WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1999

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ENROLLED

House Bill No. 2757
(By Delegates Johnson, Capito and Beane)

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Passed March 12, 1999
In Effect Ninety Days from Passage
ENROLLED

H. B. 2757

(BY DELEGATES JOHNSON, CAPITO AND BEANE)

[Passed March 12, 1999; in effect ninety days from passage.]

AN ACT to repeal section sixteen, article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section sixteen-a of said article, relating to insurance excess line brokers, the fees they may charge and the taxation of insurance placed through an excess line broker.

Be it enacted by the Legislature of West Virginia:

That section sixteen, article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that section sixteen-a of said article be amended and reenacted to read as follows:

ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS LINE.

§33-12-16a. Excess line brokers; additional premium tax.

(a) Every excess line broker shall make an annual return, under oath, on or before the first day of March to the commissioner of the gross amount of premiums charged by the insurers and of the gross amount of the fees charged by the excess line broker for the insurance procured by the excess line broker during the previous calendar year. Every excess line policyholder obtaining insurance from an excess line broker shall pay and every excess line broker shall collect from the policyholder...
and remit to the commissioner a sum equal to four percent of
the gross premiums and fees received on the excess line policies
procured by the excess line broker on subjects of insurance,
resident, located or to be performed in this state, including any
so-called dividends on participating policies applied in reduc-
tion of premiums, but less premiums returned to policyholders
because of cancellation of policy. This tax is imposed for the
purpose of providing additional revenue for municipal police-
men’s and firemen’s pension and relief funds and additional
revenue for volunteer and part volunteer fire companies and
departments. This tax is required to be paid and remitted, on a
calendar year basis and in quarterly estimated installments due
and payable on or before the twenty-fifth day of the month
succeeding the close of the quarter in which they accrued, 
except for the fourth quarter, in respect of which taxes shall be
due and payable and final computation of actual total liability
for the prior calendar year shall be made, less credit for the
three quarterly estimated payments prior made, and filed with
the annual return to be made on or before the first day of March
of the succeeding year. Provisions of this chapter relating to the
levy, imposition and collection of the regular premium tax are
applicable to the levy, imposition and collection of this tax to
the extent that the provisions are not in conflict with this
section.

All such taxes remitted to the commissioner pursuant to this
section shall be paid by him into a special account in the state
treasury, designated “municipal pensions and protection fund,”
and after appropriation by the Legislature, shall be distributed
in accordance with the provisions of subsection (c), section
fourteen-d, article three of this chapter. The excess line broker
shall return to the policyholder the tax on any unearned portion
of the premium returned to the policyholder because of cancel-
lation of policy.

(b) The excess line broker may not:

(1) Pay directly or indirectly the tax or any portion thereof,
either as an inducement to the policyholder to purchase the
insurance or for any other reason; or
(2) Rebate all or part of the tax or the excess line broker’s commission, either as an inducement to the policyholder to purchase the insurance or for any reason,

(c) The licensed excess line broker may charge the prospective policyholder a fee for the cost of underwriting, issuing, processing, inspecting, service or auditing the policy for placement with the excess line insurer if:

(1) The service is required by the excess line insurer;

(2) The service is actually provided by the excess line broker or the cost of the service is actually incurred by the excess line broker;

(3) The provision or cost of the service is reasonable, documented and verifiable.

(d) The excess line broker shall make a clear and conspicuous written disclosure to the policyholder of:

(1) The total amount of premium for the policy;

(2) Any fee charged;

(3) The total amount of any fee charged; and

(4) The total amount of tax on the premium and fee.

(e) The clear and conspicuous written disclosure required by subsection (d) of this section is subject to the record maintenance requirements of section fifteen of this article.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 7th day of __________, 1999.

Governor
PRESENTED TO THE
GOVERNOR

Date 4/15/05
Time 4:30 pm