WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1999

ENROLLED

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 653

(By Senator Bailey)

PASSED March 11, 1999
In Effect NINETY DAYS FROM PASSAGE
AN ACT to amend article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-three, relating to providing limited agent licenses for automobile rental coverage.

Be it enacted by the Legislature of West Virginia:

That article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated thirty-three, to read as follows:

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

§33-12-33. Limited license for rental companies.

1 (a) Purpose. This section authorizes the insurance commissioner to issue limited licenses for the sale of
automobile rental coverage.

(b) Definitions. The following words when used in this section shall have the following meanings:

(1) “Authorized insurer” means an insurer that is licensed by the commissioner to transact insurance in West Virginia.

(2) “Automobile rental coverage” or “rental coverage” is insurance offered incidental to the rental of a vehicle as described in this section.

(3) “Limited license” means the authorization by the commissioner for a person to sell rental coverage as agent of an authorized insurer pursuant to the provisions of this section without the necessity of agent pre-licensing education, examination, or continuing education.

(4) “Limited licensee” is an individual resident of this state who obtains a limited license.

(5) “Rental agreement” means any written agreement setting forth the terms and conditions governing the use of a vehicle provided by the rental company for rental or lease.

(6) “Rental company” means any person or entity in the business of providing private motor vehicles to the public under a rental agreement for a period not to exceed ninety days.

(7) “Renter” means any person obtaining the use of a vehicle from a rental company under the terms of a rental agreement for a period not to exceed ninety days.

(8) “Vehicle” or “rental vehicle” means a motor vehicle of the private passenger type including passenger vans, minivans and sport utility vehicles and of the cargo type, including cargo vans, pick-up trucks and trucks with a gross vehicle weight of twenty-six thousand pounds or less and which do not require the operator to possess a commercial driver's license.

(9) “Rental period” means the term of the rental agreement.
(c) The commissioner may issue a limited license for the sale of automobile rental coverage to an employee of a rental company, who has satisfied the requirements of this section.

(d) As a prerequisite for issuance of a limited license under this section, there shall be filed with the commissioner a written application for a limited license, signed by the applicant, in such form or forms and supplements thereto, and containing such information, as the commissioner may prescribe. The limited licensee shall pay to the insurance commissioner an annual fee of twenty-five dollars.

(e) The limited licensee shall be appointed by the licensed insurer or insurers for the sale of automobile rental coverage. The employer of the limited licensee shall maintain at each insurance sales location a list of the names and addresses of employees which are selling insurance at the location.

(f) In the event that any provision of this section or applicable provisions of the insurance code is violated by a limited licensee or other employees operating under his or her direction, the commissioner may:

(1) After notice and a hearing, revoke or suspend a limited license issued under this section in accordance with the provisions of section thirteen, article two of this chapter, or

(2) After notice and hearing, impose such other penalties, including suspending the transaction of insurance at specific locations where applicable violations of the insurance code have occurred, as the commissioner deems to be necessary or convenient to carry out the purposes of this section.

(g) Any limited license issued under this section shall also authorize any other employee working for the same employer and at the same location as the limited licensee to act individually, on behalf, and under the supervision, of the limited licensee with respect to the kinds of coverage authorized in this section. In order to sell insurance
products under this section at least one employee who has obtained a limited license must be present at each location where insurance is sold. All other employees working at that location may offer or sell insurance consistent with this section without obtaining a limited license. However, the limited licensee shall directly supervise and be responsible for the actions of all other employees at that location related to the offer or sale of insurance as authorized by this section. No limited licensee under this section shall advertise, represent, or otherwise hold himself or herself or any other employees out as licensed insurers, insurance agents or insurance brokers.

(h) No automobile rental coverage insurance may be issued by a limited license pursuant to this section unless:

1. The rental period of the rental agreement does not exceed ninety consecutive days; and

2. At every rental location where rental agreements are executed, brochures or other written material are readily available to the prospective renter that:
   (i) Summarize clearly and correctly, the material terms of coverage offered to renters, including the identity of the insurer.
   (ii) Disclose that the coverage offered by the rental company may provide a duplication of coverage provided by a renter's personal automobile insurance policy, homeowner's insurance policy, personal liability insurance policy, or other source of coverage.
   (iii) State that the purchase by the renter of the kinds of coverage specified in this section is not required in order to rent a vehicle; and
   (iv) Describe the process for filing a claim in the event the renter elects to purchase coverage and in the event of a claim.

3. An evidence of coverage on the face of the rental agreement is disclosed to every renter who elects to purchase such coverage.

(i) The limited licensee to sell automobile rental coverage
may offer or sell insurance only in connection with and
incidental to the rental of vehicles, whether at the rental
office or by preselection of coverage in a master, corpo-
rate, group rental, or individual agreements in any of the
following general categories:

(1) Personal accident insurance covering the risks of
travel, including, but not limited to, accident and health
insurance that provides coverage, as applicable, to renters
and other rental vehicle occupants for accidental death or
dismemberment and reimbursement for medical expenses
resulting from an accident that occurs during the rental
period; and

(2) Liability insurance (which may include uninsured
and underinsured motorist coverage whether offered
separately or in combination with other liability insur-
ance) that provides coverage, as applicable, to renters and
other authorized drivers of rental vehicles for liability
arising from the operation of the rental vehicle; and

(3) Personal effects insurance that provides coverage,
applicable to renters and other vehicle occupants of the
loss of, or damage to, personal effects that occurs during
the rental period; and

(4) Roadside assistance and emergency sickness protec-
tion programs; and

(5) Any other travel or auto-related coverage that a
rental company offers in connection with and incidental to
the rental of vehicles.

(j) Each rental company for which an employee has
received a limited license pursuant to this section shall
conduct a training program in which its employees being
trained shall receive basic instruction about the kinds of
coverage specified in this section and offered for purchase
by prospective renters of rental vehicles: Provided, That
limited licensees and employees working hereunder are not
subject to the agent prelicensing education, examination
or continuing education requirements of this article.

(k) Notwithstanding any other provision of this section,
or any rule adopted by the commissioner neither the rental
company, the limited licensee, nor the other employees working with the limited licensee at the rental company, shall be required to treat moneys collected from renters purchasing such insurance when renting vehicles as funds received in a fiduciary capacity, provided that the chargers for coverage shall be itemized and be ancillary to a rental transaction. The sale of insurance not in conjunction with a rental transaction shall not to be permitted.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within... approved... this the... Day of... April... 1999

Governor