

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2682

BY DELEGATES WESTFALL, HOTT AND ESPINOSA

(BY REQUEST OF THE INSURANCE COMMISSIONER)

[Passed March 19, 2021; in effect July 1, 2021.]

1 AN ACT to amend and reenact §33-12-8 and §33-12-9 of the Code of West Virginia, 1931, as
2 amended, and to amend and reenact §33-12B-13 and §33-12B-14 of said code, all relating
3 to the issuance of license suspensions to insurance producers and insurance adjusters
4 who have failed to meet continuing education requirements; changing the requirement
5 that the Insurance Commissioner send license suspensions to insurance producers by
6 certified mail with a requirement that the suspensions be sent by electronic mail or regular
7 mail; providing that each agent, insurance agency, solicitor, or service representative must
8 report his or her respective electronic mail address to the Insurance Commissioner and
9 providing time periods to report changes of information provided to Insurance
10 Commissioner; changing the requirement that the Insurance Commissioner send license
11 suspensions to insurance adjusters by certified mail with a requirement that the
12 suspensions be sent by electronic mail or regular mail; providing that each insurance
13 adjuster must report his or her respective electronic mail address to the Insurance
14 Commissioner and providing time periods to report changes of information provided to
15 Insurance Commissioner; and requiring the Insurance Commissioner to maintain certain
16 information.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. INSURANCE PRODUCERS AND SOLICITORS.

§33-12-8. Continuing education required.

1 The purpose of this section is to provide continuing education requirements under
2 guidelines set up under the Insurance Commissioner's office in conjunction with the Board of
3 Insurance Agent Education.

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

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

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

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

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

15 (5) Variable life and variable annuity products. — Insurance coverage provided under
16 variable life insurance contracts and variable annuities;

17 (6) Personal lines. — Property and casualty insurance coverage sold to individuals and
18 families for primarily noncommercial purposes; and

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

20 (b) This section does not apply to:

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

25 (2) Individual insurance producers selling credit life or credit accident and health
26 insurance.

27 (c)(1) The Board of Insurance Agent Education as established by §33-12-7 of this code
28 shall develop a program of continuing insurance education and submit the proposal for the
29 approval of the commissioner on or before December 31 of each year. No program may be
30 approved by the commissioner that includes a requirement that any individual insurance producer
31 complete more than 24 hours of continuing insurance education biennially. No program may be

32 approved by the commissioner that includes a requirement that any of the following individual
33 insurance producers complete more than six hours of continuing insurance education biennially:

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

35 (B) Individual insurance producers who engage solely in telemarketing insurance products
36 by a scripted presentation which scripted presentation has been filed with and approved by the
37 commissioner.

38 (C) The biennium mandatory continuing insurance education provisions of this section
39 become effective on the reporting period beginning July 1, 2006.

40 (2) The commissioner and the board, under standards established by the board, may
41 approve any course or program of instruction developed or sponsored by an authorized insurer,
42 accredited college or university, agents' association, insurance trade association, or independent
43 program of instruction that presents the criteria and the number of hours that the board and
44 commissioner determine appropriate for the purpose of this section.

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

48 (e) Every individual insurance producer subject to the continuing education requirements
49 shall furnish, at intervals and on forms as may be prescribed by the commissioner, written
50 certification listing the courses, programs, or seminars of instruction successfully completed by
51 the person. The certification shall be executed by, or on behalf of, the organization sponsoring
52 the courses, programs, or seminars of instruction.

53 (f) Subject to the approval by the commissioner, the active annual membership by an
54 individual insurance producer in an organization or association recognized and approved by the
55 commissioner as a state, regional, or national professional insurance organization or association
56 may be approved by the commissioner for up to two hours of continuing insurance education:
57 *Provided*, That not more than two hours of continuing insurance education may be awarded to an

58 individual insurance producer for membership in a professional insurance organization during a
59 biennial reporting period. Credit for continuing insurance education pursuant to this subdivision
60 may only be awarded to individual insurance producers who are required to complete more than
61 six hours of continuing education biennially.

62 (g) Individual insurance producers who are required to complete more than six hours of
63 continuing education biennially and who exceed the minimum continuing education requirement
64 for the biennial reporting period may carry-over a maximum of six credit hours only into the next
65 reporting period.

66 (h) Any individual insurance producer failing to meet the requirements mandated in this
67 section and who has not been granted an extension of time, with respect to the requirements, or
68 who has submitted to the commissioner a false or fraudulent certificate of compliance shall have
69 his or her license automatically suspended and no further license may be issued to the person for
70 any kind or kinds of insurance until the person demonstrates to the satisfaction of the
71 commissioner that he or she has complied with all of the requirements mandated by this section
72 and all other applicable laws or rules.

73 (i) The commissioner shall notify the individual insurance producer of his or her
74 suspension pursuant to §33-12-8(h) of this code by electronic mail or regular mail, if requested,
75 to the last respective address on file with the commissioner pursuant to §33-12-9(f) of this code.
76 Any individual insurance producer who has had a suspension notice entered against him or her
77 pursuant to this section may, within 30 calendar days of receipt of the notice, file with the
78 commissioner a request for a hearing for reconsideration of the matter.

79 (j) Any individual insurance producer who does not satisfactorily demonstrate compliance
80 with this section and all other laws applicable thereto as of the last day of the biennium following
81 his or her suspension shall have his or her license automatically canceled and is subject to the
82 education and examination requirements of §33-12-5 of this code.

83 (k) The commissioner is authorized to hire personnel and make reasonable expenditures
84 considered necessary for purposes of establishing and maintaining a system of continuing
85 education for insurers. The commissioner shall charge a fee of \$25 to continuing education
86 providers for each continuing education course submitted for approval which shall be used to
87 maintain the continuing education system. The commissioner may, at his or her discretion,
88 designate an outside administrator to provide all of or part of the administrative duties of the
89 continuing education system subject to direction and approval by the commissioner. The fees
90 charged by the outside administrator shall be paid by the continuing education providers. In
91 addition to fees charged by the outside administrator, the outside administrator shall collect and
92 remit to the commissioner the \$25 course submission fee.

§33-12-9. Issuance of license.

1 (a) Unless denied licensure pursuant to §33-12-24 of this code, individuals who have met
2 the requirements of §33-12-5 and §33-12-6 of this code shall be issued an insurance producer
3 license. An insurance producer may receive qualification for a license in one or more of the
4 following lines of authority:

5 (1) Life insurance coverage on human lives including benefits of endowment and
6 annuities, and may include benefits in the event of death or dismemberment by accident and
7 benefits for disability income;

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

10 (3) Property insurance coverage for the direct or consequential loss or damage to property
11 of every kind;

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

14 (5) Variable life and variable annuity products. — Insurance coverage provided under
15 variable life insurance contracts and variable annuities;

16 (6) Personal lines. — Property and casualty insurance coverage sold to individuals and
17 families for primarily noncommercial purposes;

18 (7) Credit. — Limited line credit insurance; or

19 (8) Any other line of insurance permitted under state laws or regulations.

20 (b) An insurance producer license shall remain in effect unless revoked or suspended as
21 long as the fee set forth in §33-3-13 of this code is paid and education requirements for resident
22 individual producers are met by the due date.

23 (c) An individual insurance producer who allows his or her license to lapse may, within 12
24 months from the due date of the renewal fee, reinstate the same license without the necessity of
25 passing a written examination. However, a penalty in the amount of double the unpaid renewal
26 fee shall be required for any renewal fee received after the due date.

27 (d) An individual licensed insurance producer who is unable to comply with license renewal
28 procedures due to military service or some other extenuating circumstance (e.g., a long-term
29 medical disability) may request a waiver of those procedures. The producer may also request a
30 waiver of any examination requirement or any other fine or sanction imposed for failure to comply
31 with renewal procedures.

32 (e) The license shall contain the licensee's name, address, personal identification number,
33 and the date of issuance, the lines of authority, the expiration date, and any other information the
34 Insurance Commissioner considers necessary.

35 (f) At the time of application for licensure, the applicant shall inform the Insurance
36 Commissioner of the applicant's full name, physical and mailing address, if different, and
37 electronic mail address. Each agent, insurance agency, solicitor, or service representative that
38 is licensed on July 1, 2021, shall provide the Insurance Commissioner with the licensee's
39 electronic mail address in connection with the next license renewal application of the respective
40 licensee. If a change occurs to the licensee's name, physical address, mailing address, or
41 electronic mail address after licensure, the licensee shall inform the Insurance Commissioner by

42 any means acceptable to the Insurance Commissioner of the updated contact information within
43 30 days of the change. Failure to timely inform the Insurance Commissioner of a change in legal
44 name, residency, mailing address, or electronic mail address may result in a penalty pursuant to
45 §33-12-24 of this code. The commissioner shall maintain the information provided pursuant to this
46 subsection for each agent, insurance agency, solicitor, and service representative on file.

47 (g) In order to assist in the performance of the Insurance Commissioner's duties, the
48 Insurance Commissioner may contract with nongovernmental entities, including the National
49 Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that the NAIC
50 oversees, to perform any ministerial functions, including the collection of fees, related to producer
51 licensing that the Insurance Commissioner and the nongovernmental entity may consider
52 appropriate.

ARTICLE 12B. ADJUSTERS.

§33-12B-13. Continuing education.

1 (a) The purpose of this section is to provide continuing education requirements for
2 individual adjusters under guidelines established by the commissioner's office in conjunction with
3 the Board of Insurance Agent Education as provided in §33-12-7 of this code.

4 (b) This section applies to company adjusters, independent adjusters, and public adjusters
5 licensed pursuant to §33-12B-2 of this code.

6 (c) This section shall not apply to:

7 (1) Licensees not licensed for one full year prior to the end of the applicable continuing
8 education biennium; or

9 (2) Licensees holding nonresident adjuster licenses who have met substantially similar
10 continuing education requirements of their designated home state and whose home state gives
11 credit to residents of this state on the same basis.

12 (d)(1) The Board of Insurance Agent Education as established by §33-12-7 of this code
13 shall develop a program of continuing education for adjusters and submit the proposal for the

14 approval of the commissioner on or before December 31 of each year. No program may be
15 approved by the commissioner that includes a requirement that any individual adjuster complete
16 more than 24 hours of continuing insurance education biennially.

17 (2) The biennium mandatory continuing education provisions of this section become
18 effective on the reporting period beginning July 1, 2021.

19 (3) The commissioner and the Board of Insurance Agent Education, under standards
20 established by the board, may approve any course or program of instruction developed or
21 sponsored by an authorized insurer, accredited college or university, adjusters' association,
22 insurance trade association, or independent program of instruction that presents the criteria and
23 the number of hours that the board and commissioner determine appropriate for the purpose of
24 this section.

25 (e) An individual who holds an adjuster license and who is not exempt shall satisfactorily
26 complete a minimum of 24 hours of continuing education courses, of which three hours must be
27 in ethics, reported to the commissioner on a biennial basis in conjunction with their license renewal
28 cycle.

29 (f) Every individual adjuster subject to the continuing education requirements shall furnish,
30 at intervals and on forms as may be proposed by the commissioner, written certification listing the
31 courses, programs, or seminars of instruction successfully completed by the adjuster. The
32 certification shall be executed by, or on behalf of, the organization sponsoring the courses,
33 programs, or seminars of instruction.

34 (g) Subject to the approval of the commissioner, the active annual membership by an
35 adjuster in an organization or association recognized and approved by the commissioner as a
36 state, regional, or national professional insurance organization or association may be approved
37 by the commissioner for up to two hours of continuing insurance education: *Provided*, That not
38 more than two hours of continuing education may be awarded to an adjuster for membership in a
39 professional insurance organization during a biennial reporting period.

40 (h) Adjusters who exceed the minimum continuing education requirement for the biennial
41 reporting period may carry over a maximum of six credit hours only into the next reporting period.

42 (i) Any individual adjuster failing to meet the requirements mandated in this section and
43 who has not been granted an extension of time with respect to the requirements, or who has
44 submitted to the commissioner a false or fraudulent certificate of compliance, shall have his or
45 her license automatically suspended and no further license may be issued to the person until the
46 person demonstrates to the satisfaction of the commissioner that he or she has complied with all
47 of the requirements mandated by this section and all other applicable laws or rules.

48 (j) The commissioner shall notify the individual adjuster of his or her suspension pursuant
49 to §33-12B-13(i) of this code by electronic mail or regular mail, if requested, to the last respective
50 address on file with the commissioner pursuant to §33-12B-14(a) of this code. Any individual
51 insurance adjuster who has had a suspension notice entered against him or her pursuant to this
52 section may, within 30 calendar days of receipt of the notice, file with the commissioner a request
53 for a hearing for reconsideration of the matter.

54 (k) Any individual adjuster who does not satisfactorily demonstrate compliance with this
55 section and all other laws applicable thereto as of the last day of the biennium following his or her
56 suspension shall have his or her license automatically terminated and is subject to the licensing
57 and examination requirements of §33-12B-5 of this code.

58 (l) The commissioner is authorized to hire personnel and make reasonable expenditures
59 considered necessary for purposes of establishing and maintaining a system of continuing
60 education for adjusters. The commissioner shall charge a fee of \$25 to continuing education
61 providers for each continuing education course submitted for approval which shall be used to
62 maintain the continuing education system. The commissioner may, at his or her discretion,
63 designate an outside administrator to provide all of or part of the administrative duties of the
64 continuing education system subject to direction and approval by the commissioner. The fees
65 charged by the outside administrator shall be paid by the continuing education providers. In

66 addition to fees charged by the outside administrator, the outside administrator shall collect and
67 remit to the commissioner the \$25 course submission fee.

§33-12B-14. Current address of adjusters to be filed; effective notice of appearance at hearing before commissioner.

1 (a) Each adjuster shall file with the commissioner the complete address of his principal
2 place of business and the complete address of his residence including the name and number of
3 the street, or if the street where the business is located is not numbered, the number of the post
4 office box. An adjuster shall also file with the commissioner the adjuster's electronic mail address.
5 An adjuster licensed on July 1, 2021, shall provide the commissioner with the licensee's electronic
6 mail address in connection with the licensee's next license renewal application. Within 30 days
7 of a change of business or residence address or electronic mail address by an adjuster, the
8 adjuster must file with the commissioner notice of such change of address. The commissioner
9 shall maintain the information provided pursuant to this subsection for each adjuster on file.

10 (b) When conducting any hearing authorized by §33-2-13 of this code which concerns any
11 adjuster, the commissioner shall give notice of such hearing and the matters to be determined
12 therein to such adjuster by certified mail, return receipt requested, sent to the last address filed
13 by such person or entity pursuant to this section.

14 (c) If an adjuster fails to appear at such hearing, the hearing may proceed, at which time
15 the commissioner shall establish that notice was sent to such person pursuant to this section prior
16 to the entry of any orders adverse to the interests of such adjuster based upon the allegations
17 against such person which were set forth in the notice of hearing. Certified copies of all orders
18 entered by the commissioner shall be sent to the person affected therein by certified mail, return
19 receipt requested, at the last address filed by such person with the commissioner.

20 (d) An adjuster who fails to appear at a hearing of which notice has been provided pursuant
21 to this section, and who has had an adverse order entered by the commissioner against them as
22 a result of their failure to so appear may, within 30 calendar days of the entry of such adverse

23 order, file with the commissioner a written verified appeal with any relevant documents attached
24 thereto, which demonstrates good and reasonable cause for the adjuster's failure to appear, and
25 may request reconsideration of the matter and a new hearing. The commissioner in his or her
26 discretion, and upon a finding that the adjuster has shown good and reasonable cause for his or
27 her failure to appear, shall issue an order that the previous order be rescinded, that the matter be
28 reconsidered, and that a new hearing be set.

29 (e) Orders entered pursuant to this section are subject to the judicial review provisions of
30 §33-2-14 of this code.

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect July 1, 2021.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2021.

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Governor