WEST VIRGINIA CODE: §33-12C-4

§33-12C-4. Placement of insurance business.

(a) An insurer shall not engage in the transaction of insurance unless authorized by a license in force pursuant to the laws of this state, or exempted by this article or otherwise exempted by the insurance laws of this state.

(b) A person shall not engage in a transaction of insurance or shall in this state directly or indirectly act as agent for, or otherwise represent or aid on behalf of another, a nonadmitted insurer in the solicitation, negotiation, procurement or effectuation of insurance, or renewals thereof, or forwarding of applications, or delivery of policies or contracts or inspection of risks, or fixing of rates, or investigation or adjustment of claims or losses, or collection or forwarding of premiums, or in any other manner represent or assist the insurer in the transaction of insurance.

(c) A person who represents or aids a nonadmitted insurer in violation of this section shall be subject to the penalties set forth in section eighteen of this article. No insurance contract entered into in violation of this section shall preclude the insured from enforcing his rights under the contract in accordance with the terms and provisions of the contract of insurance and the laws of this state, to the same degree those rights would have been enforceable had the contract been lawfully procured.

(d) If the nonadmitted insurer fails to pay a claim or loss within the provisions of the insurance contract and the laws of this state, a person who assisted or in any manner aided directly or indirectly in the procurement of the insurance contract, shall be liable to the insured for the full amount under the provisions of the insurance contract.

(e) This section shall not apply to a person, properly licensed as an agent in this state who, for a fee and pursuant to a written agreement, is engaged solely to offer to the insured advice, counsel or opinion, or service with respect to the benefits, advantages or disadvantages promised under any proposed or in-force policy of insurance if the person does not, directly or indirectly, participate in the solicitation, negotiation or procurement of insurance on behalf of the insured;

(f) The insurance must be procured only through an individual licensed surplus lines licensee;

(g) This section shall not apply to a person acting in material compliance with the insurance laws of this state in the placement of the types of insurance identified in subdivisions (1), (2), (3) and (4) below:

(1) Surplus lines insurance as provided in section five of this article. For the purposes of this subsection, a licensee shall be deemed to be in material compliance with the insurance laws

WV Legislature

of this state, unless the licensee committed a violation of section five of this article that proximately caused loss to the insured;

(2) Transactions for which a license to do business is not required of an insurer under the insurance laws of this state;

(3) Reinsurance provided that, unless the commissioner waives the requirements of this subsection:

(A) The assuming insurer is authorized to do an insurance or reinsurance business by its domiciliary jurisdiction and is authorized to write the type of reinsurance in its domiciliary jurisdiction; and

(B) The assuming insurer satisfies all legal requirements for such reinsurance in the state of domicile of the ceding insurer;

(4) The property and operation of railroads or aircraft engaged in interstate or foreign commerce, wet marine and transportation insurance;

(5) Transactions subsequent to issuance of a policy not covering properties, risks or exposures located, or to be performed in this state at the time of issuance, and lawfully solicited, written or delivered outside this state.

WV Legislature