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
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.
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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
business in this state transacting business upon a like plan and applying therefor: Provided, however, That every such bureau serving stock fire insurance companies shall serve all stock fire insurance companies without distinction or discrimination: And provided further, That any such bureau serving mutual fire insurance companies shall serve all mutual fire insurance companies without distinction or discrimination.

The expense of such bureau shall be borne by the members under reasonable rules and regulations of the bureau. Every such insurer shall, in its annual application for license, specify the statistical or actuarial service bureau or bureaus of which it is, or will upon receiving such license become a member. The insurance commissioner shall at any and all times have the authority to inspect the records of such bureau in regard to its methods of tabulation of data from daily reports to determine the correctness and completeness of same as to each class or classes of risks written by each fire insurance company, and have authority to require, when necessary, changes in such methods of tabulation so as to reflect the total premiums received and losses paid on any class or classes of risks. The insurance commissioner may
make and enforce whatever reasonable rules are necessary to secure information from such bureau as to premiums and losses by classes of risks.

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

(c) The insurance commissioner shall establish and maintain in his office an adequate staff for assembling, compiling and recording such facts, information and figures pertaining to the experience of fire insurance companies licensed to do business in this state, as such companies and the statistical
or actuarial service bureaus, in this chapter provided for, are,
by this chapter, required to keep and submit.

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

In determining the question of a reasonable underwriting
profit the commissioner, as a protection to all policyholders,
shall give proper and reasonable consideration to the con-
flagration or catastrophe hazard within and without this state.
In ordering or permitting changes of rates, however, in addition to loss experience by classes, the commissioner shall give due consideration to degrees of public fire protection, structural standards and occupancy and exposure hazards. In calling such hearing the commissioner shall serve notice in the manner prescribed by law upon the insurance companies or other insurers, rating bureaus and statistical or actuarial service bureaus which may be affected by any order made upon such hearing. In addition to such insurers, rating bureaus and statistical or actuarial service bureaus, any other person or corporation having an interest in the subject matter may attend and become a party to such hearing. After such hearing the commissioner shall enter an order showing his findings in the premises. In the event that any party in interest is dissatisfied with such order, he or it may, within thirty days after the entry thereof, file a petition to the circuit court of Kanawha county or to the judge thereof in vacation for the review of such order. Before presenting his or its petition to the court or judge, the petitioner shall mail a copy thereof to the insurance commissioner. Upon the receipt of such copy, the insurance commissioner shall forth-
with transmit to the clerk of such court the record of the
proceedings before him. The court or judge shall fix a time
for the review of said proceedings at his earliest convenience.
Notice in writing of the time and place of such hearing shall
be given to the insurance commissioner at least ten days be-
fore the date set therefor. The court or judge shall, without
a jury, hear and determine the case upon the record of the
proceedings before the insurance commissioner. The court or
judge may enter an order revising or reversing the decision
of the insurance commissioner, if it appears that the decision
is clearly wrong, or may affirm such decision. The judgment
of the circuit court or judge may be reviewed upon appeal in
the supreme court of appeals. Pending such review the order
of the commissioner shall be in full force and effect until
final determination, unless the court, or the judge thereof sit-
ting in vacation, before whom such review is pending shall
enter an order directing that the existing rates shall remain in
effect until final determination by the court.
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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

E. O. Wiseman
Chairman Senate Committee

Chairman House Committee

Originated in the House of Delegates

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within 16th day of March, 1939.

Governor.

Filed in the office of the Secretary of State of West Virginia.  MAR 17 1939

Wm. S. O'Brien,
Secretary of State