

HB 4615

2010 APR -1 PM 4: 23

WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2010



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 4615**

(By Delegate Campbell)



Passed March 12, 2010

In Effect From Passage

# ENROLLED

2010 APR -1 PM 4: 23

COMMITTEE SUBSTITUTE

FOR

OFFICE OF THE SECRETARY OF STATE

## H. B. 4615

(BY DELEGATE CAMPBELL)

[Passed March 12, 2010; in effect from passage.]

AN ACT to amend and reenact §29-12A-16 of the Code of West Virginia, 1931, as amended, relating to authorizing political subdivisions to establish risk pools to insure their workers' compensation risks; providing that political subdivisions may not make application to the Insurance Commissioner to operate a risk pool until rules promulgated to regulate such programs have been made effective; and authorizing the Insurance Commissioner to promulgate emergency rules.

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

That §29-12A-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

### **ARTICLE 12A. GOVERNMENTAL TORT CLAIMS AND INSURANCE REFORM ACT.**

**§29-12A-16. Procurement of liability insurance and self-insurance.**

1 (a) A political subdivision may use public funds to secure  
2 insurance with respect to its potential liability and that of its  
3 employees for damages in civil actions for injury, death or  
4 loss to persons or property allegedly caused by an act or  
5 omission of the political subdivision or any of its employees,  
6 including insurance coverage procured through the State  
7 Board of Risk and Insurance Management. The insurance  
8 may be at the limits for the circumstances, and subject to the  
9 terms and conditions that are determined by the political  
10 subdivision in its discretion.

11 The insurance may be for the period that is set forth in  
12 specifications for competitive bids or, when competitive  
13 bidding is not required, for the period that is mutually agreed  
14 upon by the political subdivision and insurance company.  
15 The period does not have to be, but can be, limited to the  
16 fiscal cycle under which the political subdivision is funded  
17 and operates.

18 (b)(1) Regardless of whether a political subdivision  
19 procures a policy or policies of liability insurance pursuant to  
20 subsection (a) of this section or otherwise:

21 (A) Any political subdivision may establish and maintain  
22 a self-insurance program relative to its potential liability and  
23 that of its employees for damages in civil actions for injury,  
24 death, or loss to persons or property allegedly caused by an  
25 act or omission of the political subdivision or any of its  
26 employees; or

27 (B) Any group of two or more political subdivisions may  
28 establish and maintain a self-insurance pool relative to their  
29 collective potential liability and that of their collective  
30 employees for damages in civil actions for injury, death or  
31 loss to persons or property allegedly caused by an act or  
32 omission of the political subdivision or any of its employees.

33 (2) Beginning July 1, 2010, any group of two or more  
34 political subdivisions may, upon approval of the Insurance  
35 Commissioner, establish and maintain a self-insurance pool  
36 to insure their workers' compensation risks: *Provided*, That  
37 political subdivisions may not make application to the  
38 Insurance Commissioner to operate a risk pool until rules  
39 promulgated pursuant to subsection (g) of this section  
40 regulating such programs have been made effective.

41 (3) If it so chooses, the political subdivision or group of  
42 political subdivisions may contract with any person, any  
43 licensed West Virginia insurance agent, other political  
44 subdivision, municipal association, county association or  
45 regional council of governments for purposes of the  
46 administration of the program or pool.

47 (c) Political subdivisions that have established self-  
48 insurance programs relative to their potential liability and that  
49 of their employees, as described in paragraph (A),  
50 subdivision (1), subsection (b) of this section, may mutually  
51 agree that their self-insurance programs may be jointly  
52 administered in a specified manner.

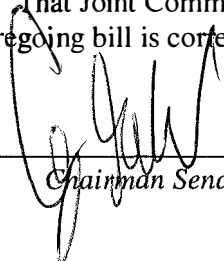
53 (d) The purchase of liability insurance, or the  
54 establishment and maintenance of a self-insurance program,  
55 by a political subdivision does not constitute a waiver of any  
56 immunity it may have pursuant to this article or any defense  
57 of the political subdivision or its employees.

58 (e) The authorization for political subdivisions to secure  
59 insurance and to establish and maintain self-insurance  
60 programs and pools, as set out in subsections (a) and (b) in  
61 this section, are in addition to any other authority to secure  
62 insurance or to establish and maintain self-insurance that is  
63 granted pursuant to this code or the Constitution of this state,  
64 and they are not in derogation of any other authorization.

65 (f) An insurance agent licensed in West Virginia is  
66 authorized to establish or write policies for a self-insurance  
67 program or pool for political subdivisions, pursuant to the  
68 provisions of this section.

69 (g) The Insurance Commissioner shall propose rules for  
70 legislative approval, pursuant to the provisions of chapter  
71 twenty-nine-a of this code, setting forth the criteria for  
72 establishing and maintaining self-insurance programs and  
73 pools for political subdivisions, and may promulgate  
74 emergency rules pursuant to the provisions of section fifteen,  
75 article three, chapter twenty-nine-a of this code.


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

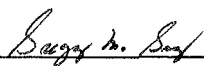
  
\_\_\_\_\_  
Chairman Senate Committee

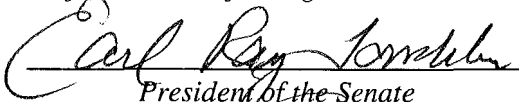
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect from passage.

  
\_\_\_\_\_  
Clerk of the Senate

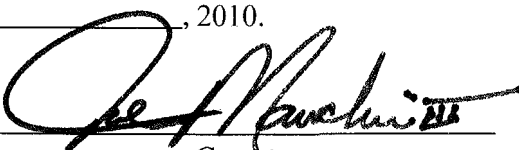
  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

2010 APR - 1 PM 4:23  
OFFICE OF THE CLERK OF THE SENATE  
STATE HOUSE

The within is approved this the 1st  
day of April, 2010.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 22 2010

Time 3:40 pm