

**Senate Bill No. 365**

(By Senators Nohe, Gaunch, D. Hall and Palumbo)

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[Introduced January 29, 2015; referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.]

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A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-12-32b, relating to travel insurance limited lines producers; defining terms; authorizing the Commissioner of Insurance to issue travel insurance entity producer license; establishing fees; requiring licensee to maintain register of travel retailers offering insurance on its behalf and designate a responsible individual producer; authorizing travel retailer to offer travel insurance and receive compensation under certain conditions; requiring training of travel retailer employees offering travel insurance; exempting travel insurance entity producers and travel retailers and employees from examination and continuing education requirements; requiring travel retailer employees offering travel insurance to provide certain information; and providing for enforcement.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new

1 section, designated §33-12-32b, to read as follows:

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

3 **§33-12-32b. Travel Insurance Entity Producer Limited License Act.**

4 (a) *Definitions.* – For purposes of this section:

5 (1) A "group policy" means a policy issued to:

6 (A) A railroad company, steamship company, carrier by air, public bus carrier, or other  
7 common carrier of passengers, which is deemed the policyholder, where the policy insures its  
8 passengers; or

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

12 (2) "Offer and disseminate" means providing general information, including descriptions of  
13 coverage and price, processing applications, collecting premiums, and performing other activities  
14 permitted in this state without a license issued by the commissioner.

15 (3) "Travel insurance" means:

16 (A) An individual or group policy of insurance that provides coverage for personal risks  
17 incident to planned travel, including, but not limited to:

18 (I) Interruption or cancellation of a trip or event;

19 (ii) Loss of baggage or personal effects;

20 (iii) Damages to accommodations or rental vehicles; or

21 (iv) Sickness, accident, disability or death occurring during travel.

1 (B) "Travel insurance" does not include major medical plans that provide comprehensive  
2 medical protection for travelers with trips lasting six months or longer, including, but not limited to,  
3 those working overseas as expatriates or military personnel deployed overseas.

4 (4) "Travel insurance entity producer" means an entity which is licensed under this section,  
5 is appointed by an insurer, and has the supervisory duties set forth in subdivisions (3), (4), (5), (6)  
6 and (7), subsection (c) of this section.

7 (5) "Travel retailer" means an entity that makes, arranges or offers travel services, which may  
8 offer and disseminate travel insurance on behalf of and under the direction of a travel insurance  
9 entity producer.

10 (b) *License requirements.* -- Notwithstanding any other provision of law:

11 (1) The commissioner may issue a travel insurance entity producer license, which authorizes  
12 the sale, solicitation or negotiation of travel insurance issued by a licensed insurer, to a person  
13 meeting the requirements of this section.

14 (2) An entity seeking a license under this section shall apply on a form and in a manner  
15 prescribed by the commissioner.

16 (3) The fee for a travel insurance entity producer license is \$200.

17 (c) *Conditions.* – A travel retailer may offer and disseminate travel insurance policies under  
18 a license issued to a travel insurance entity producer only if all of the following conditions are met:

19 (1) The travel retailer agrees that it is bound by all applicable provisions of this section and  
20 that no employee or authorized representative, who is not licensed as an individual insurance  
21 producer, may:

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

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

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

6 (2) The travel retailer makes available to prospective purchasers brochures or other written  
7 materials that:

8 (A) States the identity and contact information of the insurer and the travel insurance entity  
9 producer;

10 (B) Describes the material terms, or contain the actual material terms, of the travel insurance  
11 coverage;

12 (C) Describes the process for filing a claim under the travel insurance policy;

13 (D) Describes the review and cancellation processes for the travel insurance policy;

14 (E) Explains that the purchase of travel insurance is not required in order to purchase any  
15 other product or service from the travel retailer; and

16 (F) Explains that a travel retailer not licensed by the commissioner may provide general  
17 information about the travel insurance offered, including a description of the coverage and price, but  
18 is not qualified or authorized to answer technical questions about the travel insurance or to evaluate  
19 the adequacy of a prospective purchaser's existing insurance coverage.

20 (3) On a form prescribed by the commissioner, the travel insurance entity producer  
21 establishes, maintains and updates annually a register of all travel retailers that offer travel insurance

1 on behalf of the travel insurance entity producer:

2 (A) The register shall include the name, address, and contact information of each travel  
3 retailer and of the person who directs or controls the travel retailer's operations, and the travel  
4 retailer's federal tax identification number;

5 (B) The travel insurance entity producer shall certify that the register complies with 18 U.S.C.  
6 §1033; and

7 (C) The travel insurance entity producer shall submit the register to the commissioner within  
8 thirty days upon request.

9 (4) The travel insurance entity producer designates one of its employees who is a licensed  
10 individual producer as the responsible producer for the travel insurance entity producer's compliance  
11 with this section and any rules promulgated hereunder;

12 (5) The designated responsible producer, and the president, secretary, treasurer and any other  
13 person who directs or controls the travel insurance entity producer's insurance operations, comply  
14 with the fingerprinting requirements applicable to insurance producers in the resident state of the  
15 travel insurance entity producer.

16 (6) The travel insurance entity producer pays all applicable insurance producer licensing fees  
17 set forth in this chapter or rules promulgated hereunder.

18 (7) The travel insurance entity producer requires each employee and authorized representative  
19 of the travel retailer whose duties include offering and disseminating travel insurance to receive a  
20 program of instruction or training, which the commissioner may review and approve or disapprove.  
21 The training program shall, at a minimum, contain instructions on the types of insurance offered,

1 ethical sales practices, and required disclosures to prospective customers.

2 (d) A licensee under this section, and those registered under its license pursuant to  
3 subdivision (3), subsection (c) of this section, are exempt from examination under section five of this  
4 article and from continuing education requirements under section eight of this article.

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

7 (f) *License renewal.* – The commissioner shall annually renew, on the expiration date as  
8 provided in this subsection, the license of a licensee who qualifies and applies for renewal on a form  
9 prescribed by the commissioner and pays the fee set forth in subdivision (3), subsection (b) of this  
10 section. However, the commissioner may fix the dates of expiration of travel insurance entity  
11 producer licenses as he or she deems advisable for efficient distribution of the workload of his or her  
12 office:

13 (1) If the expiration date so fixed would upon first occurrence shorten the period for which  
14 a license fee has been paid, no refund of unearned fee shall be made;

15 (2) If the expiration date so fixed would upon first occurrence lengthen the period for which  
16 a license fee has been paid, the commissioner shall charge no additional fee for the lengthened  
17 period;

18 (3) If no date is so fixed by the commissioner, each license shall, unless continued as  
19 provided in this subsection, expire at midnight on June 30 following issuance; and

20 (4) A licensee that fails to timely renew its license may reinstate its license, retroactive to the  
21 expiration date, upon submission of the renewal application within twelve months after the

1 expiration date and payment of a penalty in the amount of \$50.

2 (g) *Appointment.* – A travel insurance entity producer may not act as an agent of an insurer  
3 unless the insurer appoints the travel insurance entity producer as its agent, as follows:

4 (1) The insurer shall file, in a format approved by the commissioner, a notice of appointment  
5 within fifteen days from the date the agency contract is executed and shall pay a nonrefundable  
6 appointment processing fee in the amount of \$25. However, an insurer may elect to appoint a travel  
7 insurance entity producer to all or some insurers within the insurer's holding company system or  
8 group by filing a single notice of appointment;

9 (2) Upon receipt of a notice of appointment, the commissioner shall verify within a  
10 reasonable time, not to exceed thirty days, that the travel insurance entity producer is eligible for  
11 appointment. However, the commissioner shall notify the insurer within five days of a determination  
12 that the travel insurance entity producer is ineligible for appointment; and

13 (3) The insurer shall remit, no later than midnight on May 31 annually and in a manner  
14 prescribed by the commissioner, a renewal appointment fee for each appointed travel insurance entity  
15 producer in the amount of \$25; and

16 (4) The insurer shall maintain a current list of travel insurance entity producers appointed to  
17 accept applications on behalf of the insurer, and shall make the list available to the commissioner  
18 upon reasonable request for purposes of conducting investigations and enforcing the provisions of  
19 this chapter.

20 (h) *Effect of registration.* – Notwithstanding any other provision of law, if a travel retailer's  
21 insurance-related activities, and those of its employees and authorized representatives, are limited

1 to offering and disseminating travel insurance on behalf of and under the direction of a licensed  
2 travel insurance entity producer, the travel retailer may perform those activities and receive related  
3 compensation, upon registration by the travel insurance entity producer pursuant to subdivision (3),  
4 subsection (c) of this section.

5 (I) *Liability.* – As the insurer's appointed agent, the travel insurance entity producer is liable  
6 for the acts of the travel retailer in offering and disseminating travel insurance under the travel  
7 insurance entity producer's license and shall use reasonable means to ensure compliance by the travel  
8 retailer with this section.

9 (j) *Enforcement.* – If the commissioner determines:

10 (1) That a travel retailer or its employee has violated this section, the commissioner may after  
11 notice and hearing:

12 (A) Impose fines not to exceed \$500 per violation or \$5,000 in the aggregate for the conduct;  
13 and

14 (B) Impose other or additional penalties that the commissioner deems necessary and  
15 reasonable to carry out the purpose of this section, including:

16 (I) Suspending or revoking the privilege of offering and disseminating travel insurance  
17 pursuant to this section by specific business retailers or at specific business retail locations where  
18 violations have occurred;

19 (ii) Suspending or revoking the privilege of individual employees of a travel retailer to act  
20 under this section; and

21 (iii) Placing the travel retailer or its employees on probation under terms and conditions



1 prescribed by the commissioner.

2 (2) That a travel insurance entity producer has failed to perform its duties under this section  
3 or has otherwise violated this section, the travel insurance entity producer is subject to section  
4 twenty-four of this article.

5 (k) The commissioner may propose rules or legislative approval in accordance with article  
6 three, chapter twenty-nine-a of this code to implement this section.

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, strike-throughs and underscoring have been omitted.