WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

ENROLLED
SENATE BILL NO. 329

(By Mr. Williams)

PASSED March 8, 1974

In Effect ninety days from Passage

329

FILED IN THE OFFICE
ODOAR F. HEISKELL, III
SECRETARY OF STATE
THIS DATE 3-19-74
ENROLLED

Senate Bill No. 329
(By Mr. Williams)

[Passed March 8, 1974; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty, article five, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to borrowing by insurers.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. ORGANIZATION AND PROCEDURES OF DOMESTIC STOCK AND MUTUAL INSURERS.

§33-5-20. Borrowing by insurers.

1 (a) A domestic stock or mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose required by its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest at the rate agreed upon by such insurer and its lender. Such interest shall not constitute a liability of the insurer as to its funds other than such excess of surplus unless so stipulated in the agreement.

12 (b) Money so borrowed, together with the interest thereon if so stipulated in the agreement, shall not form a part of the insurer's legal liabilities except as to its
surplus in excess of the amount thereof stipulated in the
agreement, or be the basis of any setoff; but until repaid,
financial statements filed or published by the insurer shall
show as a footnote thereto the amount thereof then unpaid
together with any interest thereon accrued but unpaid.
(c) Such insurer in advance of any such loan shall file
with the commissioner a statement of the purposes of the
loan and a copy of the proposed loan agreement, which
shall be subject to the commissioner’s approval. The loan
and agreement shall be deemed approved thirty days after
date of filing with the commissioner, unless within such
thirty day period the insurer is notified in writing of the
commissioner’s disapproval and the reasons therefor.
The commissioner shall so disapprove any such proposed
loan or agreement if he finds that the loan is reasonably
unnecessary or excessive for the purpose intended, or that
the terms of the loan agreement are not fair and equitable
to the parties, and to other similar lenders, if any, to the
insurer, or is not fair to policyholders, or that the in-
formation so filed by the insurer is inadequate.
(d) Any such loan to a mutual insurer or substantial
portion thereof shall be repaid by the insurer when no
longer reasonably necessary for the purpose originally in-
tended. No repayment of such a loan shall be made by a
mutual insurer unless in advance approved by the com-
mmissioner.
(e) This section shall not apply to loans obtained by
the insurer in ordinary course of business from banks and
other financial institutions, nor to loans secured by pledge
of assets.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

D. Darrell Darby
Chairman Senate Committee

Clairece C. McKinley
Chairman House Committee

Originated in the Senate.

Takes effect ninety days from passage.

Howard W. Hasson
Clerk of the Senate

W. Blankenship
Clerk of the House of Delegates

Dr. P. Bartholomew, Jr.
President of the Senate

Speaker House of Delegates

The within approved this the 18th day of March, 1974.

And a. Shad. J.
Governor
PRESENTED TO THE
GOVERNOR

Date 3/14/74
Time 2:15 p.m.