

1 **Senate Bill No. 407**

2 (By Senator Tucker)

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4 [Introduced January 22, 2014; referred to the Committee on
5 Banking and Insurance; and then to the Committee on Government
6 Organization.]
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11 A BILL to amend and reenact §33-37-2 of the Code of West Virginia,
12 1931, as amended, relating to licensure of managing general
13 agents of insurers; removing unnecessary language; providing
14 for retroactive renewal of lapsed licenses; establishing
15 license application and renewal fees; extending period of some
16 initial licenses; and clarifying that the appointment of the
17 Secretary of State to receive process applies to
18 administrative actions and actions involving license
19 applications.

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

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

23 **ARTICLE 37. MANAGING GENERAL AGENTS.**

1 **§33-37-2. Licensure.**

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

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

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

15 ~~(d)~~ (c) The commissioner may license as a managing general
16 agent any individual or business entity that has complied with the
17 requirements of this article and any ~~regulations concerning~~
18 ~~licensure that may be promulgated by the commissioner~~ related
19 rules. The commissioner may refuse to issue a license ~~subject to~~
20 ~~the right of the applicant to demand a hearing on the application,~~
21 ~~if the commissioner~~ he or she believes the applicant, any person
22 named on the application, or any member, principal, officer or
23 director of the applicant is not trustworthy or competent to act as

1 a managing general agent, or that any of the foregoing persons has
2 given cause for revocation or suspension of ~~such~~ the license or has
3 failed to comply with any prerequisite for issuance of ~~such~~ the
4 license.

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

1 the license, retroactive to its expiration date, upon submission of
2 the renewal application form prior to June 1 following the
3 expiration date and payment of a renewal fee of \$400. All fees
4 shall be ~~collected by the commissioner~~ paid into the State Treasury
5 and ~~placed~~ to the credit of the special revenue account ~~provided~~
6 ~~for~~ created in subsection (b), section thirteen, article three of
7 this chapter. ~~Each license issued pursuant to this article expires~~
8 ~~at midnight on the thirtieth day of June next following the day of~~
9 ~~issuance.~~

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

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

15 ~~(h)~~ (g) ~~Except where prohibited by state or federal law, by~~
16 ~~submitting~~ The submission of an application for license ~~the~~
17 ~~applicant shall be deemed to have appointed~~ pursuant to this section
18 shall constitute an appointment by the applicant of the Secretary
19 of State as the agent for service of process on the applicant in any
20 action or proceeding, including administrative actions instituted
21 by the commissioner, arising in this state out of or in connection
22 with the application for or exercise of the license. The
23 appointment of the Secretary of State as agent for service of

1 process shall be irrevocable during the period within which a cause
2 of action against the applicant may arise out of transactions with
3 respect to subjects of insurance in this state. Service of process
4 on the Secretary of State shall conform to the provisions of section
5 twelve, article four of this chapter.

6 ~~(f)~~ (h) A person seeking licensure shall provide evidence, in
7 a form acceptable to the commissioner, of its appointments or
8 contracts as a managing general agent. The commissioner may refuse
9 to renew the license of a person that has not been appointed by, or
10 otherwise authorized to act for, an insurer as a managing general
11 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.)