

1 **H. B. 4262**

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3 (By Delegates Perry, Ashley, Walters and Hall)

4 [By request of the Insurance Commissioner]

5 [Introduced January 23, 2012; referred to the

6 Committee on Banking and Insurance then the Judiciary.]

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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 the
12 continuing education for insurance producers; revising certain
13 membership requirements of the board of insurance producer
14 education; providing for payment of certain expenses of board
15 members; revising role of the board; reducing period in which
16 a producer whose license has been suspended may demonstrate
17 compliance; and permitting the Insurance Commissioner to
18 propose a rule to change certain fees.

19 *Be in enacted by the Legislature of West Virginia:*

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

22 **ARTICLE 12. INSURANCE PRODUCERS.**

23 **§33-12-7. Board of Insurance Producer Education.**

1 ~~(a) The Board of Insurance Agent Education shall continue in~~
2 ~~existence.~~ The Board of Insurance ~~Agent~~ Producer Education shall
3 consist of ~~the Commissioner of Insurance~~ and six members appointed
4 by the commissioner as follows: ~~The members appointed by the~~
5 ~~commissioner shall be~~ Two licensed property and casualty insurance
6 ~~agents~~ producers, one licensed life insurance ~~agent~~ producer, one
7 licensed health and accident and sickness insurance ~~agent~~ producer,
8 one representative of a domestic insurance company, and one
9 representative of a foreign insurance company. ~~Provided, That no~~
10 ~~board shall be appointed that fails to include companies or agents~~
11 ~~for companies representing at least two thirds of the net written~~
12 ~~insurance premiums in the state.~~ Each member shall serve a term of
13 three years and shall be eligible for reappointment. Members of the
14 board are not entitled to compensation for services performed as
15 members but are entitled to reimbursement for all reasonable and
16 necessary expenses actually incurred in attending meetings called
17 by the commissioner.

18 ~~(a) The Board of Insurance Agent Education shall establish the~~
19 ~~criteria for a program of insurance education and submit the~~
20 ~~proposal for the approval of the commissioner on or before the~~
21 ~~thirty-first day of December of each year.~~

22 (b) The ~~commissioner and the board~~ under standards established
23 by the board, shall establish standards for a program of insurance

1 producer education and ~~may approve~~ shall advise the commissioner as
2 to whether any course or program of instruction developed or
3 sponsored by an authorized insurer, accredited college or
4 university, ~~agents~~ producers' association, insurance trade
5 association or independent program of instruction ~~that presents the~~
6 ~~criteria and the number of hours that the board and commissioner~~
7 ~~determine appropriate for the purpose of this article~~ meets such
8 standards.

9 **§33-12-8. Continuing education required.**

10 ~~The purpose of this provision is to provide continuing~~
11 ~~education under guidelines set up under the Insurance~~
12 ~~Commissioner's office, with the guidelines to be set up under the~~
13 ~~board of Insurance Agent Education.~~

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

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

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

23 (3) *Property*.-- Property insurance coverage for the direct or

1 consequential loss or damage to property of every kind;

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

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

8 (6) *Personal lines*. -- Property and casualty insurance
9 coverage sold to individuals and families for primarily
10 noncommercial purposes; and

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

13 (b) This section does not apply to:

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

20 (2) Individual insurance producers selling credit life, credit
21 unemployment or credit accident and ~~health~~ sickness insurance.

22 © (1) ~~The Board of Insurance Agent Education as established by~~
23 ~~section seven of this article shall develop a program of continuing~~

1 ~~insurance education and submit the proposal for the approval of the~~
2 ~~commissioner on or before the thirty-first day of December of each~~
3 ~~year. No A continuing education program may not be approved by the~~
4 commissioner that includes a requirement that any individual
5 insurance producer complete more than twenty-four hours of
6 continuing insurance education biennially. ~~No A program may not be~~
7 approved by the commissioner that includes a requirement that any
8 of the following individual insurance producers complete more than
9 six hours of continuing insurance education biennially:

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

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

16 ~~© The biennium mandatory continuing insurance education~~
17 ~~provisions of this section become effective on the reporting period~~
18 ~~beginning on the first day of July, two thousand six.~~

19 (2) The commissioner ~~and the board, under standards~~
20 ~~established by the board,~~ in consultation with the board of
21 insurance producer education, may approve any course or program of
22 instruction ~~developed or sponsored by an authorized insurer,~~
23 ~~accredited college or university, agents' association, insurance~~

1 ~~trade association or independent program of instruction that~~
2 ~~presents the criteria and the number of hours that the board and~~
3 ~~commissioner determine~~ that he or she determines to be appropriate
4 for the ~~purpose~~ purposes of this section.

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

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

16 (f) ~~Subject to the approval by the commissioner, the~~ The
17 active annual membership by an individual insurance producer in ~~an~~
18 ~~organization or association recognized~~ and one or more
19 organizations or associations approved by the commissioner as ~~a~~
20 state, regional or national professional insurance ~~organization or~~
21 ~~association~~ organizations or associations may be approved by the
22 commissioner for up to no more than two cumulative hours of
23 continuing insurance education ~~Provided, That not more than two~~

~~1 hours of continuing insurance education may be awarded to an
2 individual insurance producer for membership in a professional
3 insurance organization during a biennial reporting period. Credit
4 for continuing insurance education pursuant to this subdivision may
5 only be awarded to individual insurance producers who are required
6 to complete more than six hours of continuing education biennially.~~

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

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

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

1 ~~of this section by certified mail, return receipt requested, by~~
2 sending a notice by certified mail to the last address on file with
3 the 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

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

NOTE: The purpose of this bill is to revise certain membership requirements of the board of Insurance Producer Education. The bill provides for payment of certain expenses of board members and revises the role of the board. It reduces the period in which a producer whose license has been suspended may demonstrate compliance. And, the bill permits the Insurance Commissioner to propose a rule to change certain fees.

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