ENROLLED

Senate Bill No. 335
(By Mr. Nuckols)

[Passed March 9, 1957; in effect ninety days from passage.]

AN ACT to amend chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twelve, relating to the purchase, control and supervision of insurance on state properties, activities and responsibilities, creating a state board of insurance, and prescribing penalties for the violation thereof.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twelve, to read as follows:

Section 1. Intent and Objects.—Recognition is given to the fact that the state of West Virginia owns extensive properties of varied types and descriptions and 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 a 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 es-
establishment and development of an adequate, econom-
ical and sound state insurance and bonding service on all
state property, activities and responsibilities.

Sec. 2. Definitions.—As used in this article, unless the
context otherwise clearly requires:

(a) "Board" means the "state board of insurance of West
Virginia."

(b) "Company" means and includes corporations, as-
sications, partnerships and individuals.

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

(d) "Insurance company" means all insurers or insur-
ance carriers, including but not limited to stock insurance
companies, mutual insurance companies, reciprocal and
inter-insurance exchanges, and all other types of insur-
ers 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 workmen's compensation coverage.

(e) "State property activities" and "state responsibilities" shall mean and include 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 situate 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.

Sec. 3. Creation, Composition, Qualifications, and Compensation of Board.—(a) There is hereby created the
"State board of insurance of West Virginia" which shall be composed of three members appointed by the governor with the advice and consent of the senate. Each of the members shall be a resident of West Virginia possessed of not less than five years experience in the business of insurance and no more than two of such members shall belong to any one political party. The three original members of such board shall be appointed for terms of one, two and three years, respectively, and each subsequent appointment shall be for a term of four years. In the event a vacancy occurs it shall be filled by appointment of the unexpired term. No member of the board may be removed from office by the governor except for official misconduct, incompetency, neglect of duty, or gross immorality.

(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) Each member of the board shall receive the sum of
twenty-five dollars per day for each day's services actually performed for such board as well as all necessary expenses incurred in the performance of their duties, not exceeding one hundred days in any one calendar year.

The auditor shall pay such compensation and expenses upon requisition certified by the chairman from appropriations provided for such purposes.

Sec. 4. Organization, Meetings 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.
Sec. 5. Powers and Duties of Board.—The board shall have general supervision and control over the insurance of all state property, activities and responsibilities, including the acquisition and cancellation thereof; determination of amount and kind of coverage, included but not limited to deductible forms of insurance coverage, inspections or examinations relating thereto, reinsurance, and any and all matters, factors and considerations entering into negotiations for advantageous rates on and coverage of all such state property, activities and responsibilities. Any policy of insurance purchased or contracted for by the board shall provide that the insured shall be barred and estopped from relying upon the constitutional immunity of the state of West Virginia against claims or suits. The board may enter into any contracts necessary to the execution of the powers granted to it by this article. It shall endeavor to secure the maximum of protection against loss, damage or liability to state property and on account of state activities and responsibilities by proper and adequate insurance coverage through the introduction and employment of sound and accepted methods of
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It is empowered and directed to 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. It shall keep itself currently informed on new and continuing state activities and responsibilities within the insurance coverages herein contemplated. The board shall work closely in cooperation with the state fire marshal's office in applying the rules and regulations of that office insofar as the appropriations and other factors peculiar to state property will permit. The board is given power and authority to make rules and regulations governing its functions and operations and the procurement of state insurance, but shall not make or promulgate any rules or regulations in contravention of or inconsistent with the laws or rules and regulations governing the office of insurance commissioner of West Virginia.
The board is hereby authorized and empowered to negotiate and effect settlement of any and all insurance claims arising on or incident to losses of and damages to 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. All such settlements and releases shall be effected with the knowledge and consent of the attorney general.

Sec. 6. State Records; Requirements; Penalties.—(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 the first
day of May 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 disposi-
tion of such property to the board within thirty days next
following the date of sale, destruction or other disposi-
tion 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 responsibili-
ties within the insurance coverage herein contemplated
and shall compile and currently maintain a summary rec-
ord thereon, in such form and detail as may be found
practicable, as basis for insurance services on all such
state property, activities and responsibilities.
Sec. 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 pur-
pose of insurance against loss, damage or liability to any
such state property or on account of any such state activ-
ity or responsibility or incur any obligation or indebted-
ness against the state for such insurance, except (1) upon
the board's prior approval and placement of such insur-
ance coverage and (2) its subsequent approval of invoices
and charges therefor.

(b) All state insurance shall be placed only with sol-
vent insurance companies licensed by insurance com-
missioner 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 per cent of the total
premium volume of state insurance shall be placed through
any one agent or agency. For the purpose of this para-
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22 graph, 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 per cent of the total premium volume of state insurance shall be placed in agencies in any one county.

27 (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.

Sec. 8. All Powers, Duties and Responsibilities of the Department of Purchases Pertaining to State Insurance Hereby Transferred to State Board of Insurance.—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.

Sec. 9. *Penalties for Violation of Article.*—Any person
placing or aiding, abetting, or conspiring to place state in-
surance in violation of any provision of this article shall
be guilty of a misdemeanor and upon conviction thereof
shall be fined not to exceed one thousand dollars or im-
prisoned for a period not to exceed six months, or may be
punished by both such fine and imprisonment.

Sec. 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 in-
terpretation and application of the provisions of this article
with any other laws.

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

L. H. McCourt
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

Takes effect 90 days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

Ralph J. Brown
President of the Senate

W. J. C.文书
Speaker House of Delegates

The within approved this the 15th day of March, 1957.

[Signature]
Governor

Filed in the Office of the Secretary of State of West Virginia on MAR 1, 1957.

D. Pitt O'Brien
Secretary of State