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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949



# ENROLLED

HOUSE BILL No. 260

(By Mr. Trent)



PASSED March 12 1949

In Effect From Passage



260

**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

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

4 be renewed for the ensuing license year, upon the filing  
5 of an application in conformity with subsection two and  
6 paying the fee prescribed by subsection three.

Sec. 5. When any policy of insurance is procured under  
2 the authority of such license, there shall be executed by  
3 the licensee an affidavit showing that such licensee was  
4 unable, after diligent effort, to procure from any author-  
5 ized insurer or insurers the full amount of insurance re-  
6 quired to protect the property owned or controlled by an  
7 insured and further showing that the amount of insurance  
8 procured from an unauthorized insurer or insurers is only  
9 the excess over the amount so procurable from authorized  
10 insurers. Such affidavit shall be filed by such licensee  
11 with the commissioner within thirty days after such  
12 policies have been procured.

Sec. 6. The licensee shall keep a complete and separate  
2 record of all policies procured from unauthorized insurers  
3 under such license. Such records shall be open to the  
4 examination by the commissioner, as provided in article  
5 seven, section nine of this chapter, at all reasonable times  
6 and shall show: (a) the exact amount of insurance per-

7 mitted under this section which has been procured for  
8 each insured; (b) the gross premiums charged by the in-  
9 surers for the insurance permitted under this section;  
10 (c) the amount of premiums permitted by this section  
11 which were returned to each insured; (d) the name of  
12 the insurer or insurers which issued each of said policies;  
13 (e) the effective dates of such policies; (f) the terms for  
14 which they were issued; and (g) the location of the risk  
15 within this state.

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

Sec. 8. Every person licensed, pursuant to the provisions  
2 of this article, shall make a return annually, under oath,  
3 on or before the first day of March, to the insurance com-  
4 missioner of the gross amount of premiums charged the

5 insureds by the insurers for insurance procured by such  
6 licensee, pursuant to such license during the previous  
7 calendar year; and upon receiving from the commissioner  
8 a certificate of the acceptance of such return and of the  
9 amount of tax due thereon, the person making such re-  
10 turn shall pay such tax to the insurance commissioner  
11 annually on or before the first day of March. The annual  
12 tax required to be paid, under the provisions of this sec-  
13 tion, shall be a sum equal to two percent of the gross  
14 premiums received on the gross business procured by such  
15 licensee on risks located in this state and obtained pur-  
16 suant to the provisions of this article, including any so-  
17 called dividends on participating insurance policies ap-  
18 plied in reduction of premiums, less premiums returnable  
19 for cancellation. All such taxes paid to the commissioner  
20 shall be paid by him into the state treasury for the benefit  
21 of the state fund.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. McGinnis  
Chairman Senate Committee

R. R. Rouse  
Chairman House Committee

Originated in the House of Delegates

Takes effect From passage.

Howard Meyers  
Clerk of the Senate

J. A. Shiff  
Clerk of the House of Delegates

W. H. Shuster  
President of the Senate

W. E. Harrison  
Speaker House of Delegates

The within APPROVED this the 18TH

day of MARCH, 1949.

Okuy L. Patterson  
Governor

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

D. PITT O'BRIEN,  
SECRETARY OF STATE