

COMMITTEE SUBSTITUTE

FOR

## **Senate Bill No. 399**

(By Senator Minard)

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

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A BILL to amend and reenact §33-12-7 and §33-12-8 of the Code of West Virginia, 1931, as amended, all relating to education for insurance producers; renaming the Board of Insurance Agent Education; revising certain membership requirements of the Board of Insurance Producer Education; providing for payment of certain expenses of board members; revising role of the board; continuing education; exempting certain insurance producers from continuing education requirements; reducing period in which a producer whose license has been suspended for noncompliance with continuing education requirements may demonstrate compliance; and permitting the

Insurance Commissioner to propose a rule to change certain fees.

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

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

**ARTICLE 12. INSURANCE PRODUCERS.**

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

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

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

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

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

13       (4) One representative of a domestic insurance company;

14 and

15 (5) One representative of a foreign insurance company.  
16 ~~Provided, That no board shall be appointed that fails to~~  
17 ~~include companies or agents for companies representing at~~  
18 ~~least two thirds of the net written insurance premiums in the~~  
19 ~~state.~~

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

26 (a) ~~The Board of Insurance Agent Education shall~~  
27 ~~establish the criteria for a program of insurance education~~  
28 ~~and submit the proposal for the approval of the commis-~~  
29 ~~sioner on or before the thirty-first day of December of each~~  
30 ~~year.~~

31 (b) (c) ~~The commissioner and the board under standards~~  
32 ~~established by the board, may approve shall establish~~  
33 standards for a program of insurance producer education and  
34 shall advise the commissioner as to whether any course or  
35 program of instruction developed or sponsored by an  
36 authorized insurer, accredited college or university, agents

37 producers' association, insurance trade association or  
38 independent program of instruction ~~that presents the criteria~~  
39 ~~and the number of hours that the board and commissioner~~  
40 ~~determine appropriate for the purpose of this article~~ meets  
41 such standards.

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

1 ~~The purpose of this provision is to provide continuing~~  
2 ~~education under guidelines set up under the Insurance~~  
3 ~~Commissioner's office, with the guidelines to be set up under~~  
4 ~~the board of Insurance Agent Education.~~

5 (a) This section applies to individual insurance producers  
6 licensed to engage in the sale of the following types of  
7 insurance:

8 (1) *Life.*— Life insurance coverage on human lives,  
9 including benefits of endowment and annuities, and may  
10 include benefits in the event of death or dismemberment by  
11 accident and benefits for disability income;

12 (2) *Accident and health or sickness.*— Insurance coverage  
13 for sickness, bodily injury or accidental death and may  
14 include benefits for disability income;

15 (3) *Property.*— Property insurance coverage for the direct  
16 or consequential loss or damage to property of every kind;

17 (4) *Casualty*. — Insurance coverage against legal liability,  
18 including that for death, injury or disability or damage to  
19 real or personal property;

20 (5) *Variable life and variable annuity products*. —  
21 Insurance coverage provided under variable life insurance  
22 contracts and variable annuities;

23 (6) *Personal lines*. — Property and casualty insurance  
24 coverage sold to individuals and families for primarily  
25 noncommercial purposes; and

26 (7) Any other line of insurance permitted under state  
27 laws or regulations.

28 (b) This section does not apply to:

29 (1) Individual insurance producers holding limited line  
30 credit insurance licenses for any kind or kinds of insurance  
31 offered in connection with loans or other credit transactions  
32 or insurance for which an examination is not required by the  
33 commissioner, nor does it apply to any limited or restricted  
34 license as the commissioner may exempt; and

35 (2) Individual insurance producers selling credit life,  
36 credit unemployment or credit accident and ~~health~~ sickness  
37 insurance.

38 (c) (1) ~~The Board of Insurance Agent Education as~~  
39 ~~established by section seven of this article shall develop a~~  
40 ~~program of continuing insurance education and submit the~~  
41 ~~proposal for the approval of the commissioner on or before~~  
42 ~~the thirty-first day of December of each year. No A continu-~~  
43 ~~ing education program may not be approved by the commis-~~  
44 ~~sioner that includes a requirement that any individual~~  
45 ~~insurance producer complete more than twenty-four hours~~  
46 ~~of continuing insurance education biennially. No A program~~  
47 ~~may not be approved by the commissioner that includes a~~  
48 ~~requirement that any of the following individual insurance~~  
49 ~~producers complete more than six hours of continuing~~  
50 ~~insurance education biennially:~~

51 (A) Individual insurance producers who sell only preneed  
52 burial insurance contracts; and

53 (B) Individual insurance producers who engage solely in  
54 telemarketing insurance products by a scripted presentation  
55 which scripted presentation has been filed with and ap-  
56 proved by the commissioner.

57 (C) ~~The biennium mandatory continuing insurance~~  
58 ~~education provisions of this section become effective on the~~

59 ~~reporting period beginning on the first day of July, two~~  
60 ~~thousand six.~~

61 (2) The commissioner ~~and the board, under standards~~  
62 ~~established by the board, in consultation with the Board of~~  
63 Insurance Producer Education may approve any course or  
64 program of instruction ~~developed or sponsored by an~~  
65 ~~authorized insurer, accredited college or university, agents'~~  
66 ~~association, insurance trade association or independent~~  
67 ~~program of instruction that presents the criteria and the~~  
68 ~~number of hours that the board and commissioner determine~~  
69 that he or she determines to be appropriate for the purpose  
70 purposes of this section.

71 (d) Individual insurance producers licensed to sell  
72 insurance and who are not otherwise exempt shall satisfacto-  
73 rily complete the courses or programs of instructions the  
74 commissioner may prescribe.

75 (e) Every individual insurance producer subject to the  
76 continuing education requirements shall furnish, at intervals  
77 and on forms as may be prescribed by the commissioner,  
78 written certification listing the courses, programs or semi-  
79 nars of instruction successfully completed by the person. The  
80 certification shall be executed by, or on behalf of, the

81 organization sponsoring the courses, programs or seminars  
82 of instruction.

83 (f) ~~Subject to the approval by the commissioner, The~~  
84 active annual membership by an individual insurance  
85 producer in ~~an organization or association recognized and~~  
86 one or more organizations or associations approved by the  
87 commissioner as a state, regional or national professional  
88 insurance ~~organization or association~~ organizations or  
89 associations may be approved by the commissioner for up to  
90 no more than two cumulative hours of continuing insurance  
91 education ~~Provided, That not more than two hours of~~  
92 ~~continuing insurance education may be awarded to an~~  
93 ~~individual insurance producer for membership in a profes-~~  
94 ~~sional insurance organization~~ during a biennial reporting  
95 period. Credit for continuing insurance education pursuant  
96 to this subdivision may only be awarded to individual  
97 insurance producers who are required to complete more than  
98 six hours of continuing education biennially.

99 (g) Individual insurance producers who are required to  
100 complete more than six hours of continuing education  
101 biennially and who exceed the minimum continuing educa-  
102 tion requirement for the biennial reporting period may carry



103 over a maximum of six credit hours only into ~~the~~ his or her  
104 next reporting period.

105 (h) (1) Any individual insurance producer failing to meet  
106 the requirements mandated in this section ~~and who has not~~  
107 ~~been granted an extension of time with respect to the~~  
108 ~~requirements~~; or who has submitted ~~to the commissioner a~~  
109 false or fraudulent certificate of compliance shall have his or  
110 her license automatically suspended. ~~and no further license~~  
111 ~~may be issued to the person for any kind or kinds of insur-~~  
112 ~~ance until the person demonstrates to the satisfaction of the~~  
113 ~~commissioner that he or she has complied with all of the~~  
114 ~~requirements mandated by this section and all other applica-~~  
115 ~~ble laws or rules.~~

116 (i) (2) The commissioner shall notify the individual  
117 insurance producer of ~~his or her~~ such suspension pursuant to  
118 ~~subsection (h) of this section~~ by sending a notice by certified  
119 ~~mail return receipt requested~~; to the last address on file with  
120 the commissioner, ~~pursuant to subsection (e), section nine of~~  
121 ~~this article. Any individual insurance producer who has had~~  
122 ~~a suspension order entered against him or her pursuant to~~  
123 ~~this section may, within thirty calendar days of receipt of the~~  
124 ~~order~~ and the notice shall inform the producer of his or her

125 right to file with the commissioner a request for a hearing for  
126 reconsideration of the matter.

127 (j) (3) Any individual insurance producer suspended  
128 pursuant to this subsection who does not satisfactorily  
129 demonstrate compliance with this section and all other laws  
130 applicable thereto ~~as of the last day~~ within one year after the  
131 end of the biennium following his or her suspension in which  
132 the noncompliance occurred shall have his or her license  
133 ~~automatically~~ canceled and is will thereafter be subject to  
134 the education and examination requirements of section five  
135 of this article.

136 (k) (i) The commissioner is authorized to hire personnel  
137 and make reasonable expenditures considered necessary for  
138 purposes of establishing and maintaining a system of  
139 continuing education for ~~insurers~~ producers. The commis-  
140 sioner shall charge a fee of \$25 or such other amount estab-  
141 lished by legislative rule to continuing education providers  
142 for each continuing education course submitted for approval,  
143 which amounts shall be used to maintain the continuing  
144 education system. The commissioner may, at his or her  
145 discretion, designate an outside administrator to provide all  
146 ~~of~~ or part of the administrative duties of the continuing

147 education system, ~~subject to direction and approval by the~~  
148 ~~commissioner~~ The including the collection of fees from  
149 providers for courses submitted for approval, and may  
150 establish fees to be charged to the continuing education  
151 providers by the outside administrator. ~~shall be paid by the~~  
152 ~~continuing education providers. In addition to fees charged~~  
153 ~~by the outside administrator, the outside administrator shall~~  
154 ~~collect and remit to the commissioner the twenty-five dollar~~  
155 ~~course submission fee.~~