WEST VIRGINIA CODE: §33-36-2

§33-36-2. Definitions.

As used in this article:

(a) "Accredited state" means a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the national association of insurance commissioners.

(b) "Control" or "controlled" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person or controls or appoints a majority of the board of directors, voting members or similar governing body of any other person. This presumption may be rebutted by a showing made in the manner provided by subsection (l), section four, article twenty-seven of this chapter that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(c) "Controlled insurer" means a licensed insurer which is controlled, directly or indirectly, by a producer.

(d) "Controlling producer" means a producer who, directly or indirectly, controls an insurer.

(e) "Licensed insurer" or "insurer" means any person, firm, association or corporation duly licensed to transact a property or casualty insurance business, or both property and casualty insurance, in this state: Provided, That the following are not licensed insurers for the purposes of this article:

(1) All residual market pools and joint underwriting authorities or associations; and

(2) All captive insurance companies as defined in article thirty-one of this chapter: Provided, That a captive insurance company organized as a risk retention group shall be considered a licensed insurer for the purposes of this article.

(f) "Producer" means an insurance broker or brokers or any other person, firm, association or corporation, when, for any compensation, commission or other thing of value, the person, firm, association or corporation acts or aids in any manner in soliciting, negotiating or

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procuring the making of any insurance contract on behalf of an insured other than the person, firm, association or corporation: Provided, That the designation of any individual or entity as a producer does not expand upon or provide for activities beyond those permitted by article twelve of this chapter.

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