

**H. B. 2536**

(By Delegates Westfall, Walters, B. White, Ashley, Frich and Kurcaba)

[Introduced February 2, 2015; referred to the

Committee on Banking and Insurance then the Judiciary.]

10 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
11 designated §33-12-32b, relating to travel insurance limited lines producers; defining terms;  
12 authorizing the Insurance Commissioner to issue a limited lines travel insurance producer  
13 license; authorizing a travel retailer to offer travel insurance under a limited lines travel  
14 insurance producer business entity license under certain conditions; requiring a limited lines  
15 travel insurance producer to maintain a register of travel retailers offering insurance on its  
16 behalf and to designate one of its employees as a designated responsible producer; requiring  
17 instruction or training of employees offering travel insurance on behalf of a limited lines  
18 travel insurance producer; providing exemptions from examination and continuing education  
19 requirements; requiring travel retailers offering travel insurance to make available written  
20 materials to prospective purchasers; prohibiting travel retailer employees who are not  
21 licensed as insurance producers from providing certain information; authorizing a travel  
22 retailer and its employees to offer travel insurance and to be compensated upon registration

1 by the limited lines travel insurance producer; and providing for enforcement.

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

3 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
4 section, designated §33-12-32b, to read as follows:

5 **ARTICLE 12. INSURANCE PRODUCERS AND SOLICITORS.**

6 **§33-12-32b. Travel Insurance Producer Limited License Act.**

7 (a) Short title. -- This section shall be known as the "Travel Insurance Producer Business  
8 Entity Limited License Act."

9 (b) Definitions. -- The following words when used in this section have the following  
10 meanings:

11 (1) A "group property travel insurance policy" means the policy issued to:

12 (A) Any railroad company, steamship company, carrier by air, public bus carrier, or other  
13 common carrier of passengers, which is deemed the policyholder, where the policy insures its  
14 passengers; or

15 (B) Any other group where the commissioner has determined in a rule that the members are  
16 engaged in a common enterprise, or have an economic or social affinity or relationship, and that the  
17 issuance of the policy would not be contrary to the best interests of the public.

18 (2) "Limited lines travel business entity insurance producer" means a licensed limited lines  
19 travel business entity insurance producer designated by an insurer as the travel insurance supervising  
20 entity as set forth in subsection (f) of this section.

21 (3) "Offer and disseminate" means providing general information, including a description of  
22 the coverage and price, as well as processing the application, collecting premiums, and performing

1 other activities permitted by the state without a license.

2 (4) "Travel insurance" means insurance coverage for personal risks incident to planned travel,  
3 including, but not limited to:

4 (A) Interruption or cancellation of trip or event;

5 (B) Loss of baggage or personal effects;

6 (C) Damages to accommodations or rental vehicles; or

7 (D) Sickness, accident, disability or death occurring during travel.

8 Travel insurance does not include major medical plans which provide comprehensive medical  
9 protection for travelers with trips lasting six months or longer, including, but not limited to, those  
10 working overseas as an ex-patriot or military personnel being deployed.

11 (5) "Travel retailer" means a business entity that makes, arranges or offers travel services and  
12 may offer and disseminate travel insurance as a service to its customers on behalf of and under the  
13 direction of a limited lines travel insurance producer business entity licensee.

14 (c) Requirements. -- Notwithstanding any other provision of law:

15 (1) Notwithstanding any other provision of this chapter, the commissioner may issue to a  
16 person that has met the requirements of this section a limited lines travel insurance business entity  
17 producer license authorizing the business entity to sell, solicit or negotiate travel insurance through  
18 a licensed insurer. Application for a limited lines travel insurance business entity producer license  
19 shall be made on a form and in a manner prescribed by the commissioner. The fee for a limited lines  
20 travel insurance producer business entity license is \$200. A person may only be issued a limited  
21 lines insurance business entity producer license under this section.

22 (2) A travel retailer may offer and disseminate travel insurance under a limited lines travel

1 insurance business entity producer ("licensed business entity") license only if the following  
2 conditions are met:

3 (A) The travel retailer provides to purchasers of travel insurance:

4 (i) A description of the material terms or the actual material terms of the insurance coverage;

5 (ii) A description of the process for filing a claim;

6 (iii) A description of the review or cancellation process for the travel insurance policy; and

7 (iv) The identity and contact information of the insurer and the limited lines travel insurance

8 business entity producer.

9 (B) At the time of licensure, the limited lines travel insurance business entity producer shall

10 establish and maintain a register on a form prescribed by the commissioner of each travel retailer that

11 offers travel insurance on behalf of the limited lines travel insurance business entity producer. The

12 register shall be updated annually by the limited lines travel insurance business entity producer and

13 shall include the name, address, and contact information of the travel retailer and an officer or person

14 who directs or controls the travel retailer's operations, and the travel retailer's federal tax

15 identification number. The limited lines travel insurance business entity producer shall submit the

16 register to the commissioner within thirty days upon request. The limited lines travel insurance

17 business entity producer shall also certify that the travel retailer register complies with 18 U.S.C

18 §1033.

19 (C) The limited lines travel insurance business entity producer has designated one of its

20 employees who is a licensed individual producer as the designated responsible producer responsible

21 for the limited lines travel insurance business entity producer's compliance with the travel insurance

22 laws and rules of the state.

1           (D) The designated responsible producer, president, secretary, treasurer, and any other officer  
2 or person who directs or controls the limited lines travel insurance business entity producer's  
3 insurance operations comply with the fingerprinting requirements applicable to insurance producers  
4 in the resident state of the limited lines travel insurance business entity producer.

5           (E) The limited lines travel insurance business entity producer has paid all applicable  
6 insurance producer business entity licensing fees set forth in state law.

7           (F) The limited lines travel insurance business entity producer requires each employee and  
8 authorized representative of the travel retailer whose duties include offering and disseminating travel  
9 insurance to receive a program of instruction or training, which the commissioner may review and  
10 approve or disapprove. The training material shall, at a minimum, contain instructions on the types  
11 of insurance offered, ethical sales practices, and required disclosures to prospective customers.

12           (3) A limited lines travel insurance business entity producer, and those registered under its  
13 license, are exempt from the examination requirements under section five of this article and the  
14 continuing education requirements under section eight of this article.

15           (4) Any travel retailer offering or disseminating travel insurance shall make available to  
16 prospective purchasers brochures or other written materials that:

17           (A) Provide the identity and contact information of the insurer and the limited lines travel  
18 insurance producer;

19           (B) Explain that the purchase of travel insurance is not required in order to purchase any  
20 other product or service from the travel retailer; and

21           (C) Explain that an unlicensed travel retailer is permitted to provide general information  
22 about the insurance offered by the travel retailer, including a description of the coverage and price,

1 but is not qualified or authorized to answer technical questions about the terms and conditions of the  
2 insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing  
3 insurance coverage.

4 (5) A travel retailer's employee or authorized representative who is not licensed as an  
5 insurance producer may not:

6 (A) Evaluate or interpret the technical terms, benefits, and conditions of the offered travel  
7 insurance coverage;

8 (B) Evaluate or provide advice concerning a prospective purchaser's existing insurance  
9 coverage; or

10 (C) Hold himself or herself out as a licensed insurer, licensed producer, or insurance expert.

11 (6) A licensee under this section is subject to the provisions of section six-b of this article as  
12 if it were an insurance agency.

13 (7) The commissioner may, in his or her discretion, fix the dates of expiration for limited  
14 lines travel insurance business entity producer licenses in any manner as is considered by him or her  
15 to be advisable for an efficient distribution of the work load of his or her office. If the expiration  
16 date so fixed would upon first occurrence shorten the period for which license fee has theretofore  
17 been paid, no refund of unearned fee shall be made; and if the expiration date so fixed would upon  
18 first occurrence lengthen the period for which license fee had theretofore been paid, the  
19 commissioner shall charge no additional fee for the lengthened period. If another date is not so fixed  
20 by the commissioner, each license shall, unless continued as herein above provided, expire at  
21 midnight on June 30 next following the date of issuance. The commissioner shall renew annually  
22 on the date as provided in this section the license of the licensee who qualifies and makes application

1 therefor, and has paid the fees set forth in this section.

2 (8) A limited lines travel insurance business entity producer who allows its license to lapse  
3 may, within twelve months from the due date of the renewal fee, reinstate the same license.  
4 However, a penalty in the amount of \$50 shall be required for any renewal fee received after the due  
5 date.

6 (d) A limited lines travel insurance business entity producer may not act as an agent of an  
7 insurer unless the limited lines travel insurance business entity producer becomes an appointed agent  
8 of that insurer.

9 (1) To appoint a limited lines travel insurance business entity producer as its agent, the  
10 appointing insurer shall file, in a format approved by the Insurance Commissioner, a notice of  
11 appointment within fifteen days from the date the agency contract is executed. An insurer may also  
12 elect to appoint a limited lines travel insurance business entity producer to all or some insurers  
13 within the insurer's holding company system or group by the filing of a single appointment request.

14 (2) Upon receipt of the notice of appointment, the Insurance Commissioner shall verify  
15 within a reasonable time not to exceed thirty days that the limited lines travel insurance business  
16 entity producer is eligible for appointment. If the limited lines travel insurance business entity  
17 producer is determined to be ineligible for appointment, the Insurance Commissioner shall notify  
18 the insurer within five days of its determination.

19 (3) An insurer shall pay a nonrefundable appointment processing fee, in the amount of \$25  
20 for each appointment notification submitted by the insurer to the commissioner.

21 (4) An insurer shall remit, in a manner prescribed by the Insurance Commissioner, a renewal  
22 appointment fee in the amount of \$25 no later than midnight on May 31 annually.

1       (5) Each insurer shall maintain a current list of limited lines travel insurance business entity  
2 producers appointed to accept applications on behalf of the insurer. Each insurer shall make a list  
3 available to the commissioner upon reasonable request for purposes of conducting investigations and  
4 enforcing the provisions of this chapter.

5       (e) Registration. -- Notwithstanding any other provision of law, a travel retailer whose  
6 insurance-related activities, and those of its employees and authorized representatives, are limited  
7 to offering and disseminating travel insurance on behalf of and under the direction of a limited lines  
8 travel insurance business entity producer meeting the conditions stated in this section, is authorized  
9 to do so and to receive related compensation for those services, upon registration by the limited lines  
10 travel insurance business entity producer as described in paragraph (B), subdivision (2), subsection  
11 (c) of this section.

12       (f) Policy. -- Travel insurance may be provided under an individual policy or under a group  
13 or master policy.

14       (g) Responsibility. -- As the insurer designee, the limited lines travel insurance business entity  
15 producer is responsible for the acts of the travel retailer offering and disseminating travel insurance  
16 under the limited lines travel insurance business entity producer license and shall use reasonable  
17 means to ensure compliance by the travel retailer with this chapter.

18       (h) Enforcement. -- If a travel retailer or its employee violates any provision of this section,  
19 the Insurance Commissioner may do any of the following:

20       (1) After notice and hearing, impose fines not to exceed \$500 per violation or \$5,000 in the  
21 aggregate for the conduct.

22       (2) After notice and hearing, impose other or additional penalties that the commissioner



1 deems necessary and reasonable to carry out the purpose of this article, including:

2 (A) Suspending or revoking the privilege of offering and disseminating travel insurance  
3 pursuant to this section at specific business retailers or business retail locations where violations  
4 have occurred;

5 (B) Suspending or revoking the ability of individual employees to act under this section; or

6 (C) Placing the individual or entity on probation under terms and conditions as prescribed  
7 by the commissioner.

8 (i) If a limited lines travel insurance business entity producer is determined by the Insurance  
9 Commissioner to have not performed its required duties under this section or has otherwise violated  
10 any provision of this section, it is subject to the administrative actions set forth in section twenty-four  
11 of this article.

12 (j) *Effective date.* -- This section shall take effect ninety days after enactment.

NOTE: The purpose of this bill is to authorize the Insurance Commissioner to issue a limited lines travel insurance producer license to a business entity and to allow travel retailers and their employees to offer and disseminate travel insurance under the limited lines travel insurance business entity producer license.

This section is new; therefore, it has been completely underscored.