WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1949

ENROLLED

HOUSE BILL No. 260

(By Mr. Trent)

PASSED March 12, 1949

In Effect From Passage
ENROLLED

House Bill No. 260

(By Mr. Trent, by request)

[Passed March 12, 1949; in effect from passage.]

AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article seven-a, relating to excess line brokers and licensing thereof.

Be it enacted by the Legislature of West Virginia:

That chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted by adding thereto a new article, to be designated article seven-a, to read as follows:

Section 1. Licensing of Excess Line Brokers.—The insurance commissioner may issue an excess line broker's license to any person who is domiciled or maintains an office in this state and is licensed as an insurance agent under article seven, section one of this chapter, or as a
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6 nonresident insurance broker under article seven, section
7 five of this chapter, authorizing such licensee to procure,
8 subject to the restrictions herein provided, policies of in-
9 surance against loss or damage to property or person from
10 any cause, from insurers which are not authorized to
11 transact business in this state. Such license may be sus-
12 pended or revoked by the insurance commissioner when-
13 ever, in his judgment, such suspension or revocation will
14 best promote the interests of the people of this state.

Sec. 2. Before any such license shall be issued by the
2 commissioner, and before each renewal thereof, there
3 shall be filed in his office a written application by the per-
4 son desiring such license, in such form, or forms, and
5 supplements thereto, and containing such information as
6 the commissioner may prescribe.

Sec. 3. At the time of application for every such license
2 and for every renewal thereof, there shall be paid to the
3 commissioner by each applicant, a fee of fifty dollars.

Sec. 4. Every license issued pursuant to this section
2 shall be for a term expiring on the thirty-first day of
3 March next following the date of its issuance and may
be renewed for the ensuing license year, upon the filing of an application in conformity with subsection two and paying the fee prescribed by subsection three.

Sec. 5. When any policy of insurance is procured under the authority of such license, there shall be executed by the licensee an affidavit showing that such licensee was unable, after diligent effort, to procure from any authorized insurer or insurers the full amount of insurance required to protect the property owned or controlled by an insured and further showing that the amount of insurance procured from an unauthorized insurer or insurers is only the excess over the amount so procurable from authorized insurers. Such affidavit shall be filed by such licensee with the commissioner within thirty days after such policies have been procured.

Sec. 6. The licensee shall keep a complete and separate record of all policies procured from unauthorized insurers under such license. Such records shall be open to the examination by the commissioner, as provided in article seven, section nine of this chapter, at all reasonable times and shall show: (a) the exact amount of insurance per-
mitted under this section which has been procured for
each insured; (b) the gross premiums charged by the in-
surers for the insurance permitted under this section;
(c) the amount of premiums permitted by this section
which were returned to each insured; (d) the name of
the insurer or insurers which issued each of said policies;
(e) the effective dates of such policies; (f) the terms for
which they were issued; and (g) the location of the risk
within this state.

Sec. 7. No such license and no renewal thereof shall be
granted unless the applicant shall have filed with the com-
mmissioner a bond, payable to the state of West Virginia, in
the penal sum of two thousand dollars, approved by the at-
torney general as to form and by the commissioner as to
sufficiency of the security thereof. Such bond shall be
conditioned that the said licensee will faithfully comply
with all the requirements of this section.

Sec. 8. Every person licensed, pursuant to the provisions
of this article, shall make a return annually, under oath,
on or before the first day of March, to the insurance com-
missioner of the gross amount of premiums charged the
insureds by the insurers for insurance procured by such
licensee, pursuant to such license during the previous
calendar year; and upon receiving from the commissioner
a certificate of the acceptance of such return and of the
amount of tax due thereon, the person making such re-
turn shall pay such tax to the insurance commissioner
annually on or before the first day of March. The annual
tax required to be paid, under the provisions of this sec-
tion, shall be a sum equal to two percent of the gross
premiums received on the gross business procured by such
licensee on risks located in this state and obtained pur-
suant to the provisions of this article, including any so-
called dividends on participating insurance policies ap-
plied in reduction of premiums, less premiums returnable
for cancellation. All such taxes paid to the commissioner
shall be paid by him into the state treasury for the benefit
of the state fund.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House of Delegates

Takes effect after [signature]

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within [signature] this the 18th day of MARCH, 1949.

[Signature]
Governor

Filed in the Office of the Secretary of State of West Virginia on MAR 18, 1949.

D. Pitt O'Brien,
Secretary of State