

MAR 27 1976

WEST VIRGINIA LEGISLATURE  
REGULAR SESSION, 1976



ENROLLED

HOUSE BILL No. 1337

(By Mr. Shiflet and Mr. Pennington)



PASSED February 25, 1976

In Effect ninty days from Passage



*Handwritten scribbles on the left margin.*

FILED IN THE OFFICE  
JAMES R. McCARTNEY  
SECRETARY OF STATE

THIS DATE 3/8/76

ENROLLED

H. B. 1337

(By MR. SHIFLET and MR. SHINGLETON)

[Passed February 25, 1976; in effect ninety days from passage.]

AN ACT to amend and reenact sections three and four, article twenty, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to insurance; rates and rating organizations; and providing for the establishment of at least seven territorial rate areas within the state as a basis for setting rates.

*Be it enacted by the Legislature of West Virginia:*

That sections three and four, article twenty, 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 20. RATES AND RATING ORGANIZATIONS.**

**§33-20-3. Rate making.**

1 All rates shall be made in accordance with the following  
2 provisions:

3 (a) Due consideration shall be given to past and prospec-  
4 tive loss experience within and outside this state, to catastrophe  
5 hazards, if any, to a reasonable margin for underwriting profit  
6 and contingencies, to dividends, savings or unabsorbed pre-  
7 mium deposits allowed or returned by insurers to their  
8 policyholders, members or subscribers, to past and prospective  
9 expenses both countrywide and those specially applicable to  
10 this state, and to all other relevant factors within and outside  
11 this state.

12 (b) Rates shall not be excessive, inadequate or unfairly  
13 discriminatory.

14 (c) Rates for casualty and surety insurance to which this  
15 article applies shall also be subject to the following provisions:

16 (1) The systems of expense provisions included in the  
17 rates for use by any insurer or group of insurers may differ  
18 from those of other insurers or groups of insurers to re-  
19 flect the requirements of the operating methods of any  
20 such insurer or group with respect to any kind of insurance,  
21 or with respect to any subdivision or combination thereof  
22 for which subdivision or combination separate expense pro-  
23 visions are applicable.

24 (2) Risks shall be grouped by classifications and by  
25 territorial areas for the establishment of rates and minimum  
26 premiums. Classification of rates shall be modified to produce  
27 rates for individual risks in a territorial area in accordance  
28 with rating plans which establish standards for measuring  
29 variations in hazards or expense provisions, or both. Such  
30 standards may measure any differences among risks that can  
31 be demonstrated to have a probable effect upon losses or  
32 expenses: *Provided*, That such standards shall include the  
33 establishment of at least seven territorial rate areas within the  
34 state: *Provided further*, That such territorial rate established  
35 by any insurer or group of insurers may differ from those of  
36 other insurers or group of insurers.

37 (3) Due consideration shall be given to such factors as ex-  
38 pense, management, individual experience, underwriting judg-  
39 ment, degree or nature of hazard or any other reasonable con-  
40 siderations, provided such factors apply to all risks under the  
41 same or substantially the same circumstances or conditions.

42 (d) Rates for fire and marine insurance to which this article  
43 applies shall also be subject to the following provisions:

44 (1) Manual, minimum, class rates, rating schedules or  
45 rating plans, shall be made and adopted, except in the case  
46 of specific inland marine rates on risks specially rated.

47 (2) Due consideration shall be given to the conflagration  
48 hazard, and in the case of fire insurance rates consideration

49 shall be given to the experience of the fire insurance business  
50 during a period of not less than the most recent five-year  
51 period for which such experience is available.

52 (e) Except to the extent necessary to meet the provisions  
53 of subdivisions (b) and (c) of this section, uniformity among  
54 insurers in any matters within the scope of this section is  
55 neither required nor prohibited.

56 (f) Rates made in accordance with this section may be  
57 used subject to the provisions of this article.

**§33-20-4. Rate filings.**

1 (a) (1) Every insurer shall file with the commissioner  
2 every manual of classifications, territorial rate areas established  
3 pursuant to section 3 (c) (2) of this article, rules and rates,  
4 every rating plan and every modification of any of the fore-  
5 going which it proposes to use for casualty insurance to which  
6 this article applies.

7 (2) Every insurer shall file with the commissioner, except  
8 as to inland marine risks which by general custom of the  
9 business are not written according to manual rates or rating  
10 plans, every manual, minimum, class rate, rating schedule or  
11 rating plan and every other rating rule and every modification  
12 of any of the foregoing which it proposes to use for fire and  
13 marine insurance to which this article applies. Specific inland  
14 marine rates on risks specially rated, made by a rating organi-  
15 zation, shall be filed with the commissioner.

16 (b) Every such filing shall state the proposed effective date  
17 thereof and shall indicate the character and extent of the cover-  
18 age contemplated. When a filing is not accompanied by the in-  
19 formation upon which the insurer supports such filing, and the  
20 commissioner does not have sufficient information to determine  
21 whether such filing meets the requirements of this article, he  
22 shall require such insurer to furnish the information upon which  
23 it supports such filing and in such event the waiting period shall  
24 commence as of the date such information is furnished. The in-  
25 formation furnished in support of a filing may include (1) the  
26 experience or judgment of the insurer or rating organization  
27 making the filing, (2) the experience or judgment of the insurer  
28 or rating organization in the territorial rate areas established by

29 subdivision (c) (2), section three of this article, (3) its inter-  
30 pretation of any statistical data it relies upon, (4) the experi-  
31 ence of other insurers or rating organizations or (5) any other  
32 relevant factors. A filing and any supporting information shall  
33 be open to public inspection as soon as the filing is received  
34 by the commissioner. Any interested party may file a brief  
35 with the commissioner supporting his position concerning the  
36 filing. Any person or organization may file with the com-  
37 missioner a signed statement declaring and supporting his or  
38 its position concerning the filing. Upon receipt of such state-  
39 ment prior to the effective date of the filing, the commissioner  
40 shall mail or deliver a copy of such statement to the filer, which  
41 may file such reply as it may desire to make. This section  
42 shall not be applicable to any memorandum or statement of  
43 any kind by any employee of the commissioner.

44 (c) An insurer may satisfy its obligation to make such  
45 filing by becoming a member of, or a subscriber to, a  
46 licensed rating organization which makes such filings, and  
47 by authorizing the commissioner to accept such filings on  
48 its behalf: *Provided*, That nothing contained in this article  
49 shall be construed as requiring any insurer to become a  
50 member of or a subscriber to any rating organization.

51 (d) The commissioner shall review filings as soon as  
52 reasonably possible after they have been made in order to  
53 determine whether they meet the requirements of this article.

54 (e) Subject to the exceptions specified in subsections (f)  
55 and (g) of this section, each filing shall be on file for a  
56 waiting period of thirty days before it becomes effective,  
57 which period may be extended by the commissioner for an  
58 additional period not to exceed fifteen days if he gives written  
59 notice within such waiting period to the insurer or rating  
60 organization which made the filing that he needs such addi-  
61 tional time for the consideration of such filing. Upon written  
62 application by such insurer or rating organization, the com-  
63 missioner may authorize a filing which he has reviewed to  
64 become effective before the expiration of the waiting period  
65 or any extension thereof. A filing shall be deemed to meet  
66 the requirements of this article unless disapproved by the

67 commissioner within the waiting period or any extension  
68 thereof.

69 (f) Any special filing with respect to a surety bond  
70 required by law or by court or executive order or by order,  
71 rule or regulation of a public body, not covered by a  
72 previous filing, shall become effective when filed and shall  
73 be deemed to meet the requirements of this article until  
74 such time as the commissioner reviews the filing and so long  
75 thereafter as the filing remains in effect.

76 (g) Specific inland marine rates on risks specially rated  
77 by a rating organization shall become effective when filed  
78 and shall be deemed to meet the requirements of this article  
79 until such time as the commissioner reviews the filing and so  
80 long thereafter as the filing remains in effect.

81 (h) Under such rules and regulations as he shall adopt  
82 the commissioner may, by written order, suspend or modify  
83 the requirement of filing as to any kind of insurance, sub-  
84 division or combination thereof, or as to classes of risks,  
85 the rates for which cannot practicably be filed before they  
86 are used. Such orders, rules and regulations shall be made  
87 known to insurers and rating organizations affected thereby.  
88 The commissioner may make such examination as he may  
89 deem advisable to ascertain whether any rates affected by such  
90 order meet the standards set forth in subdivision (b), section  
91 three of this article.

92 (i) Upon the written application of the insured, stating  
93 his reasons therefor, filed with and approved by the com-  
94 missioner, a rate in excess of that provided by a filing other-  
95 wise applicable may be used on any specific risks.

96 (j) No insurer shall make or issue a contract or policy  
97 except in accordance with the filings which are in effect for  
98 said insurer as provided in this article or in accordance with  
99 subsections (h) or (i) of this section. This paragraph shall not  
100 apply to contracts or policies for inland marine risks as to  
101 which filings are not required.

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

*James L. Davis*  
Chairman Senate Committee

*Clarence C. Chubb*  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

*J. C. McIlroy*  
Clerk of the Senate

*W. A. Blankenship*  
Clerk of the House of Delegates

*W. T. Brotherton Jr.*  
President of the Senate

*Levin R. McManus*  
Speaker House of Delegates

The within *Approved* this the *6th*  
day of *March*, 1976.

*Arch A. Moore Jr.*  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/1/76

Time 4:17 p.m.