

HB 2836

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WEST VIRGINIA LEGISLATURE  
COLUMBIA UNIVERSITY

# 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

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WEST VIRGINIA  
SECRETARY OF STATE

# ENROLLED

## H. B. 2836

(BY DELEGATES BEANE, JOHNSON, AMORES,  
H. WHITE, FACEMYER AND L. WHITE)

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

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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  
2 commissioner shall not issue, renew or permit to exist any  
3 agent's, broker's or solicitor's license except to an individual  
4 who:

5 (a) Is eighteen years of age or more.

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

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

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

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

37 (e) Satisfies the commissioner that he or she is trustworthy  
38 and competent. The commissioner may test the competency of  
39 an applicant for a license under this section by examination.  
40 Each examinee shall pay a twenty-five dollar examination fee

41 for each examination to the commissioner who shall deposit  
42 said examination fee into the state treasury for the benefit of the  
43 state fund, general revenue. The commissioner may, at his or  
44 her discretion, designate an independent testing service to  
45 prepare and administer such examination subject to direction  
46 and approval by the commissioner, and examination fees  
47 charged by such service shall be paid by the applicant.

48 (f) For new agents first licensed on or after the first day of  
49 July, one thousand nine hundred eighty-nine, completes a  
50 program of insurance education as established below: *Provided*,  
51 That a written waiver from the insurance education require-  
52 ments for life, accident and sickness, or property and casualty  
53 insurance may be granted to any person who can demonstrate  
54 to the satisfaction of the commissioner that he or she has been  
55 licensed as a resident agent in good standing in another state  
56 within the sixty-day period immediately preceding his or her  
57 application for a resident license in West Virginia. The waiver,  
58 if granted, does not exempt the applicant from an examination  
59 pertaining to the laws of this state for each kind of insurance for  
60 which application is made.

61 There is hereby created the board of insurance agent  
62 education. The board of insurance agent education shall consist  
63 of the commissioner of insurance and six members appointed  
64 by the commissioner. The members appointed by the commis-  
65 sioner shall be two licensed property and casualty insurance  
66 agents, one licensed life insurance agent, one licensed health  
67 and accident insurance agent, one representative of a domestic  
68 insurance company, and one representative of a foreign  
69 insurance company: *Provided*, That no board shall be appointed  
70 that fails to include companies or agents for companies repre-  
71 senting at least two thirds of the net written insurance premiums  
72 in the state. Each member shall serve a term of three years and  
73 shall be eligible for reappointment.

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

78 (2) The commissioner and the board, under standards  
79 established by the board, may approve any course or program  
80 of instruction developed or sponsored by an authorized insurer,  
81 accredited college or university, agents association, insurance  
82 trade association, or independent program of instruction that  
83 presents the criteria and the number of hours that the board and  
84 commissioner determine appropriate for the purpose of this  
85 article.

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

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

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

11 (1) Life insurance, annuity contracts, variable annuity  
12 contracts and variable life insurance;

13 (2) Sickness, accident and health insurance;

14 (3) All lines of property and casualty insurance; and

15 (4) All other lines of insurance for which an examination is  
16 required for licensing.

17 (b) This section does not apply to:

18 (1) Persons holding resident licenses for any kind or kinds  
19 of insurance offered in connection with loans or other credit  
20 transactions or insurance for which an examination is not  
21 required by the commissioner, nor does it apply to any such  
22 limited or restricted license as the commissioner may exempt;

23 (2) Individuals selling credit life or credit accident and  
24 health insurance.

25 (c)(1) The board of insurance agent education as estab-  
26 lished by section two of this article shall develop a program of  
27 continuing insurance education and submit the proposal for the  
28 approval of the commissioner on or before the thirty-first day  
29 of December of each year. Each year after the first day of July,  
30 one thousand nine hundred ninety-seven, the program shall  
31 contain a requirement that any person appointed to be an agent  
32 on behalf of a licensed health maintenance organization at any  
33 time during the relevant biennium must, as a component of his  
34 or her mandatory continuing insurance education, complete a  
35 minimum of six hours of continuing insurance education during  
36 the biennium which is on topics specific to health maintenance  
37 organizations.

38 No program shall be approved by the commissioner that  
39 includes a requirement that any agent complete more than thirty  
40 hours of continuing insurance education biennially. No program  
41 shall be approved by the commissioner that includes a require-  
42 ment that any of the following individuals complete more than  
43 six hours of continuing insurance education biennially:

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

46 (B) Insurance agents who engage solely in telemarketing  
47 insurance products by a scripted presentation which scripted  
48 presentation has been filed with and approved by the commis-  
49 sioner.

50 (2) The commissioner and the board, under standards  
51 established by the board, may approve any course or program  
52 of instruction developed or sponsored by an authorized insurer,  
53 accredited college or university, agents' association, insurance  
54 trade association or independent program of instruction that  
55 presents the criteria and the number of hours that the board and  
56 commissioner determine appropriate for the purpose of this  
57 section.

58 (d) Persons licensed to sell insurance and who are not  
59 otherwise exempt shall satisfactorily complete the courses or  
60 programs of instructions the commissioner may prescribe.

61 (e) Every person, subject to the continuing education  
62 requirements shall furnish, at intervals and on forms as may be  
63 prescribed by the commissioner, written certification listing the  
64 courses, programs or seminars of instruction successfully  
65 completed by the person. The certification shall be executed by,  
66 or on behalf of, the organization sponsoring the courses,  
67 programs or seminars of instruction.

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

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

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

92 (i) The commissioner is authorized to hire personnel and  
93 make reasonable expenditures as deemed necessary for pur-  
94 poses of establishing and maintaining a system of continuing  
95 education for insurers.

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

*Randy Schoonover*  
Chairman Senate Committee

*John L. Smith*  
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

*Arnold Spitzer*  
Clerk of the Senate

*Bryan D. Berg*  
Clerk of the House of Delegates

*Carl Key Tomblin*  
President of the Senate

*Y. Michael*  
Speaker of the House of Delegates

The within *approved* this the *2nd*  
day of *April*, 1999.

*Robert D. Anderson*  
Governor



PRESENTED TO THE

GOVERNOR

Date

4/1/99

Time

2:45pm