

HB 2764 S
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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2007



ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 2764

(By Delegates Kominar, Barker, Moore, Perry,
Ashley, Walters, Schoen and Hartman)



Passed March 10, 2007

In Effect Ninety Days from Passage

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H. B. 2764

(BY DELEGATES KOMINAR, BARKER, MOORE, PERRY,
ASHLEY, WALTERS, SCHOEN AND HARTMAN)

[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-12-37, relating to criminal history checks for applicants for insurance producer licenses; defining terms; authorizing Insurance Commissioner to establish and collect fees; requiring applicants to submit fingerprints; requiring the Insurance Commission to transmit fingerprints to the State Police and Federal Bureau of Investigation; requiring certain records be confidential; exempting certain information from disclosure pursuant to subpoena or discovery; and authorizing Insurance Commissioner to promulgate emergency rules.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §33-12-37, to read as follows:

ARTICLE 12. INSURANCE PRODUCERS AND SOLICITORS.

§33-12-37. Authorization for criminal history record check; fees; rules.

1 (a) In furtherance of the national goal of promoting
2 uniformity and reciprocity among the states with regard to
3 producer licensing, this section sets forth the requirements to
4 obtain access to the Federal Bureau of Investigation Criminal
5 Justice Information Services Division criminal history record
6 information and to secure information or reports from the
7 Federal Bureau of Investigation Criminal Justice Information
8 Services Division. The scope of this section is to set forth the
9 applicability of the criminal history record check to
10 applicants for a home state insurance producer license.

11 (b) As used in this section, the following terms have the
12 meanings ascribed in this subsection, unless a different
13 meaning is clearly required by the context:

14 (1) "Applicant" means a natural person applying for:

15 (A) An initial home state license as an insurance
16 producer;

17 (B) An additional line of authority under an existing
18 home state insurance producer license where a criminal
19 history record check has not been obtained; or

20 (C) A resident insurance producer license under change
21 of home state provisions.

22 "Applicant" does not mean a person applying for renewal
23 or continuation of a home state insurance producer license or
24 a nonresident insurance producer license.

25 (2) "Fingerprint" means an impression of the lines on the
26 finger taken for the purpose of identification. The impression
27 may be obtained electronically or in ink converted to an
28 electronic format.

29 (c) In order to make a determination of license eligibility,
30 the commissioner is authorized to require fingerprints of
31 applicants and to submit the fingerprints and the fee required
32 to perform the criminal history record checks to the West
33 Virginia State Police and to the Federal Bureau of
34 Investigation for the state and national criminal history record
35 checks.

36 (d) The commissioner shall require a criminal history
37 record check on each applicant in accordance with this
38 section. The commissioner shall require each applicant to
39 submit a full set of fingerprints, including a scanned file from
40 a hard copy fingerprint, in order for the commissioner to
41 obtain and receive national criminal history records from the
42 Federal Bureau of Investigation Criminal Justice Information
43 Services Division.

44 (e) The commissioner shall collect a fee from each
45 applicant in an amount established by rule. The amount of
46 the fee must be sufficient to cover:

47 (1) The cost of the collection and transmittal of
48 fingerprints by persons, including local law enforcement
49 agencies that are approved by the commissioner to capture
50 fingerprints, to the West Virginia State Police and the Federal
51 Bureau of Investigation; and

52 (2) The cost of any amounts charged by the State Police
53 and the Federal Bureau of Investigation to perform the
54 criminal history record checks.


55 (f) The commissioner may contract for the collection and
56 transmission of fingerprints authorized under this section and
57 may order that the fee for collecting and transmitting
58 fingerprints be payable directly by the applicant to the
59 contractor.

60 (g) The commissioner is authorized to receive criminal
61 history record information directly from the Federal Bureau
62 of Investigation, in lieu of via transmission of the information
63 from the Federal Bureau of Investigation to the West Virginia
64 State Police.


65 (h) The commissioner shall treat and maintain an
66 applicant's fingerprints and any criminal history record
67 information obtained under this section as confidential and
68 shall apply security measures consistent with the Federal
69 Bureau of Investigation Criminal Justice Information
70 Services Division standards for the electronic storage of
71 fingerprints and necessary identifying information. The
72 commissioner shall limit the use of records solely to the
73 purposes authorized in this section. The fingerprints and the
74 criminal history record information in the custody of the
75 commissioner are not subject to subpoena, other than one
76 issued in a criminal action or investigation; are confidential
77 by law and privileged; and are not subject to discovery or
78 admissible in evidence in any private civil action.

79 (i) The commissioner shall promulgate emergency rules
80 pursuant to the provisions of section fifteen, article three,
81 chapter twenty-nine-a of this code as are necessary for the
82 administration of this section, including rules governing the
83 issuance of provisional producer licences pending receipt of
84 the criminal background check.

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



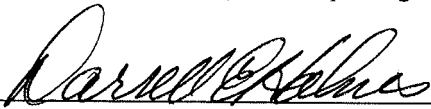
Chairman Senate Committee



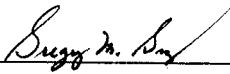
Chairman House Committee

Originating in the House.

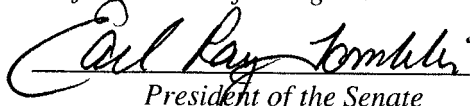
In effect ninety days from passage.



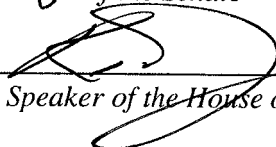
Clerk of the Senate



Clerk of the House of Delegates




President of the Senate



Speaker of the House of Delegates

The within is approved this the 23rd
day of March, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 18 2007

Time 2:02pm