WEST VIRGINIA CODE: §33-12-23

§33-12-23. Payment of commissions.

(a) The entire commission payable by any insurer licensed to transact insurance in this state on any insurance policy shall be paid directly to the licensed individual insurance producer who countersigns the policy. The countersigning individual insurance producer may not pay any part of the commission to any person other than a licensed individual insurance producer: Provided, That the portion of such commission retained by the countersigning individual insurance producer may not be less than ten percent of the gross policy premium or fifty percent of the commission payable by the insurer as provided herein, whichever is the lesser amount. The term "commission" as used herein shall include engineering fees, service fees or any other compensation incident to the issuance of a policy payable by or to any insurer or individual insurance producer: Provided, however, That the provisions and requirements of this subsection shall no longer be required for any insurance contract executed, issued or delivered after December 31, 2004.

(b) It shall be unlawful for any insurer or individual insurance producer to pay, and any person to accept, directly or indirectly, any commission except as provided in this section: Provided, That any licensed individual insurance producer may pay his or her commissions, or direct that his or her commissions be paid, to a business entity licensed as an insurance producer if:

(1) The business entity is engaged, through its licensed individual insurance producers, in conducting an insurance agency business with respect to the general public;

(2) If a partnership licensed as an insurance agency producer, each partner satisfies the commissioner that he or she meets the licensing qualifications as set forth in section six of this article;

(3) If a corporation licensed as an insurance agency producer, each officer, employee or any one or more stockholders owning, directly or indirectly, the controlling interest in the corporation satisfies the commissioner that he or she meets the licensing qualifications as set forth in section six of this article. The requirements set forth in this subdivision do not apply to clerical employees or other employees not directly engaged in the selling or servicing of insurance;

(4) If a limited liability company licensed as an insurance agency producer, each officer, employee or any one or more members owning, directly or indirectly, the controlling interest in a limited liability company satisfies the commissioner that he or she meets the licensing qualifications as set forth in section six of this article. The requirements set forth in this subdivision do not apply to clerical employees or other employees not directly engaged in the selling or servicing of insurance; and

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(5) If any other business entity licensed as an insurance agency producer, approval is granted by the commissioner.

(c) Subsections (a) and (b) of this section do not apply to reinsurance nor to limited line credit insurance, limited lines insurance, any contract of insurance covering the rolling stock of any railroad or covering any vessel, aircraft or motor carrier used in interstate or foreign commerce, any liability or other risks incident to the ownership, maintenance or operation thereof, any contract of insurance covering any property in interstate or foreign commerce or any liability or risks incident thereto.

(d) An insurance company or insurance producer may not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this article and is not so licensed.

(e) A person may not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under this article and is not so licensed.

(f) Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed under this article at the time of the sale, solicitation or negotiation and was so licensed at that time.

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