WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 1999

ENROLLED

House Bill No. 2836

(By Delegates Beane, Johnson, Amores, H. White, Facemyer and L. White)

Passed March 12, 1999

In Effect Ninety Days from Passage
AN ACT to amend and reenact sections two and two-a, article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to changing insurance agent education procedures by exempting from educational requirements persons who have been licensed in good standing in other states, and by authorizing the insurance commissioner to automatically suspend the insurance license of those persons who fail to meet continuing insurance education requirements.

Be it enacted by the Legislature of West Virginia:

That sections two and two-a, article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

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

§33-12-2. Qualifications.

1 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's 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 or herself, members of his or her family or his or her relatives; or, as to insurance other than life and accident and sickness, upon his or her property or insurable interests of those of his or her family or his or her relatives or those of his or her employer, employees or firm, or corporation in which he or she 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 or she 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 or
her 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: Provided,
That a written waiver from the insurance education require-
ments for life, accident and sickness, or property and casualty
insurance may be granted to any person who can demonstrate
to the satisfaction of the commissioner that he or she has been
licensed as a resident agent in good standing in another state
within the sixty-day period immediately preceding his or her
application for a resident license in West Virginia. The waiver,
if granted, does not exempt the applicant from an examination
pertaining to the laws of this state for each kind of insurance for
which application is made.

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 commis-
sioner 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 repre-
senting 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.

§33-12-2a. Continuing education required.

The purpose of this provision is to provide continuing education under guidelines set up under the insurance commissioner’s office effective the first day of July, one thousand nine hundred ninety-two, with the guidelines to be set up under the board of insurance agent education. Nothing in this section shall prohibit an individual from receiving commissions which have been vested and earned while that individual maintained an approved insurance agent’s license.

(a) This section applies to persons licensed to engage in the sale of the following types of insurance:

1. Life insurance, annuity contracts, variable annuity contracts and variable life insurance;
2. Sickness, accident and health insurance;
3. All lines of property and casualty insurance; and
4. All other lines of insurance for which an examination is required for licensing.

(b) This section does not apply to:

1. Persons holding resident licenses for any kind or kinds of insurance offered in connection with loans or other credit transactions or insurance for which an examination is not required by the commissioner, nor does it apply to any such limited or restricted license as the commissioner may exempt;
2. Individuals selling credit life or credit accident and health insurance.
(c)(1) The board of insurance agent education as established by section two of this article shall develop a program of continuing insurance education and submit the proposal for the approval of the commissioner on or before the thirty-first day of December of each year. Each year after the first day of July, one thousand nine hundred ninety-seven, the program shall contain a requirement that any person appointed to be an agent on behalf of a licensed health maintenance organization at any time during the relevant biennium must, as a component of his or her mandatory continuing insurance education, complete a minimum of six hours of continuing insurance education during the biennium which is on topics specific to health maintenance organizations.

No program shall be approved by the commissioner that includes a requirement that any agent complete more than thirty hours of continuing insurance education biennially. No program shall be approved by the commissioner that includes a requirement that any of the following individuals complete more than six hours of continuing insurance education biennially:

(A) Insurance agents who sell only preneed burial insurance contracts; and

(B) Insurance agents who engage solely in telemarketing insurance products by a scripted presentation which scripted presentation has been filed with and approved by the commissioner.

(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 section.

(d) Persons licensed to sell insurance and who are not otherwise exempt shall satisfactorily complete the courses or programs of instructions the commissioner may prescribe.
(e) Every person, subject to the continuing education requirements shall furnish, at intervals and on forms as may be prescribed by the commissioner, written certification listing the courses, programs or seminars of instruction successfully completed by the person. The certification shall be executed by, or on behalf of, the organization sponsoring the courses, programs or seminars of instruction.

(f) Any person, failing to meet the requirements mandated in this section, and who has not been granted an extension of time, with respect to such requirements, or who has submitted to the commissioner a false or fraudulent certificate of compliance shall have his or her license automatically suspended and no further license may be issued to the person for any kind or kinds of insurance until such time as the person demonstrates to the satisfaction of the commissioner that he or she has complied with all of the requirements mandated by this section and all other applicable laws or rules.

(g) The commissioner shall notify the person of his or her suspension pursuant to subsection (f) of this section by certified mail, return receipt requested, to the last address on file with the commissioner pursuant to section twenty-nine of this article. Any person who has had a suspension order entered against him or her pursuant to this section may, within thirty calendar days of receipt of the order, file with the commissioner a request for a hearing for reconsideration of the matter.

(h) Any person who does not satisfactorily demonstrate compliance with this section and all other laws applicable thereto as of the last day of the biennium following his or her suspension shall have his or her license automatically canceled and is subject to the education and examination requirements of section two of this article.

(i) The commissioner is authorized to hire personnel and make reasonable expenditures as deemed necessary for purposes of establishing and maintaining a system of continuing education for insurers.
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 3rd day of April, 1999.

Governor