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WEST VIRGINIA LEGISLATURE

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SECOND REGULAR SESSION, 2000



ENROLLED

House Bill No. 4479

(By Delegates Beane, Mahan,
Hutchins, H. White and Paxton)



Passed March 8, 2000

In Effect from Passage

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STATE OF WEST VIRGINIA
LEGISLATIVE SERVICES

ENROLLED

H. B. 4479

(BY DELEGATES BEANE, MAHAN,
HUTCHINS, H. WHITE AND PAXTON)

[Passed March 8, 2000; in effect from passage.]

AN ACT to amend and reenact sections two and three, article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to authorizing the insurance commissioner to grant provisional licensure to an applicant for an insurance agent's license pending the applicant's appointment by a licensed insurer.

Be it enacted by the Legislature of West Virginia:

That sections two and three, 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 the firm or corporation, or on property or
31 insurable interests for which the applicant or any 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 the 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 the examination subject to direction and
46 approval by the commissioner, and examination fees charged
47 by the 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 sending 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.

86 (g) The commissioner may issue a provisional license to
87 any agent applicant meeting the qualifications set forth in
88 section two of this article, but who has not been appointed as
89 agent by a licensed insurer.

90 (1) Notwithstanding other provisions of the code to the
91 contrary, an individual so licensed:

92 (A) May not solicit, negotiate, effect or countersign
93 insurance contracts or otherwise transact insurance;

94 (B) Is not subject to the continuing education requirements
95 set forth in section two-a of this article; and

96 (C) May hold the provisional license for a period of one
97 year from the date of issuance.

98 (2) A provisional license may be upgraded to an agent's
99 license upon the appointment of the applicant as agent by a

100 licensed insurer subject to the same requirements for licensing
101 of agents in general.

102 (3) The commissioner may suspend, revoke or refuse to
103 upgrade a provisional license for any of the same causes and
104 pursuant to the same procedures as are applicable to suspension
105 or revocation of licenses of agents in general under article
106 twelve of this chapter.

107 (4) There shall be no fee for a provisional license.

§33-12-3. Application.

1 (a) Application for an agent's, broker's or solicitor's license
2 or renewal thereof shall be made to the commissioner upon a
3 form prescribed by him or her and shall contain the applicant's
4 name, social security number and the information and support-
5 ing documents as the commissioner may require, and the
6 commissioner may require the application to be made under the
7 applicant's oath.

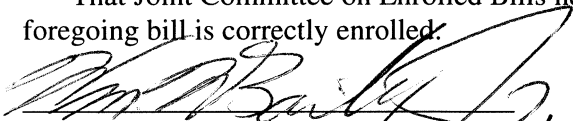
8 (b) If for an agent's license, other than for a provisional
9 license, the application shall show the kinds of insurance to be
10 transacted, and shall be accompanied by the written appoint-
11 ment of the applicant as agent by at least one licensed insurer
12 for each kind of insurance for which application is made.

13 (c) If for a solicitor's license, the application shall be
14 accompanied by written appointment of the applicant as
15 solicitor by a licensed agent.

16 (d) If for a broker's license, the application shall be
17 accompanied by a statement upon a form prescribed by the
18 commissioner as to the trustworthiness and competency of the
19 applicant, signed by at least three licensed resident agents of
20 this state.

21 (e) Willful misrepresentation of any fact in any application
22 or any documents in support thereof is a violation of this
23 chapter.

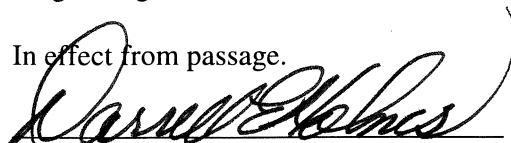
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

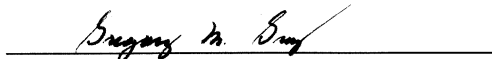

Chairman Senate Committee

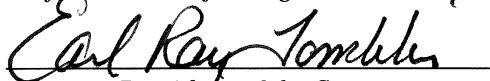

Chairman House Committee

Originating in the House.

In effect from passage.

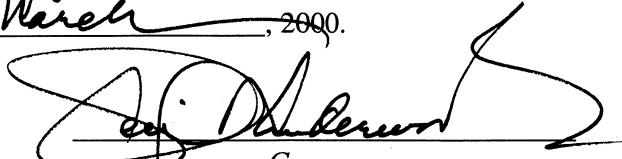

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within approved this the 14th
day of March, 2000.


Governor

PRESENTED TO THE

GOVERNOR

Date 3/1/00

Time 1:00 pm