

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1974

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ENROLLED

SENATE BILL NO. 329

(By Mr. Williams)

—●—
PASSED March 8 1974

In Effect ninety days from Passage



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

329

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
2 money to defray the expenses of its organization, pro-
3 vide it with surplus funds, or for any purpose required by
4 its business, upon a written agreement that such money
5 is required to be repaid only out of the insurer's surplus
6 in excess of that stipulated in such agreement. The agree-
7 ment may provide for interest at the rate agreed upon by
8 such insurer and its lender. Such interest shall not con-
9 stitute a liability of the insurer as to its funds other than
10 such excess of surplus unless so stipulated in the agree-
11 ment.

12 (b) Money so borrowed, together with the interest
13 thereon if so stipulated in the agreement, shall not form
14 a part of the insurer's legal liabilities except as to its

15 surplus in excess of the amount thereof stipulated in the
16 agreement, or be the basis of any setoff; but until repaid,
17 financial statements filed or published by the insurer shall
18 show as a footnote thereto the amount thereof then unpaid
19 together with any interest thereon accrued but unpaid.

20 (c) Such insurer in advance of any such loan shall file
21 with the commissioner a statement of the purposes of the
22 loan and a copy of the proposed loan agreement, which
23 shall be subject to the commissioner's approval. The loan
24 and agreement shall be deemed approved thirty days after
25 date of filing with the commissioner, unless within such
26 thirty day period the insurer is notified in writing of the
27 commissioner's disapproval and the reasons therefor.
28 The commissioner shall so disapprove any such proposed
29 loan or agreement if he finds that the loan is reasonably
30 unnecessary or excessive for the purpose intended, or that
31 the terms of the loan agreement are not fair and equitable
32 to the parties, and to other similar lenders, if any, to the
33 insurer, or is not fair to policyholders, or that the in-
34 formation so filed by the insurer is inadequate.

35 (d) Any such loan to a mutual insurer or substantial
36 portion thereof shall be repaid by the insurer when no
37 longer reasonably necessary for the purpose originally in-
38 tended. No repayment of such a loan shall be made by a
39 mutual insurer unless in advance approved by the com-
40 missioner.

41 (e) This section shall not apply to loans obtained by
42 the insurer in ordinary course of business from banks and
43 other financial institutions, nor to loans secured by pledge
44 of assets.

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

H. David Darby
Chairman Senate Committee

Clarence L. Christian, Jr.
Chairman House Committee

Originated in the Senate.

Takes effect ninety days from passage.

Haward W. Mason
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

H. P. Brotherton, Jr.
President of the Senate

Lewis A. W. Mason
Speaker House of Delegates

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

Arch A. Mason, Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/14/74

Time 2:15 p.m.