

Senate Bill No. 407

(By Senator Tucker)

[Introduced January 22, 2014; referred to the Committee on Banking and Insurance; and then to the Committee on Government Organization.]

A BILL to amend and reenact §33-37-2 of the Code of West Virginia, 1931, as amended, relating to licensure of managing general agents of insurers; removing unnecessary language; providing for retroactive renewal of lapsed licenses; establishing license application and renewal fees; extending period of some initial licenses; and clarifying that the appointment of the Secretary of State to receive process applies to administrative actions and actions involving license applications.

Be it enacted by the Legislature of West Virginia:

That §33-37-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 37. MANAGING GENERAL AGENTS.

§33-37-2. Licensure.

1 (a) No domestic, foreign or alien insurer may permit a
2 person to act, and no person may act, in the capacity of a
3 managing general agent for an insurer ~~domiciled~~ in this state
4 unless ~~such~~ the person is licensed in this state to act as a
5 managing general agent.

6 ~~(b) No foreign or alien insurer may permit a person to act,
7 and no person may act, in the capacity of a managing general
8 agent representing an insurer unless the person is licensed in
9 this state to act as a managing general agent.~~

10 ~~(c)~~ (b) No person may act in the capacity of a managing
11 general agent with respect to risks located in this state for an
12 insurer licensed in this state unless the person is a licensed
13 insurance producer in this state.

14 ~~(d)~~ (c) The commissioner may license as a managing
15 general agent any individual or business entity that has
16 complied with the requirements of this article and any
17 ~~regulations concerning licensure that may be promulgated by~~

18 ~~the commissioner~~ related rules. The commissioner may
19 refuse to issue a license ~~subject to the right of the applicant~~
20 ~~to demand a hearing on the application, if the commissioner~~
21 he or she believes the applicant, any person named on the
22 application, or any member, principal, officer or director of
23 the applicant is not trustworthy or competent to act as a
24 managing general agent, or that any of the foregoing persons
25 has given cause for revocation or suspension of ~~such the~~
26 license or has failed to comply with any prerequisite for
27 issuance of ~~such the~~ license.

28 ~~(e)~~ (d) Any person seeking a license pursuant to
29 ~~subsection (d)~~ of this section shall apply for the license in a
30 form ~~acceptable to~~ prescribed by the commissioner and shall
31 pay ~~to the commissioner~~ a nonrefundable application fee in
32 ~~an amount prescribed by the commissioner~~ The application
33 ~~fee shall be not less than five hundred dollars nor more than~~
34 ~~one thousand dollars. Every licensed managing general agent~~
35 ~~shall pay to the commissioner a nonrefundable annual~~
36 ~~renewal fee in an amount prescribed by the commissioner.~~

37 ~~The renewal fee shall be not less than two hundred dollars~~
38 ~~nor more than one thousand dollars. Between the first day of~~
39 ~~May and the first day of June of the renewal year, each of~~
40 \$500. Each license issued pursuant to this section expires on
41 June 30 following issuance, except that a license initially
42 issued in May or June expires on June 30 of the following
43 year. In order to renew a license, a licensed managing
44 general agent shall submit to the commissioner ~~the renewal~~
45 fee and at least one month prior to expiration a renewal
46 application in a form as prescribed by the commissioner and
47 a renewal fee of \$200: *Provided*, That a managing general
48 agent that fails to timely renew a license may reinstate the
49 license, retroactive to its expiration date, upon submission of
50 the renewal application form prior to June 1 following the
51 expiration date and payment of a renewal fee of \$400. All
52 fees shall be ~~collected by the commissioner~~ paid into the
53 State Treasury and ~~placed~~ to the credit of the special revenue
54 account ~~provided for~~ created in subsection (b), section
55 thirteen, article three of this chapter. ~~Each license issued~~

56 ~~pursuant to this article expires at midnight on the thirtieth day~~
57 ~~of June next following the day of issuance.~~

58 (f) (e) The commissioner may require a bond in an
59 amount acceptable to him or her for the protection of the
60 insurer.

61 (g) (f) The commissioner may require a managing general
62 agent to maintain an errors and omissions policy that is
63 acceptable to the commissioner.

64 (h) (g) ~~Except where prohibited by state or federal law,~~
65 ~~by submitting~~ The submission of an application for license
66 ~~the applicant shall be deemed to have appointed pursuant to~~
67 this section shall constitute an appointment by the applicant
68 of the Secretary of State as the agent for service of process
69 on the applicant in any action or proceeding, including
70 administrative actions instituted by the commissioner,
71 arising in this state out of or in connection with the
72 application for or exercise of the license. The appointment
73 of the Secretary of State as agent for service of process shall
74 be irrevocable during the period within which a cause of

75 action against the applicant may arise out of transactions
76 with respect to subjects of insurance in this state. Service of
77 process on the Secretary of State shall conform to the
78 provisions of section twelve, article four of this chapter.

79 ~~(f)~~ (h) A person seeking licensure shall provide evidence,
80 in a form acceptable to the commissioner, of its appointments
81 or contracts as a managing general agent. The commissioner
82 may refuse to renew the license of a person that has not been
83 appointed by, or otherwise authorized to act for, an insurer as
84 a managing general agent.

(NOTE: This bill provides for the renewal of lapsed managing general agent licenses and sets specific application and renewal fees.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)