WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2015

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2536

(By Delegate(s) Westfall, Walters, B. White, Ashley, Frich and Kurcaba)

Passed March 12, 2015
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 §33-12-32b, relating to travel insurance limited lines producers; defining terms; authorizing the Commissioner of Insurance to issue travel insurance entity producer license; establishing fees, fines, and penalties; requiring licensee to maintain register of travel retailers offering insurance on its behalf and designate a responsible individual producer; authorizing travel retailer to offer travel insurance and receive compensation under certain conditions;
requiring training of travel retailer employees offering travel insurance; exempting travel insurance entity producers and travel retailers and employees from examination and continuing education requirements; requiring travel retailer employees offering travel insurance to provide certain information; providing for enforcement; and permitting the Commissioner of Insurance to propose rules for legislative approval.

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 §33-12-32b, to read as follows:

ARTICLE 12. INSURANCE PRODUCERS AND SOLICITORS.

§33-12-32b. Travel Insurance Entity Producer Limited License Act.

(a) Definitions. – For purposes of this section:

(1) A “group policy” means a policy issued to:

(A) A railroad company, steamship company, carrier by air, public bus carrier or other common carrier of passengers, which is considered the policyholder, where the policy insures its passengers; or

(B) Any other group if the commissioner has determined by rule that the members are engaged in a common enterprise or have an economic or social affinity or relationship, and that issuance of the policy would not be contrary to the best interests of the public.

(2) “Offer and disseminate” means providing general information, including descriptions of coverage and price, processing applications, collecting premiums and performing
other activities permitted in this state without a license issued by
the commissioner.

(3) “Travel insurance” means:

(A) An individual or group policy of insurance that provides
coverage for personal risks incident to planned travel, including,
but not limited to:

(i) Interruption or cancellation of a trip or event;

(ii) Loss of baggage or personal effects;

(iii) Damages to accommodations or rental vehicles; or

(iv) Sickness, accident, disability or death occurring during
travel.

(B) “Travel insurance” does not include major medical plans
that provide comprehensive medical protection for travelers with
trips lasting six months or longer, including, but not limited to,
those working overseas as expatriates or military personnel
deployed overseas.

(4) “Travel insurance entity producer” means an entity
which is licensed under this section, is appointed by an insurer,
and has the duties set forth in subsection (d) of this section.

(5) “Travel retailer” means an entity that makes, arranges or
offers travel services, which may offer and disseminate travel
insurance on behalf of and under the direction of a travel
insurance entity producer.

(b) License requirements. – Notwithstanding any other
 provision of law:

(1) The commissioner may issue a travel insurance entity
producer license, which authorizes the sale, solicitation or
negotiation of travel insurance issued by a licensed insurer, to a
person meeting the requirements of this section.

(2) An entity seeking a license under this section shall apply
on a form and in a manner prescribed by the commissioner.

(3) The annual fee for a travel insurance entity producer
license is $200.

(c) Conditions for travel retailers. – A travel retailer may
offer and disseminate travel insurance policies under a license
issued to a travel insurance entity producer only if all of the
following conditions are met:

(1) The travel retailer agrees that it is bound by all applicable
provisions of this section and that no employee or authorized
representative, who is not licensed as an individual insurance
producer, may:

(A) Evaluate or interpret the technical terms, benefits, and
conditions of the offered travel insurance coverage;

(B) Evaluate or provide advice concerning a prospective
purchaser’s existing insurance coverage; or

(C) Hold himself or herself out as a licensed insurer, licensed producer, or insurance expert.

(2) The travel retailer makes available to prospective
purchasers brochures or other written materials that:

(A) State the identity and contact information of the insurer
and the travel insurance entity producer;

(B) Describe the material terms, or contain the actual
material terms, of the travel insurance coverage;
(C) Describe the process for filing a claim under the travel insurance policy;

(D) Describe the review and cancellation processes for the travel insurance policy;

(E) Explain that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer; and

(F) Explain that a travel retailer not licensed by the commissioner may provide general information about the travel insurance offered, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the travel insurance or to evaluate the adequacy of a prospective purchaser's existing insurance coverage.

(3) The travel retailer ensures that each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance successfully completed the training required by this section.

(d) Conditions for travel insurance entity producers. – A travel insurance entity producer may offer and disseminate travel insurance policies through a travel retailer only if all of the following conditions are met:

(1) On a form prescribed by the commissioner, the travel insurance entity producer establishes, maintains and updates annually a register of all travel retailers that offer travel insurance on behalf of the travel insurance entity producer:

(A) The register shall include the name, address, and contact information of each travel retailer and of the person who directs or controls the travel retailer’s operations, and the travel retailer’s federal tax identification number;
(B) The travel insurance entity producer shall certify that the register complies with 18 U.S.C. §1033; and

(C) The travel insurance entity producer shall submit the register to the commissioner within thirty days upon request.

(2) The travel insurance entity producer designates one of its employees who is a licensed individual producer as the responsible producer for the travel insurance entity producer’s compliance with this section and any rules promulgated under this section.

(3) The designated responsible producer, and the president, secretary, treasurer and any other person who directs or controls the travel insurance entity producer’s insurance operations, comply with the fingerprinting requirements applicable to insurance producers in the resident state of the travel insurance entity producer.

(4) The travel insurance entity producer pays all applicable insurance producer licensing fees set forth in this chapter or rules promulgated under this chapter.

(5) The travel insurance entity producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which the commissioner may review and approve or disapprove. The training program shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices and required disclosures to prospective customers.

(e) A licensee under this section, and those registered under its license pursuant to subdivision one, subsection (d) of this section, are exempt from examination under section five of this article and from continuing education requirements under section eight of this article.
(f) A licensee under this section is subject to the provisions of section six-b of this article as if it were an insurance agency.

(g) License renewal. – The commissioner shall annually renew, on the expiration date as provided in this subsection, the license of a licensee who qualifies and applies for renewal on a form prescribed by the commissioner and pays the fee set forth in subdivision three, subsection (b) of this section: Provided, That the commissioner may fix the dates of expiration of travel insurance entity producer licenses as he or she considers advisable for efficient distribution of the workload of his or her office:

(1) If the fixed expiration date would upon first occurrence shorten the period for which a license fee has been paid, no refund of unearned fee shall be made;

(2) If the fixed expiration date would upon first occurrence lengthen the period for which a license fee has been paid, the commissioner shall charge no additional fee for the lengthened period;

(3) If a date is not fixed by the commissioner, each license shall, unless continued as provided in this subsection, expire at midnight on June 30 following issuance; and

(4) A licensee that fails to timely renew its license may reinstate its license, retroactive to the expiration date, upon submission of the renewal application within twelve months after the expiration date and payment of a penalty in the amount of $50.

(h) Appointment. – A travel insurance entity producer may not act as an agent of an insurer unless the insurer appoints the travel insurance entity producer as its agent, as follows:
(1) The insurer shall file, in a format approved by the commissioner, a notice of appointment within fifteen days from the date the agency contract is executed and shall pay a nonrefundable appointment processing fee in the amount of $25: Provided, That an insurer may elect to appoint a travel insurance entity producer to all or some insurers within the insurer’s holding company system or group by filing a single notice of appointment;

(2) Upon receipt of a notice of appointment, the commissioner shall verify within a reasonable time, not to exceed thirty days, that the travel insurance entity producer is eligible for appointment: Provided, That the commissioner shall notify the insurer within five days of a determination that the travel insurance entity producer is ineligible for appointment; and

(3) The insurer shall remit, no later than midnight on May 31 annually and in a manner prescribed by the commissioner, a renewal appointment fee for each appointed travel insurance entity producer in the amount of $25; and

(4) The insurer shall maintain a current list of travel insurance entity producers appointed to accept applications on behalf of the insurer, and shall make the list available to the commissioner upon reasonable request for purposes of conducting investigations and enforcing the provisions of this chapter.

(i) Effect of registration. – Notwithstanding any other provision of law, if a travel retailer’s insurance-related activities, and those of its employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of a licensed travel insurance entity producer, the travel retailer may perform those activities and receive related compensation, upon registration by the travel
insurance entity producer pursuant to subdivision one, subsection (d) of this section.

(j) Liability. – As the insurer's appointed agent, the travel insurance entity producer is liable for the acts or omissions of the travel retailer in offering and disseminating travel insurance under the travel insurance entity producer's license and shall use reasonable means to ensure compliance by the travel retailer with this section.

(k) Enforcement. – In enforcing the provisions of this section, the commissioner may use any enforcement mechanisms in this chapter.

(1) If the commissioner determines that a travel retailer or its employee has violated this section, the commissioner may after notice and hearing:

(A) Impose fines not to exceed $500 per violation or $5,000 in the aggregate for the conduct; and

(B) Impose other or additional penalties that the commissioner considers necessary and reasonable to carry out the purpose of this section, including but not limited to:

(i) Suspending or revoking the privilege of offering and disseminating travel insurance pursuant to this section by specific business retailers or at specific business retail locations where violations have occurred;

(ii) Suspending or revoking the privilege of individual employees of a travel retailer to act under this section; and

(iii) Placing the travel retailer or its employees on probation under terms and conditions prescribed by the commissioner.

(2) If the commissioner determines that a travel insurance entity producer has failed to perform its duties under this section
or has otherwise violated this section, the travel insurance entity
producer is subject to the provisions of section twenty-four of
this article.

(l) The commissioner may propose rules for legislative
approval in accordance with the provisions of article three,
chapter twenty-nine-a of this code to implement this section.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 15th day of April, 2015.

Governor
PRESENTED TO THE GOVERNOR

MAR 18 2015

Time: 5:30 pm