shall not be  
9 open for public inspection and neither the fire marshal nor  
10 the company furnishing such reports shall be liable in any  
11 action of damages by reason of any statement made in com-  
12 plying with the provisions of this section. On request of any

13 licensed company the fire marshal shall furnish such informa-  
14 tion as he may have relative to any risk or the owner thereof,  
15 and a fee of one dollar may be charged for each report. The  
16 name of the person or company furnishing such information  
17 shall be held as confidential and not disclosed in such report.

Sec. 25. Every such company shall be examined by the  
2 insurance commissioner or some other qualified examiner ap-  
3 pointed by him at least once in every three years, and oftener  
4 if he deems it necessary. No person shall be considered a  
5 qualified examiner unless he is familiar with the underwriting  
6 and accounting methods of such companies. He shall have free  
7 access to the books, papers and records of the company, and is  
8 authorized to examine members, officers, and employees of the  
9 company under oath touching any matters pertaining to the  
10 operation of the company. A written report of each examina-  
11 tion, giving consideration to the underwriting methods and  
12 financial condition of the company, shall be made and placed  
13 on file in the office of the insurance commissioner, where it  
14 shall be available to the public, and a copy of such report  
15 shall be furnished to the examined company. If the insurance  
16 commissioner shall find that such company is not paying its

17 losses or is not complying with the law, or is conducting its  
18 business in a manner detrimental to the interests of the mem-  
19 bers or the public he may order the levy of an assessment upon  
20 all members liable for assessment, order the company to cease  
21 issuing new policies, or take such other action as shall best pro-  
22 tect the interests of those insured by the company.

Sec. 26. Any such company may at any annual or special  
2 meeting, due notice of the time, place, and object of which shall  
3 have been given, decide to voluntarily discontinue its opera-  
4 tions and settle its affairs. A committee of three members shall  
5 be then designated which shall on behalf of the company and  
6 under the supervision of the insurance commissioner, liquidate  
7 its assets, pay its debts and expenses and divide any surplus  
8 ratably among the member. Upon final settlement by such  
9 committee it shall make a complete report which shall be  
9-a signed by its members and filed with the insurance commis-  
10 sioner. If he approves the report he shall transmit to such  
11 committee a certificate of his approval and thereupon the  
12 company shall be deemed dissolved and shall cease to exist  
13 under this article.

Sec. 27. Any farmers' mutual fire insurance company here-

2 tofore organized and doing business pursuant to the laws of  
3 the state of West Virginia may by resolution and without reor-  
4 ganization avail itself of and be governed by all of the pro-  
5 visions of this article. A copy of such resolution, duly certi-  
6 fied by the president and secretary of such company, shall be  
7 filed with the insurance commissioner. All farmers' mutual  
8 fire insurance companies hereafter organized pursuant to the  
9 laws of the state of West Virginia shall be subject to the pro-  
10 visions of this article. After the first day of January,  
11 nineteen hundred and forty, all farmers' mutual fire insurance  
12 companies incorporated in this state shall comply with this  
13 article.

Sec. 28. Any such company organized or operating under  
2 the provisions of this article shall be exempt from all provi-  
3 sions of other insurance laws of this state, and no law here-  
4 after passed shall apply to such companies unless such law  
5 shall expressly declare that it is applicable to farmers' mutual  
6 fire insurance companies, as contemplated by this article.

Sec. 29. If any section, paragraph, sentence, clause, word,  
2 and/or application of any part hereof be held unconstitutional,

3 the same shall not affect the validity of the remaining portions.

4 All existing provisions of law inconsistent with this act are

5 hereby repealed.

I certify that the foregoing act, having been presented to the Governor for his approval, and not having been returned by him to the House of the Legislature in which it originated within the time prescribed by the constitution of the state, has become a law without his approval.

This the *13<sup>th</sup>* day of *March*,

19 *35*.

*Wm. S. Quinn*  
SECRETARY OF STATE

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

*Clinton F. Howard*  
.....  
Chairman Senate Committee

*Wm. D. M. Fisher*  
.....  
Chairman House Committee

Originated in the Senate.....

Takes effect from..... passage.

*Harold M. ...*  
.....  
Clerk of the Senate

*Wm. S. Hall*  
.....  
Clerk of the House of Delegates

*Chas. E. Hodges*  
.....  
President of the Senate

*John S. Peter*  
.....  
Speaker House of Delegates

The within.....this the.....  
day of....., 1935.

.....  
Governor

Filed in the office of the Secretary of State  
of West Virginia. MAR 13 1935  
Wm. S. O'BRIEN,  
Secretary of State