

Senate Bill No. 88

(By Senators Laird and Plymale)

[Introduced January 8, 2014; referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.]

A BILL to amend and reenact §33-22-2 of the Code of West Virginia, 1931, as amended, relating to farmers' mutual fire insurance companies; providing for verification of debris removal prior to the payment of proceeds; imposing a statutory lien on fire insurance proceeds in the event of a total loss to real property; requiring farmers' mutual fire insurance companies to notify insured and municipality or county after determining that a claim involves a total loss to real property; requiring a municipality or county to perfect the lien within thirty days of notice of a total-loss determination; providing for release of the lien upon satisfaction of certain conditions; clarifying obligations and liability; and deleting a reference to a repealed section of the code.

Be it enacted by the Legislature of West Virginia:

That §33-22-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 22. FARMERS' MUTUAL FIRE INSURANCE COMPANIES.

§33-22-2. Applicability of other provisions.

1 Each company to the same extent that provisions are
2 applicable to domestic mutual insurers shall be governed by
3 and be subject to the following provisions of this chapter, but
4 only to the extent ~~these provisions~~ they are not inconsistent
5 with ~~the provisions~~ of this article: Article one (definitions);
6 article two (Insurance Commissioner); article four (general
7 provisions), except that section sixteen of said article may not
8 be applicable thereto; article seven (assets and liabilities);
9 article eight-a (use of clearing corporations and federal
10 reserve book-entry system); article ten (rehabilitation and
11 liquidation), except that under ~~the provisions~~ of section
12 thirty-two of said article assessments may not be levied
13 against any former member of a farmers' mutual fire

14 insurance company who is no longer a member of the
15 company at the time the order to show cause was issued;
16 article eleven (unfair trade practices); article twelve
17 (insurance producers and solicitors), except that the agent's
18 license fee shall be \$5; section six-a, article seventeen (notice
19 of noncoverage of flood damages and the availability of flood
20 insurance); section nine-b, article seventeen (claims for total
21 loss and debris removal proceeds); article twenty-six (West
22 Virginia Insurance Guaranty Association Act); article
23 twenty-seven (insurance holding company systems); article
24 thirty (mine subsidence insurance), except that under ~~the~~
25 ~~provisions of~~ section six of said article a farmers' mutual
26 insurance company shall have the option of offering mine
27 subsidence coverage to all of its policyholders, but may not
28 be required to do so; article thirty-three (annual audited
29 financial report); article thirty-four (administrative
30 supervision); ~~article thirty-four-a (standards and~~
31 ~~commissioner's authority for companies considered to be in~~
32 ~~hazardous financial condition)~~; article thirty-five (criminal

33 sanctions for failure to report impairment); article thirty-six
34 (business transacted with Producer-Controlled Property-
35 Casualty Insurer Act); article thirty-seven (managing general
36 agents); article thirty-nine (disclosure of material
37 transactions); article forty (risk-based capital for insurers);
38 and article forty-one (Insurance Fraud Prevention Act).

(NOTE: The purpose of this bill is to make the statutory lien requirement on insurance proceeds for total loss to real property in favor of a municipality for the cleanup of the property applicable to farmers' mutual fire insurance companies. The bill provides for verification of debris removal prior to the payment of proceeds. The bill requires farmers' mutual fire insurance companies to notify insured and municipality or county after determining that a claim involves a total loss to real property. The bill requires a municipality or county to perfect the lien within thirty days of notice of a total-loss determination. The bill provides for release of the lien upon satisfaction of certain conditions. The bill clarifies obligations and liability and deletes a reference to a repealed section of the code.

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