

No. 447

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



## ENROLLED

*Committee Substitute for*  
SENATE BILL NO. [REDACTED] *447*

*J. Menchen, et al*  
(By Senators [REDACTED])



PASSED *April 6,* 1989

In Effect *10 days from* Passage

**ENROLLED**

COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 447**

(SENATORS J. MANCHIN, SPEARS, FELTON, WIEDEBUSCH AND  
LUCHT, *original sponsors*)

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[Passed April 6, 1989; in effect from passage.]

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AN ACT to amend and reenact section five, article twelve, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing the state board of risk and insurance management to provide liability insurance to vendors providing horseback riding in West Virginia state forests and parks, or parks owned and operated by political subdivisions otherwise covered by the board.

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

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

**ARTICLE 12. STATE INSURANCE.**

**§29-12-5. Powers and duties of board.**

- 1 (a) The board shall have general supervision and
- 2 control over the insurance of all state property,

3 activities and responsibilities, including the acquisition  
4 and cancellation thereof; determination of amount and  
5 kind of coverage, including, but not limited to, deduct-  
6 ible forms of insurance coverage, inspections or  
7 examinations relating thereto, reinsurance, and any  
8 and all matters, factors and considerations entering  
9 into negotiations for advantageous rates on and cover-  
10 age of all such state property, activities and responsi-  
11 bilities. Any policy of insurance purchased or con-  
12 tracted for by the board shall provide that the insurer  
13 shall be barred and estopped from relying upon the  
14 constitutional immunity of the state of West Virginia  
15 against claims or suits: *Provided*, That nothing herein  
16 shall bar the insurer of political subdivisions from  
17 relying upon any statutory immunity granted such  
18 political subdivisions against claims or suits. The board  
19 may enter into any contracts necessary to the execu-  
20 tion of the powers granted to it by this article. It shall  
21 endeavor to secure the maximum of protection against  
22 loss, damage or liability to state property and on  
23 account of state activities and responsibilities by  
24 proper and adequate insurance coverage through the  
25 introduction and employment of sound and accepted  
26 methods of protection and principles of insurance. It is  
27 empowered and directed to make a complete survey of  
28 all presently owned and subsequently acquired state  
29 property subject to insurance coverage by any form of  
30 insurance, which survey shall include and reflect  
31 inspections, appraisals, exposures, fire hazards, con-  
32 struction, and any other objectives or factors affecting  
33 or which might affect the insurance protection and  
34 coverage required. It shall keep itself currently  
35 informed on new and continuing state activities and  
36 responsibilities within the insurance coverage herein  
37 contemplated. The board shall work closely in cooper-  
38 ation with the state fire marshal's office in applying  
39 the rules and regulations of that office insofar as the  
40 appropriations and other factors peculiar to state  
41 property will permit. The board is given power and  
42 authority to make rules and regulations governing its  
43 functions and operations and the procurement of state  
44 insurance, but shall not make or promulgate any rules

45 or regulations in contravention of or inconsistent with  
46 the laws or rules and regulations governing the office  
47 of insurance commissioner of West Virginia.

48 The board is hereby authorized and empowered to  
49 negotiate and effect settlement of any and all insur-  
50 ance claims arising on or incident to losses of and  
51 damages to state properties, activities and responsibil-  
52 ities hereunder and shall have authority to execute  
53 and deliver proper releases of all such claims when  
54 settled. The board may adopt rules and procedures for  
55 handling, negotiating and settlement of all such claims.  
56 All such settlements and releases shall be effected  
57 with the knowledge and consent of the attorney  
58 general.

59 (b) If requested by a political subdivision or by a  
60 charitable or public service organization, the board is  
61 authorized to provide property and liability insurance  
62 to the political subdivisions or such organizations to  
63 insure their property, activities and responsibilities.  
64 Such board is authorized to enter into any necessary  
65 contract of insurance to further the intent of this  
66 subsection.

67 The property insurance provided by the board,  
68 pursuant to this subsection, may also include insur-  
69 ance on property leased to or loaned to the political  
70 subdivision or such organization which is required to  
71 be insured under a written agreement.

72 The cost of this insurance, as determined by the  
73 board, shall be paid by the political subdivision or the  
74 organization and may include administrative expenses.  
75 All funds received by the board shall be deposited in  
76 the West Virginia consolidated investment pool with  
77 the interest income a proper credit to such property  
78 insurance trust fund or liability insurance trust fund,  
79 as applicable.

80 Political subdivision as used in this subsection shall  
81 have the same meaning as in section three, article  
82 twelve-a of this chapter.

83 Charitable or public service organization as used in

84 this subsection means a bona fide, not for profit, tax-  
85 exempt benevolent, educational, philanthropic,  
86 humane, patriotic, civic, religious, eleemosynary,  
87 incorporated or unincorporated association or organi-  
88 zation or a rescue unit or other similar volunteer  
89 community service organization or association, but  
90 does not include any nonprofit association or organiza-  
91 tion, whether incorporated or not, which is organized  
92 primarily for the purposes of influencing legislation or  
93 supporting or promoting the campaign of any candi-  
94 date for public office.

95 (c) If requested by a horseback riding vendor  
96 providing horseback riding at a West Virginia state  
97 forest or park, or a park owned or operated by any  
98 political subdivision otherwise covered by the board,  
99 the board is authorized to provide liability insurance  
100 to such vendors to insure their horseback riding  
101 activities and responsibilities. The board is authorized  
102 to enter into any necessary contract of insurance to  
103 further the intent of this subsection. The liability  
104 insurance shall be in limits of no less than one  
105 hundred thousand dollars per person, three hundred  
106 thousand dollars per occurrence and ten thousand  
107 dollars for property damage.

108 The cost of this insurance, as determined by the  
109 board, shall be paid by the horseback riding vendor  
110 and may include administrative expenses. All funds  
111 received by the board shall be deposited in the West  
112 Virginia consolidated investment pool with the inter-  
113 est income a proper credit to such liability trust fund.

114 The term "horseback riding vendor," as used in this  
115 section, means any person, corporation, organization  
116 or business entity which rents or otherwise leases  
117 horses on a regular basis during the season in which  
118 such horses are rented or leased.

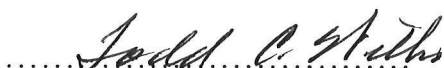
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee


  
.....  
Chairman House Committee


Originated in the Senate.

In effect from passage.

  
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Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within *is disapproved* this the *27<sup>th</sup>* day of *April*, 1989.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 4/19/89

Time 10:47