AN ACT to amend and reenact sections two and six, article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend article twelve by adding thereto two new sections, designated sections eight-a and twenty-nine, all relating to insurance; agents; brokers; solicitors; excess line; the discontinuance of the broker's license and solicitor's license classification; expanding representation of the board of insurance agent education; fees charged to agents for the issuance of certain documents; the licensing of nonresident property and casualty agents; and the requirements that all agents, brokers, solicitors, excess line brokers and service representatives file and maintain their current mailing address with the insurance commissioner.

Be it enacted by the Legislature of West Virginia:

That sections two and six, article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto two new sections, designated sections eight-a and twenty-nine, all to read as follows:
ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS LINE.

§33-12-2. Qualifications.

For the protection of the people of West Virginia, the commissioner shall not issue, renew or permit to exist any agent's, broker's or solicitor's license except to an individual who:

(a) Is eighteen years of age or more.

(b) Is a resident of West Virginia, except that a broker's license shall be issued only to nonresidents, and except for nonresident life and accident and sickness agents as provided in section eight of this article.

Effective the first day of June, one thousand nine hundred ninety-one, brokers licenses shall cease to exist. Licensing of nonresidents for property casualty will be made pursuant to section eight (a) of this article.

(c) Is, in the case of an agent applicant, appointed as agent by a licensed insurer for the kind or kinds of insurance for which application is made, subject to issuance of license, or, in the case of a solicitor applicant, appointed as solicitor by a licensed resident agent, subject to issuance of license, except that on or after the first day of June, one thousand nine hundred ninety, no solicitor license will be issued which is not a renewal of an existing license.

(d) Does not intend to use the license principally for the purpose, in the case of life or accident and sickness insurance, of procuring insurance on himself, members of his family or his relatives; or, as to insurance other than life and accident and sickness, upon his property or insurable interests of those of his family or his relatives or those of his employer, employees or firm, or corporation in which he owns a substantial interest, or of the employees of such firm or corporation, or on property or insurable interests for which the applicant or any such relative, employer, firm or corporation is the trustee, bailee or receiver. For the purposes of this provision, a vendor's or lender's interest in property sold or being sold under contract or which is the security for
any loan, shall not be deemed to constitute property or an insurable interest of such vendor or lender.

(e) Satisfies the commissioner that he is trustworthy and competent. The commissioner may test the competency of an applicant for a license under this section by examination. Each examinee shall pay a twenty-five dollar examination fee for each examination to the commissioner who shall deposit said examination fee into the state treasury for the benefit of the state fund, general revenue. The commissioner may, at his discretion, designate an independent testing service to prepare and administer such examination subject to direction and approval by the commissioner, and examination fees charged by such service shall be paid by the applicant.

(f) For new agents first licensed on or after the first day of July, one thousand nine hundred eighty-nine, completes a program of insurance education as established below.

There is hereby created the board of insurance agent education. The board of insurance agent education shall consist of the commissioner of insurance and six members appointed by the commissioner. The members appointed by the commissioner shall be two licensed property and casualty insurance agents, one licensed life insurance agent, one licensed health and accident insurance agent, one representative of a domestic insurance company, and one representative of a foreign insurance company: Provided, That no board shall be appointed that fails to include companies or agents for companies representing at least two thirds of the net written insurance premiums in the state. Each member shall serve a term of three years and shall be eligible for reappointment.

(1) The board of insurance agent education shall establish the criteria for a program of insurance education and submit the proposal for the approval of the commissioner on or before the thirty-first day of December of each year.

(2) The commissioner and the board, under standards established by the board, may approve any course or
program of instruction developed or sponsored by an authorized insurer, accredited college or university, agents association, insurance trade association, or independent program of instruction that presents the criteria and the number of hours that the board and commissioner determine appropriate for the purpose of this article: Provided, That any person who was a licensed agent, broker or solicitor on the first day of July, one thousand nine hundred eighty-nine, and who subsequently terminates the contractual relationship with the insurer or employing agent, may have that license renewed within five years of such termination without complying with the competency testing provisions of subdivision (e) or the education provisions of subdivision (f) of this section.

§33-12-6. Fees.

The fee for an agent's license shall be twenty-five dollars as provided in section thirteen, article three of this chapter, the fee for a solicitor's license shall be twenty-five dollars, and the fee for a broker's license shall be twenty-five dollars. The commissioner shall receive the following fees from insurance agents, brokers, solicitors and excess line brokers: For letters of certification, five dollars; for letters of clearance, ten dollars; for duplicate license, five dollars. All fees and moneys so collected shall be used for the purposes set forth in section thirteen, article three of this chapter.

§33-12-8a. Licensing of nonresident property casualty agents.

(a) Nonresidents otherwise complying with the provisions of this chapter may be licensed as a property casualty agent but all policies issued as a result of solicitation on the part of such nonresident in this state shall be reported, placed, countersigned, and consummated by and through a duly licensed resident agent of the issuing insurer.

(b) An individual otherwise complying with the provisions of this chapter, who is a resident of another state and who is a licensed property casualty agent of such state, may be licensed as a nonresident property
casualty agent in this state, if the state of residence of
such nonresident has established, by law or regulation
like requirements for the licensing of a resident of this
state as a nonresident property casualty agent. All
policies issued as a result of solicitation by such
nonresident property casualty agents shall be reported,
placed, countersigned and consummated by and through
a duly licensed resident agent of the issuing insurer.

§33-12-29. Change of Address.

When applying for a license to act as an agent, broker,
solicitor, excess line broker, or service representative,
each applicant shall report his or her mailing address
to the commissioner. An agent, broker, solicitor, excess
line broker, or service representative shall notify the
commissioner of any change in his or her mailing
address within thirty days of such change. The commis-
sioner shall maintain the mailing address of each agent,
broker, solicitor, excess line broker, and service
representative on file.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick W. Baker  
Chairman Senate Committee

Bernard V. Kelly  
Chairman House Committee

Originating in the House.  
Takes effect ninety days from passage.

W. B. Clark  
Clerk of the Senate

Donald L. Hargrave  
Clerk of the House of Delegates

Nat Addt  
President of the Senate

Jeffrey A. Miller  
Speaker of the House of Delegates

The within is approved this the 28th day of March, 1990.

Gaston Caperton  
Governor