

**WEST VIRGINIA LEGISLATURE**

REGULAR SESSION, 1990



**ENROLLED**

*Com. Sub. For*  
**HOUSE BILL No. 4501**

(By ~~MR.~~ *Del. Susman and Ashley* )  
*[By Request]*



Passed *March 10,* ..... 1990

In Effect *Ninty Days From* ..... Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 4501**

(By DELEGATES SUSMAN AND ASHLEY)  
[By Request]

[Passed March 10, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and six, article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend article twelve by adding thereto two new sections, designated sections eight-a and twenty-nine, all relating to insurance; agents; brokers; solicitors; excess line; the discontinuance of the broker's license and solicitor's license classification; expanding representation of the board of insurance agent education; fees charged to agents for the issuance of certain documents; the licensing of nonresident property and casualty agents; and the requirements that all agents, brokers, solicitors, excess line brokers and service representatives file and maintain their current mailing address with the insurance commissioner.

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

That sections two and six, article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto two new sections, designated sections eight-a and twenty-nine, all to read as follows:

ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS  
LINE.

§33-12-2. Qualifications.

1 For the protection of the people of West Virginia, the  
2 commissioner shall not issue, renew or permit to exist  
3 any agent's, broker's or solicitor's license except to an  
4 individual who:

5 (a) Is eighteen years of age or more.

6 (b) Is a resident of West Virginia, except that a  
7 broker's license shall be issued only to nonresidents, and  
8 except for nonresident life and accident and sickness  
9 agents as provided in section eight of this article.

10 Effective the first day of June, one thousand nine  
11 hundred ninety-one, brokers licenses shall cease to exist.  
12 Licensing of nonresidents for property casualty will be  
13 made pursuant to section eight (a) of this article.

14 (c) Is, in the case of an agent applicant, appointed as  
15 agent by a licensed insurer for the kind or kinds of  
16 insurance for which application is made, subject to  
17 issuance of license, or, in the case of a solicitor applicant,  
18 appointed as solicitor by a licensed resident agent,  
19 subject to issuance of license, except that on or after the  
20 first day of June, one thousand nine hundred ninety, no  
21 solicitor license will be issued which is not a renewal of  
22 an existing license.

23 (d) Does not intend to use the license principally for  
24 the purpose, in the case of life or accident and sickness  
25 insurance, of procuring insurance on himself, members  
26 of his family or his relatives; or, as to insurance other  
27 than life and accident and sickness, upon his property  
28 or insurable interests of those of his family or his  
29 relatives or those of his employer, employees or firm, or  
30 corporation in which he owns a substantial interest, or  
31 of the employees of such firm or corporation, or on  
32 property or insurable interests for which the applicant  
33 or any such relative, employer, firm or corporation is the  
34 trustee, bailee or receiver. For the purposes of this  
35 provision, a vendor's or lender's interest in property sold  
36 or being sold under contract or which is the security for

37 any loan, shall not be deemed to constitute property or  
38 an insurable interest of such vendor or lender.

39 (e) Satisfies the commissioner that he is trustworthy  
40 and competent. The commissioner may test the compet-  
41 ency of an applicant for a license under this section by  
42 examination. Each examinee shall pay a twenty-five  
43 dollar examination fee for each examination to the  
44 commissioner who shall deposit said examination fee  
45 into the state treasury for the benefit of the state fund,  
46 general revenue. The commissioner may, at his discre-  
47 tion, designate an independent testing service to prepare  
48 and administer such examination subject to direction  
49 and approval by the commissioner, and examination fees  
50 charged by such service shall be paid by the applicant.

51 (f) For new agents first licensed on or after the first  
52 day of July, one thousand nine hundred eighty-nine,  
53 completes a program of insurance education as estab-  
54 lished below.

55 There is hereby created the board of insurance agent  
56 education. The board of insurance agent education shall  
57 consist of the commissioner of insurance and six  
58 members appointed by the commissioner. The members  
59 appointed by the commissioner shall be two licensed  
60 property and casualty insurance agents, one licensed life  
61 insurance agent, one licensed health and accident  
62 insurance agent, one representative of a domestic  
63 insurance company, and one representative of a foreign  
64 insurance company: *Provided*, That no board shall be  
65 appointed that fails to include companies or agents for  
66 companies representing at least two thirds of the net  
67 written insurance premiums in the state. Each member  
68 shall serve a term of three years and shall be eligible  
69 for reappointment.

70 (1) The board of insurance agent education shall  
71 establish the criteria for a program of insurance  
72 education and submit the proposal for the approval of  
73 the commissioner on or before the thirty-first day of  
74 December of each year.

75 (2) The commissioner and the board, under standards  
76 established by the board, may approve any course or

77 program of instruction developed or sponsored by an  
78 authorized insurer, accredited college or university,  
79 agents association, insurance trade association, or  
80 independent program of instruction that presents the  
81 criteria and the number of hours that the board and  
82 commissioner determine appropriate for the purpose of  
83 this article: *Provided*, That any person who was a  
84 licensed agent, broker or solicitor on the first day of  
85 July, one thousand nine hundred eighty-nine, and who  
86 subsequently terminates the contractual relationship  
87 with the insurer or employing agent, may have that  
88 license renewed within five years of such termination  
89 without complying with the competency testing provi-  
90 sions of subdivision (e) or the education provisions of  
91 subdivision (f) of this section.

**§33-12-6. Fees.**

1 The fee for an agent's license shall be twenty-five  
2 dollars as provided in section thirteen, article three of  
3 this chapter, the fee for a solicitor's license shall be  
4 twenty-five dollars, and the fee for a broker's license  
5 shall be twenty-five dollars. The commissioner shall  
6 receive the following fees from insurance agents,  
7 brokers, solicitors and excess line brokers: For letters  
8 of certification, five dollars; for letters of clearance, ten  
9 dollars; for duplicate license, five dollars. All fees and  
10 moneys so collected shall be used for the purposes set  
11 forth in section thirteen, article three of this chapter.

**§33-12-8a. Licensing of nonresident property casualty agents.**

1 (a) Nonresidents otherwise complying with the provi-  
2 sions of this chapter may be licensed as a property  
3 casualty agent but all policies issued as a result of  
4 solicitation on the part of such nonresident in this state  
5 shall be reported, placed, countersigned, and consum-  
6 mated by and through a duly licensed resident agent of  
7 the issuing insurer.

8 (b) An individual otherwise complying with the  
9 provisions of this chapter, who is a resident of another  
10 state and who is a licensed property casualty agent of  
11 such state, may be licensed as a nonresident property

12 casualty agent in this state, if the state of residence of  
13 such nonresident has established, by law or regulation  
14 like requirements for the licensing of a resident of this  
15 state as a nonresident property casualty agent. All  
16 policies issued as a result of solicitation by such  
17 nonresident property casualty agents shall be reported,  
18 placed, countersigned and consummated by and through  
19 a duly licensed resident agent of the issuing insurer.

**§33-12-29. Change of Address.**

1 When applying for a license to act as an agent, broker,  
2 solicitor, excess line broker, or service representative,  
3 each applicant shall report his or her mailing address  
4 to the commissioner. An agent, broker, solicitor, excess  
5 line broker, or service representative shall notify the  
6 commissioner of any change in his or her mailing  
7 address within thirty days of such change. The commis-  
8 sioner shall maintain the mailing address of each agent,  
9 broker, solicitor, excess line broker, and service  
10 representative on file.

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

*Frederick J. Baker*  
Chairman Senate Committee

*Bernard V. Kelly*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Harriet Edmonds*  
Clerk of the Senate

*Donald L. Kopp*  
Clerk of the House of Delegates

*Keith Sandette*  
President of the Senate

*Robert C. Cole*  
Speaker of the House of Delegates

The within is approved this the 28th day of March, 1990.

*Robert C. Caverton*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/90

Time 3:14pm



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OFFICE OF THE  
SHERIFF