

# WEST VIRGINIA CODE: §33-44-3

## §33-44-3. Definitions.

- (a) "Administrator" or "third-party administrator" means, as used in this article unless otherwise indicated, a person who for residents of this state, or for residents of another jurisdiction from a place of business in this state, performs administrative functions including claims administration or payment, marketing, premium accounting, premium billing, coverage verification, underwriting authority or certificate issuance in regard to insurance.
- (b) "Assist" means to aid, counsel, represent, opine, administer or, in any capacity, to help another.
- (c) "Commissioner" means the Insurance Commissioner for the State of West Virginia.
- (d) "Effectuating" means to bring about; to effect.
- (e) "Foreign decree" means any decree or order of a court located in a reciprocal state or other state including a court of the United States located therein, against any insurer incorporated or authorized to do business in this state or against any unauthorized insurer with its principal place of business located in this state.
- (f) "Insurance" is a contract whereby one undertakes to indemnify another or to pay a specified amount upon determinable contingencies.
- (g) "Insured" means, as used in this article unless otherwise indicated, any individual, member, named insured, beneficiary, subscriber or group who has obtained insurance from an unauthorized insurer or who is insured under a contract of insurance obtained from an unauthorized insurer.
- (h) "Insurer" means, as used in this article unless otherwise indicated, any person engaged in the transaction of insurance.
- (i) "Negotiation" means, as used in this article unless otherwise indicated, the deliberation, discussion or conference upon the terms of a proposed agreement; it is that which passes between parties or their agents in the course of or incident to the making of a contract; to conduct communications or conferences with a view to reaching an agreement.
- (j) "Person" means, as used in this article unless otherwise indicated, any natural person or entity, including, but not limited to, individuals, partnerships, associations, bona fide associations, trusts, trustees, companies, insurers, unauthorized insurers, organizations, societies, reciprocals, syndicates, administrators, third-party administrators, agents, producers, advertisers, customer service representatives, promoters, officers, directors, lawyers, incorporators or any other legal entity.

(k) "Principal place of business" means the single state in which the policy for the direction, control and coordination of the operations of the insurer as a whole are primarily exercised, with consideration being given to, but not limited to:

(1) The state in which the primary executive and administrative headquarters of the entity is located;

(2) The state in which the principal office of the chief executive officer of the entity is located;

(3) The state in which the board of directors (or similar governing body) of the entity conducts the majority of its meetings;

(4) The state in which the executive or management committee of the board of directors (or similar governing body) of the entity conducts the majority of its meetings; and

(5) The state from which the management of the overall operations of the entity is directed.

(l) "Procure" means to cause a thing to be done, to instigate, contrive, bring about, effect or cause; to persuade, induce or prevail upon; it is the act of obtaining, attainment or acquisition.

(m) "Qualified party" means a state regulatory agency acting in its capacity to enforce the insurance laws of its state.

(n) "Reciprocal state" means any state or territory of the United States the laws of which contain procedures substantially similar to those specified in this section for the enforcement of decrees or orders issued by courts located in the states or territories of the United States, against any insurer incorporated or authorized to do business in such state or territory or any unauthorized insurer with its principal place of business in such state or territory.

(o) "Solicitation" and "solicit" mean attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company, including without limitation, providing rate comparisons of various insurers based on information provided by the person.

(p) "Transaction of insurance" means that for purposes of this article, any of the following acts in this state effected by mail or otherwise is considered to constitute the transaction of an insurance business in or from this state:

(1) The making of or proposing to make an insurance contract;

(2) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety;

- (3) The taking or receiving of an application for insurance;
  - (4) The receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration required for obtaining or renewing insurance;
  - (5) The issuance or delivery in this state of certificates or contracts of insurance to residents of this state or to persons authorized to do business in this state;
  - (6) The solicitation, negotiation, procurement or effectuation of insurance or renewals thereof;
  - (7) The dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, the fixing of rates or investigation or adjustment of claims or losses or the transaction of matters subsequent to effectuation of the contract and arising out of it, or any other manner of representing or assisting a person or insurer in the transaction of insurance with respect to any risk or exposure located or to be performed in this state;
  - (8) The transaction of any kind of insurance business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance;
  - (9) The offering of insurance or the transacting of insurance business; or
  - (10) Offering an agreement or contract which purports to alter, amend or void coverage of an insurance contract.
- (q) "Unauthorized insurer" means a person or insurer engaged in the transaction of insurance without a license in force pursuant to the laws of this state unless exempted by the insurance laws of this state, or any person assisting an unauthorized insurer.