

# Senate Bill No. 592

(By Senators Tucker, Palumbo, Kessler (Mr. President)  
and Plymale)

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[Introduced March 21, 2013;  
referred to the Committee on Banking and Insurance;  
and then to the Committee on the Judiciary.]

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A BILL to amend and reenact §33-20F-4 of the Code of West Virginia, 1931, as amended, relating to deleting obsolete provisions regarding the Physicians' Mutual Insurance Company; and providing that the company need not be organized as a nonprofit corporation if the company remains a domestic mutual insurance company owned by its policyholders.

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

That §33-20F-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 20F. PHYSICIANS' MUTUAL INSURANCE COMPANY.**

**§33-20F-4. Authorization for creation of company;  
requirements and limitations.**

1 (a) Subject to the provisions of this article, a Physicians'  
2 Mutual Insurance Company may be created as a domestic,  
3 private, nonstock ~~nonprofit~~ corporation. ~~As an incentive for~~  
4 ~~its creation, the company may be eligible for funds from the~~  
5 ~~Legislature in accordance with the provisions of section~~  
6 ~~seven of this article.~~ The company must remain for the  
7 duration of its existence a domestic mutual insurance  
8 company owned by its policyholders and may not be  
9 converted into a stock corporation ~~a for-profit corporation~~ or  
10 any other entity not owned by its policyholders. ~~The~~  
11 ~~company may not declare any dividend to its policyholders;~~  
12 ~~sell, assign or transfer substantial assets of the company; or~~  
13 ~~write coverage outside this state, except for counties~~  
14 ~~adjoining this state, until after any and all debts owed by the~~  
15 ~~company to the state have been fully paid.~~

16           (b) For the duration of its existence, the company is not  
17 and may not be considered a department, unit, agency, or  
18 instrumentality of the state for any purpose. All debts,  
19 claims, obligations, and liabilities of the company, whenever  
20 incurred, ~~shall be the~~ are debts, claims, obligations, and  
21 liabilities of the company only and not of the state or of any  
22 department, unit, agency, instrumentality, officer or  
23 employee of the state.

24           (c) The moneys of the company are not and may not be  
25 considered part of the General Revenue Fund of the state.  
26 The debts, claims, obligations, and liabilities of the company  
27 are not and may not be considered a debt of the state or a  
28 pledge of the credit of the state.

29           (d) The company is not subject to provisions of article  
30 nine-a, chapter six of this code or the provisions of article  
31 one, chapter twenty-nine-b of this code.

32           (e)(†) All premiums collected by the company are subject  
33 to the premium taxes, additional premium taxes, additional  
34 fire and casualty insurance premium taxes and surcharges

35 contained in sections fourteen, fourteen-a, fourteen-d and  
36 thirty-three, article three of this chapter. *Provided*, That while  
37 ~~the loan to the company of moneys from the West Virginia~~  
38 ~~Tobacco Settlement Medical Trust Fund pursuant to section~~  
39 ~~nine of this article remains outstanding, the commissioner~~  
40 ~~may waive the company's premium taxes, additional~~  
41 ~~premium taxes and additional fire and casualty insurance~~  
42 ~~premium taxes if payment would render the company~~  
43 ~~insolvent or otherwise financially impaired.~~

44 (2) ~~On and after July 1, 2003, any premium taxes and~~  
45 ~~additional premium taxes paid by the company and by any~~  
46 ~~insurer on its medical malpractice line pursuant to sections~~  
47 ~~fourteen and fourteen-a, article three of this chapter, shall be~~  
48 ~~temporarily applied toward replenishing the moneys~~  
49 ~~appropriated from the West Virginia Tobacco Settlement~~  
50 ~~Medical Trust Fund pursuant to subsection (c), section two,~~  
51 ~~article eleven-a, chapter four of this code pending repayment~~  
52 ~~of the loan of such moneys by the company.~~

53       ~~(3) The State Treasurer shall notify the commissioner~~  
54       ~~when the moneys appropriated from the West Virginia~~  
55       ~~Tobacco Settlement Medical Trust have been fully~~  
56       ~~replenished, at which time the commissioner shall resume~~  
57       ~~depositing premium taxes and additional premium taxes~~  
58       ~~diverted pursuant to subdivision (2) of this subsection in~~  
59       ~~accordance with the provisions of sections fourteen and~~  
60       ~~fourteen-a, article three of this chapter.~~

61       (4) Payments received by the treasurer from the company  
62       in repayment of any outstanding loan made pursuant to  
63       section nine of this article shall be deposited in the West  
64       Virginia Tobacco Settlement Medical Trust Fund and  
65       dedicated to replenishing the moneys appropriated therefrom  
66       under subsection (c), section two, article eleven-a, chapter  
67       four of this code. Once the moneys appropriated from the  
68       West Virginia Tobacco Settlement Medical Trust Fund have  
69       been fully replenished, the treasurer shall deposit any  
70       payments from the company in repayment of any outstanding  
71       loan made pursuant to section nine of this article in said fund  
72       and transfer a like amount from said fund to the

73 ~~commissioner for disbursement in accordance with the~~  
74 ~~provisions of sections fourteen and fourteen-a, article three~~  
75 ~~of this chapter.~~

76 (5) ~~Notwithstanding any other provision of this code to~~  
77 ~~the contrary, on and after the effective date of the amendment~~  
78 ~~and reenactment of this section during the regular session of~~  
79 ~~the Legislature in 2006, all moneys otherwise required by~~  
80 ~~this section to be deposited in the West Virginia Tobacco~~  
81 ~~Settlement Medical Trust Fund and dedicated to replenishing~~  
82 ~~the moneys transferred therefrom under subsection (c),~~  
83 ~~section two, article eleven-a, chapter four of this code shall~~  
84 ~~instead be paid into the Revenue Shortfall Reserve Fund=~~  
85 ~~Part B created in section twenty, article two, chapter eleven=b~~  
86 ~~of this code.~~

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(NOTE: The purpose of this bill is to delete obsolete provisions in the West Virginia Code regarding the Physicians' Mutual Insurance Company, and to provide that the company need not be organized as a nonprofit corporation provided that the company remain a domestic mutual insurance company owned by its policyholders.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)