

1 **H. B. 4359**

2  
3 (By Delegate Guthrie)

4 (By Request of the Division of Insurance)

5 [Introduced January 28, 2014; referred to the  
6 Committee on Banking and Insurance then the Judiciary.]

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10 A BILL to amend and reenact §33-37-2 of the Code of West Virginia,  
11 1931, as amended, relating to licensure of managing general  
12 agents of insurers; removing unnecessary language; providing  
13 for retroactive renewal of lapsed licenses; establishing  
14 license application and renewal fees; extending period of some  
15 initial licenses; and clarifying that the appointment of the  
16 Secretary of State to receive process applies to  
17 administrative actions and actions involving license  
18 applications.

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

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

22 **ARTICLE 37. MANAGING GENERAL AGENTS.**

23 **§33-37-2. Licensure.**

1 (a) No domestic, foreign or alien insurer may permit a person  
2 to act, and no person may act, in the capacity of a managing  
3 general agent for an insurer ~~domiciled~~ in this state unless ~~such~~  
4 the person is licensed in this state to act as a managing general  
5 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 agent~~  
8 ~~representing an insurer unless the person is licensed in this state~~  
9 ~~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 general  
15 agent any individual or business entity that has complied with the  
16 requirements of this article and any ~~regulations concerning~~  
17 ~~licensure that may be promulgated by the commissioner~~ related  
18 rules. The commissioner may refuse to issue a license ~~subject to~~  
19 ~~the right of the applicant to demand a hearing on the application,~~  
20 if ~~the commissioner~~ he or she believes the applicant, any person  
21 named on the application, or any member, principal, officer or  
22 director of the applicant is not trustworthy or competent to act as  
23 a managing general agent, or that any of the foregoing persons has  
24 given cause for revocation or suspension of ~~such~~ the license or has

1 failed to comply with any prerequisite for issuance of ~~such the~~  
2 license.

3 ~~(e)~~ (d) Any person seeking a license pursuant to ~~subsection~~  
4 ~~(d)~~ of this section shall apply for the license in a form  
5 ~~acceptable to~~ prescribed by the commissioner and ~~shall pay to the~~  
6 ~~commissioner~~ a nonrefundable application fee ~~in an amount~~  
7 ~~prescribed by the commissioner~~ of \$500. ~~The application fee shall~~  
8 ~~be not less than five hundred dollars nor more than one thousand~~  
9 ~~dollars. Every licensed managing general agent shall pay to the~~  
10 ~~commissioner a nonrefundable annual renewal fee in an amount~~  
11 ~~prescribed by the commissioner. The renewal fee shall be not less~~  
12 ~~than two hundred dollars nor more than one thousand dollars. Each~~  
13 license issued pursuant to this section expires on June 30  
14 following issuance, except that a license initially issued in May  
15 or June expires on June 30 of the following year. Between the  
16 ~~first day of May and the first day of June of the renewal year,~~  
17 ~~each~~ In order to renew a license, a licensed managing general agent  
18 shall submit to the commissioner ~~the renewal fee and~~ at least one  
19 month prior to expiration a renewal application in a form as  
20 prescribed by the commissioner and a renewal fee of \$200:  
21 Provided, That a managing general agent that fails to timely renew  
22 a license may reinstate the license, retroactive to its expiration  
23 date, upon submission of the renewal application form prior to June  
24 1 following the expiration date and payment of a renewal fee of

1 \$400. All fees shall be ~~collected by the commissioner~~ paid into  
2 the State Treasury ~~and placed~~ to the credit of the special revenue  
3 account ~~provided for~~ created in subsection (b), section thirteen,  
4 article three of this chapter. ~~Each license issued pursuant to~~  
5 ~~this article expires at midnight on the thirtieth day of June next~~  
6 ~~following the day of issuance.~~

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

9 ~~(g)~~ (f) The commissioner may require a managing general agent  
10 to maintain an errors and omissions policy that is acceptable to  
11 the commissioner.

12 ~~(h)~~ (g) ~~Except where prohibited by state or federal law, by~~  
13 ~~submitting~~ The submission of an application for license ~~the~~  
14 ~~applicant shall be deemed to have appointed pursuant to this~~  
15 section constitutes an appointment by the applicant of the  
16 Secretary of State as the agent for service of process on the  
17 applicant in any action or proceeding, including administrative  
18 actions instituted by the commissioner, arising in this state out  
19 of or in connection with the application for or exercise of the  
20 license. The appointment of the Secretary of State as agent for  
21 service of process shall be irrevocable during the period within  
22 which a cause of action against the applicant may arise out of  
23 transactions with respect to subjects of insurance in this state.  
24 Service of process on the Secretary of State shall conform to the

1 provisions of section twelve, article four of this chapter.

2       ~~(i)~~ (h) A person seeking licensure shall provide evidence, in  
3 a form acceptable to the commissioner, of its appointments or  
4 contracts as a managing general agent. The commissioner may refuse  
5 to renew the license of a person that has not been appointed by, or  
6 otherwise authorized to act for, an insurer as a managing general  
7 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.