

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1939



ENROLLED

HOUSE BILL No. 163

(*Originating in the Committee
on Insurance*)

(By Mr. _____)



PASSED March 6, 1939

In Effect ninety days from Passage

163

ENROLLED

COMMITTEE SUBSTITUTE FOR

House Bill No. 163

(Originating in the Committee on Insurance.)

[Passed March 6, 1939; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty, article four, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, providing for annual reports by fire insurance companies, for the creation of fire insurance statistical or actuarial service bureaus, for the examinations of such bureaus by the insurance commissioner, for the keeping and filing by fire insurance companies in the office of such bureaus of records of premium receipts and losses paid by fire insurance companies, and for the filing of such records by such bureaus in the office of the insurance commissioner, providing for review and change of rates, after hearing by the insurance commissioner, and providing for appeals from the rulings of the commissioner.

Be it enacted by the Legislature of West Virginia:

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

Article 4. Fire and Marine Insurance.

Section 20. *Fire Insurance Companies to be Member of Statistical or Actuarial Service Bureau; Schedule of Premium Receipts and Losses Paid to be Filed; Changes in Rates at Instance of Commissioner; Review.* (a) Every fire insurance company or other insurer authorized to effect insurance against the risk of loss or damage by fire in this state shall on or before the first day of March of each calendar year file in the office of the insurance commissioner a classification schedule of premium receipts and losses paid on risks in the state of West Virginia during the preceding calendar year. Every such insurer shall be a member of a statistical or actuarial service bureau. Each such bureau shall maintain an office or offices in this state. No such insurer shall be a member of more than one such bureau which keeps statistics as to risks of the same kind of hazard. Such bureau shall admit to membership any such insurer authorized to do

17 business in this state transacting business upon a like plan
18 and applying therefor: *Provided, however,* That every such
19 bureau serving stock fire insurance companies shall serve all
20 stock fire insurance companies without distinction or discrimi-
21 nation: *And provided further,* That any such bureau serving
22 mutual fire insurance companies shall serve all mutual fire
23 insurance companies without distinction or discrimination.
24 The expense of such bureau shall be borne by the members
25 under reasonable rules and regulations of the bureau. Every
26 such insurer shall, in its annual application for license,
27 specify the statistical or actuarial service bureau or bureaus
28 of which it is, or will upon receiving such license become a
29 member. The insurance commissioner shall at any and all
30 times have the authority to inspect the records of such
31 bureau in regard to its methods of tabulation of data from
32 daily reports to determine the correctness and completeness
33 of same as to each class or classes of risks written by each
34 fire insurance company, and have authority to require, when
35 necessary, changes in such methods of tabulation so as to
36 reflect the total premiums received and losses paid on any
37 class or classes of risks. The insurance commissioner may

38 make and enforce whatever reasonable rules are necessary to
39 secure information from such bureau as to premiums and
40 losses by classes of risks.

41 (b) Every such insurer so authorized to do business in
42 this state shall provide for the transmission to such bureau
43 of copies of daily reports of all policies written covering
44 properties within this state from which copies such bureau
45 shall compile and transmit to the insurance commissioner,
46 under the oath of an executive officer of such bureau, from
47 time to time, at the discretion of the commissioner, but not
48 oftener than monthly, gross fire premium, less only return
49 premiums, by occupational classes, not to exceed, however,
50 twenty-six such classifications; and, by classification of towns
51 based on the degree of fire protection available as employed
52 by such company or companies in the application of rates.

53 (c) The insurance commissioner shall establish and main-
54 tain in his office an adequate staff for assembling, compiling
55 and recording such facts, information and figures pertaining
56 to the experience of fire insurance companies licensed to do
57 business in this state, as such companies and the statistical

58 or actuarial service bureaus, in this chapter provided for, are,
59 by this chapter, required to keep and submit.

60 (d) If at any time it shall appear to the commissioner
61 that the rates charged in this state by the licensed insurers
62 as a whole are excessive or unreasonable in that the results
63 of the business of such insurers in this state during the five
64 years next preceding the year in which investigation is so
65 made, as indicated by the reports provided for herein, show
66 an aggregate underwriting profit in excess of a reasonable
67 amount upon any class or classes of risks, then the commis-
68 sioner shall have the power to call a hearing in the matter
69 and, after a hearing, to order a reduction in rates upon such
70 class or classes of risks. If in the same manner it appears
71 that the rates upon any class or classes of risks are insufficient
72 to show a reasonable underwriting profit, then the commis-
73 sioner shall have the power to increase the rates upon such
74 class or classes of risks so as to produce a reasonable profit.

75 In determining the question of a reasonable underwriting
76 profit the commissioner, as a protection to all policyholders,
77 shall give proper and reasonable consideration to the con-
78 flagration or catastrophe hazard within and without this state.

79 In ordering or permitting changes of rates, however, in ad-
80 dition to loss experience by classes, the commissioner shall
81 give due consideration to degrees of public fire protection,
82 structural standards and occupancy and exposure hazards. In
83 calling such hearing the commissioner shall serve notice in
84 the manner prescribed by law upon the insurance companies
85 or other insurers, rating bureaus and statistical or actuarial
86 service bureaus which may be affected by any order made
87 upon such hearing. In addition to such insurers, rating bu-
88 reaus and statistical or actuarial service bureaus, any other
89 person or corporation having an interest in the subject mat-
90 ter may attend and become a party to such hearing. After
91 such hearing the commissioner shall enter an order showing
92 his findings in the premises. In the event that any party in
93 interest is dissatisfied with such order, he or it may, within
94 thirty days after the entry thereof, file a petition to the cir-
95 cuit court of Kanawha county or to the judge thereof in va-
96 cation for the review of such order. Before presenting his
97 or its petition to the court or judge, the petitioner shall mail
98 a copy thereof to the insurance commissioner. Upon the re-
99 ceipt of such copy, the insurance commissioner shall forth-

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100 with transmit to the clerk of such court the record of the
101 proceedings before him. The court or judge shall fix a time
102 for the review of said proceedings at his earliest convenience.
103 Notice in writing of the time and place of such hearing shall
104 be given to the insurance commissioner at least ten days be-
105 fore the date set therefor. The court or judge shall, without
106 a jury, hear and determine the case upon the record of the
107 proceedings before the insurance commissioner. The court or
108 judge may enter an order revising or reversing the decision
109 of the insurance commissioner, if it appears that the decision
110 is clearly wrong, or may affirm such decision. The judgment
111 of the circuit court or judge may be reviewed upon appeal in
112 the supreme court of appeals. Pending such review the order
113 of the commissioner shall be in full force and effect until
114 final determination, unless the court, or the judge thereof sit-
115 ting in vacation, before whom such review is pending shall
116 enter an order directing that the existing rates shall remain in
117 effect until final determination by the court.

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

E. O. Wiseman

Chairman Senate Committee

Ree B. Walter

Chairman House Committee

Originated in the *House of Delegates*

Takes effect *ninety days from* passage.

Charles D. Smith

Clerk of the Senate

Geo S. Hall

Clerk of the House of Delegates

Wm. McLean

President of the Senate

James Tay Thomas

Speaker House of Delegates

The within *approved* this the *16th*

day of *March*, 1939.

James E. Allen

Governor.



Filed in the office of the Secretary of State
of West Virginia. **MAR 17 1939**
Wm. S. O'BRIEN,
Secretary of State