

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 399**

4 (By Senator Minard)

5 _____
6 [Originating in the Committee on Government Organization;
7 reported February 23, 2012.]

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9
10 A BILL to amend and reenact §33-12-7 and §33-12-8 of the Code of
11 West Virginia, 1931, as amended, all relating to education for
12 insurance producers; renaming the Board of Insurance Agent
13 Education; revising certain membership requirements of the
14 Board of Insurance Producer Education; providing for payment
15 of certain expenses of board members; revising role of the
16 board; continuing education; exempting certain insurance
17 producers from continuing education requirements; reducing
18 period in which a producer whose license has been suspended
19 for noncompliance with continuing education requirements may
20 demonstrate compliance; and permitting the Insurance
21 Commissioner to propose a rule to change certain fees.

22 *Be it enacted by the Legislature of West Virginia:*

23 That §33-12-7 and §33-12-8 of the Code of West Virginia, 1931,
24 as amended, be amended and reenacted, all to read as follows:

1 **ARTICLE 12. INSURANCE PRODUCERS.**

2 **§33-12-7. Board of Insurance Producer Education.**

3 (a) The Board of Insurance Agent Education ~~shall continue in~~
4 ~~existence~~ is continued and commencing July 1, 2012, shall be known
5 as the Board of Insurance ~~Agent~~ Producer Education ~~shall consist~~
6 which consists of ~~the Commissioner of Insurance and six members~~
7 appointed by the commissioner ~~The members appointed by the~~
8 ~~commissioner shall be~~ as follows:

9 (1) Two licensed property and casualty insurance ~~agents~~
10 producers;

11 (2) One licensed life insurance ~~agent~~ producer;

12 (3) One licensed health and accident and sickness insurance
13 ~~agent~~ producer;

14 (4) One representative of a domestic insurance company; and

15 (5) One representative of a foreign insurance company.

16 ~~Provided, That no board shall be appointed that fails to include~~
17 ~~companies or agents for companies representing at least two thirds~~
18 ~~of the net written insurance premiums in the state.~~

19 (b) Each member shall serve a term of three years and shall be
20 eligible for reappointment. Members of the board are not entitled
21 to compensation for services performed as members but are entitled
22 to reimbursement for all reasonable and necessary expenses actually
23 incurred in attending meetings called by the commissioner.

24 ~~(a) The Board of Insurance Agent Education shall establish the~~

1 ~~criteria for a program of insurance education and submit the~~
2 ~~proposal for the approval of the commissioner on or before the~~
3 ~~thirty-first day of December of each year.~~

4 ~~(b) (c) The commissioner and the board under standards~~
5 ~~established by the board, may approve~~ shall establish standards for
6 a program of insurance producer education and shall advise the
7 commissioner as to whether any course or program of instruction
8 developed or sponsored by an authorized insurer, accredited college
9 or university, ~~agents~~ producers' association, insurance trade
10 association or independent program of instruction ~~that presents the~~
11 ~~criteria and the number of hours that the board and commissioner~~
12 ~~determine appropriate for the purpose of this article~~ meets such
13 standards.

14 **§33-12-8. Continuing education required.**

15 ~~The purpose of this provision is to provide continuing~~
16 ~~education under guidelines set up under the Insurance~~
17 ~~Commissioner's office, with the guidelines to be set up under the~~
18 ~~board of Insurance Agent Education.~~

19 (a) This section applies to individual insurance producers
20 licensed to engage in the sale of the following types of insurance:

21 (1) *Life*.-- Life insurance coverage on human lives, including
22 benefits of endowment and annuities, and may include benefits in
23 the event of death or dismemberment by accident and benefits for
24 disability income;

1 (2) *Accident and health or sickness.*-- Insurance coverage for
2 sickness, bodily injury or accidental death and may include
3 benefits for disability income;

4 (3) *Property.*-- Property insurance coverage for the direct or
5 consequential loss or damage to property of every kind;

6 (4) *Casualty.*-- Insurance coverage against legal liability,
7 including that for death, injury or disability or damage to real or
8 personal property;

9 (5) *Variable life and variable annuity products.* -- Insurance
10 coverage provided under variable life insurance contracts and
11 variable annuities;

12 (6) *Personal lines.* -- Property and casualty insurance
13 coverage sold to individuals and families for primarily
14 noncommercial purposes; and

15 (7) Any other line of insurance permitted under state laws or
16 regulations.

17 (b) This section does not apply to:

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

24 (2) Individual insurance producers selling credit life, credit

1 unemployment or credit accident and ~~health~~ sickness insurance.

2 (c) (1) ~~The Board of Insurance Agent Education as established~~
3 ~~by section seven of this article shall develop a program of~~
4 ~~continuing insurance education and submit the proposal for the~~
5 ~~approval of the commissioner on or before the thirty-first day of~~
6 ~~December of each year. No~~ A continuing education program may not be
7 approved by the commissioner that includes a requirement that any
8 individual insurance producer complete more than twenty-four hours
9 of continuing insurance education biennially. ~~No~~ A program may not
10 be approved by the commissioner that includes a requirement that
11 any of the following individual insurance producers complete more
12 than six hours of continuing insurance education biennially:

13 (A) Individual insurance producers who sell only preneed
14 burial insurance contracts; and

15 (B) Individual insurance producers who engage solely in
16 telemarketing insurance products by a scripted presentation which
17 scripted presentation has been filed with and approved by the
18 commissioner.

19 ~~(C) The biennium mandatory continuing insurance education~~
20 ~~provisions of this section become effective on the reporting period~~
21 ~~beginning on the first day of July, two thousand six.~~

22 (2) The commissioner ~~and the board,~~ under standards
23 ~~established by the board,~~ in consultation with the Board of
24 Insurance Producer Education may approve any course or program of

1 ~~instruction developed or sponsored by an authorized insurer,~~
2 ~~accredited college or university, agents' association, insurance~~
3 ~~trade association or independent program of instruction that~~
4 ~~presents the criteria and the number of hours that the board and~~
5 ~~commissioner determine~~ that he or she determines to be appropriate
6 for the ~~purpose~~ purposes of this section.

7 (d) Individual insurance producers licensed to sell insurance
8 and who are not otherwise exempt shall satisfactorily complete the
9 courses or programs of instructions the commissioner may prescribe.

10 (e) Every individual insurance producer subject to the
11 continuing education requirements shall furnish, at intervals and
12 on forms as may be prescribed by the commissioner, written
13 certification listing the courses, programs or seminars of
14 instruction successfully completed by the person. The
15 certification shall be executed by, or on behalf of, the
16 organization sponsoring the courses, programs or seminars of
17 instruction.

18 (f) ~~Subject to the approval by the commissioner,~~ The active
19 annual membership by an individual insurance producer in ~~an~~
20 ~~organization or association recognized~~ and one or more
21 organizations or associations approved by the commissioner as a
22 state, regional or national professional insurance ~~organization or~~
23 ~~association~~ organizations or associations may be approved by the
24 commissioner for up to no more than two cumulative hours of

1 continuing insurance education ~~Provided, That not more than two~~
2 ~~hours of continuing insurance education may be awarded to an~~
3 ~~individual insurance producer for membership in a professional~~
4 ~~insurance organization during a biennial reporting period. Credit~~
5 for continuing insurance education pursuant to this subdivision may
6 only be awarded to individual insurance producers who are required
7 to complete more than six hours of continuing education biennially.

8 (g) Individual insurance producers who are required to
9 complete more than six hours of continuing education biennially and
10 who exceed the minimum continuing education requirement for the
11 biennial reporting period may carry over a maximum of six credit
12 hours only into ~~the~~ his or her next reporting period.

13 (h) (1) Any individual insurance producer failing to meet the
14 requirements mandated in this section ~~and who has not been granted~~
15 ~~an extension of time with respect to the requirements,~~ or who has
16 submitted ~~to the commissioner~~ a false or fraudulent certificate of
17 compliance shall have his or her license automatically suspended.
18 ~~and no further license may be issued to the person for any kind or~~
19 ~~kinds of insurance until the person demonstrates to the~~
20 ~~satisfaction of the commissioner that he or she has complied with~~
21 ~~all of the requirements mandated by this section and all other~~
22 ~~applicable laws or rules.~~

23 ~~(i)~~ (2) The commissioner shall notify the ~~individual insurance~~
24 producer of ~~his or her~~ such suspension pursuant to subsection (h)

1 ~~of this section by sending a notice by certified mail ~~return~~~~
2 ~~receipt requested,~~ to the last address on file with the
3 commissioner, ~~pursuant to subsection (e), section nine of this~~
4 ~~article. Any individual insurance producer who has had a suspension~~
5 ~~order entered against him or her pursuant to this section may,~~
6 ~~within thirty calendar days of receipt of the order and the notice~~
7 ~~shall inform the producer of his or her right to file with the~~
8 commissioner a request for a hearing for reconsideration of the
9 matter.

10 ~~(j)~~ (3) Any individual insurance producer suspended pursuant
11 to this subsection who does not satisfactorily demonstrate
12 compliance with this section and all other laws applicable thereto
13 ~~as of the last day within one year after the end of the biennium~~
14 ~~following his or her suspension in which the noncompliance occurred~~
15 shall have his or her license ~~automatically~~ canceled and ~~is~~ will
16 thereafter be subject to the education and examination requirements
17 of section five of this article.

18 ~~(k)~~ (i) The commissioner is authorized to hire personnel and
19 make reasonable expenditures considered necessary for purposes of
20 establishing and maintaining a system of continuing education for
21 ~~insurers~~ producers. The commissioner shall charge a fee of \$25 or
22 such other amount established by legislative rule to continuing
23 education providers for each continuing education course submitted
24 for approval, which amounts shall be used to maintain the

1 continuing education system. The commissioner may, at his or her
2 discretion, designate an outside administrator to provide all ~~of~~ or
3 part of the administrative duties of the continuing education
4 system, ~~subject to direction and approval by the commissioner~~ The
5 including the collection of fees from providers for courses
6 submitted for approval, and may establish fees to be charged to the
7 continuing education providers by the outside administrator. ~~shall~~
8 ~~be paid by the continuing education providers. In addition to fees~~
9 ~~charged by the outside administrator, the outside administrator~~
10 ~~shall collect and remit to the commissioner the twenty-five dollar~~
11 ~~course submission fee.~~