WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

ENROLLED
Committee Substitute for
SENATE BILL NO. 447
J. Menchin, et al
(By Senators Fritz and O'Brien)

PASSED April 6, 1989
In Effect 20 days from Passage
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 control over the insurance of all state property,
activities and responsibilities, including the acquisition and cancellation thereof; determination of amount and kind of coverage, including, 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 insurer shall be barred and estopped from relying upon the constitutional immunity of the state of West Virginia against claims or suits: Provided, That nothing herein shall bar the insurer of political subdivisions from relying upon any statutory immunity granted such political subdivisions 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 introduction and employment of sound and accepted methods of protection and principles of insurance. 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 coverage 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 insur-
ance claims arising on or incident to losses of and
damages to state properties, activities and responsibil-
ities 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.

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

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

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

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

Charitable or public service organization as used in
this subsection means a bona fide, not for profit, tax-exempt benevolent, educational, philanthropic, humane, patriotic, civic, religious, eleemosynary, incorporated or unincorporated association or organization or a rescue unit or other similar volunteer community service organization or association, but does not include any nonprofit association or organization, whether incorporated or not, which is organized primarily for the purposes of influencing legislation or supporting or promoting the campaign of any candidate for public office.

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

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

The term “horseback riding vendor,” as used in this section, means any person, corporation, organization or business entity which rents or otherwise leases horses on a regular basis during the season in which such horses are rented or leased.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within bill was passed by the Senate on this the 27th day of April, 1989.

[Signature]
Governor