WEST VIRGINIA CODE: §33-12-37

§33-12-37. Authorization for criminal history record check; fees; rules.

(a) In furtherance of the national goal of promoting uniformity and reciprocity among the states with regard to producer licensing, this section sets forth the requirements to obtain access to the Federal Bureau of Investigation Criminal Justice Information Services Division criminal history record information and to secure information or reports from the Federal Bureau of Investigation Criminal Justice Information Services Division. The scope of this section is to set forth the applicability of the criminal history record check to applicants for a home state insurance producer license.

(b) As used in this section, the following terms have the meanings ascribed in this subsection, unless a different meaning is clearly required by the context:

(1)"Applicant" means a natural person applying for:

(A) An initial home state license as an insurance producer;

(B) An additional line of authority under an existing home state insurance producer license where a criminal history record check has not been obtained; or

(C) A resident insurance producer license under change of home state provisions.

"Applicant" does not mean a person applying for renewal or continuation of a home state insurance producer license or a nonresident insurance producer license.

(2) "Fingerprint" means an impression of the lines on the finger taken for the purpose of identification. The impression may be obtained electronically or in ink converted to an electronic format.

(c) In order to make a determination of license eligibility, the commissioner is authorized to require fingerprints of applicants and to submit the fingerprints and the fee required to perform the criminal history record checks to the West Virginia State Police and to the Federal Bureau of Investigation for the state and national criminal history record checks.

(d) The commissioner shall require a criminal history record check on each applicant in accordance with this section. The commissioner shall require each applicant to submit a full set of fingerprints, including a scanned file from a hard copy fingerprint, in order for the commissioner to obtain and receive national criminal history records from the Federal Bureau of Investigation Criminal Justice Information Services Division.

(e) The commissioner shall collect a fee from each applicant in an amount established by rule. The amount of the fee must be sufficient to cover:

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(1) The cost of the collection and transmittal of fingerprints by persons, including local law enforcement agencies that are approved by the commissioner to capture fingerprints, to the West Virginia State Police and the Federal Bureau of Investigation; and

(2) The cost of any amounts charged by the State Police and the Federal Bureau of Investigation to perform the criminal history record checks.

(f) The commissioner may contract for the collection and transmission of fingerprints authorized under this section and may order that the fee for collecting and transmitting fingerprints be payable directly by the applicant to the contractor.

(g) The commissioner is authorized to receive criminal history record information directly from the Federal Bureau of Investigation, in lieu of via transmission of the information from the Federal Bureau of Investigation to the West Virginia State Police.

(h) The commissioner shall treat and maintain an applicant's fingerprints and any criminal history record information obtained under this section as confidential and shall apply security measures consistent with the Federal Bureau of Investigation Criminal Justice Information Services Division standards for the electronic storage of fingerprints and necessary identifying information. The commissioner shall limit the use of records solely to the purposes authorized in this section. The fingerprints and the criminal history record information in the custody of the commissioner are not subject to subpoena, other than one issued in a criminal action or investigation; are confidential by law and privileged; and are not subject to discovery or admissible in evidence in any private civil action.

(i) The commissioner shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code as are necessary for the administration of this section, including rules governing the issuance of provisional producer licences pending receipt of the criminal background check.

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