

COMMITTEE SUBSTITUTE

for

**H. B. 2536**

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(BY DELEGATE(S) WESTFALL, WALTERS,  
B. WHITE, ASHLEY, FRICH AND KURCABA)

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(Originating in the House Committee on the Judiciary)  
[February 23, 2015]

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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, fines, and penalties; 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; providing for enforcement; and permitting the Commissioner of Insurance to propose rules for legislative approval.

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

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

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

- 1        (a) Definitions. – For purposes of this section:
- 2        (1) A “group policy” means a policy issued to:
- 3        (A) A railroad company, steamship company, carrier by air,
- 4        public bus carrier, or other common carrier of passengers, which

5 is deemed the policyholder, where the policy insures its  
6 passengers; or

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

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

17 (3) “Travel insurance” means:

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

21 (i) Interruption or cancellation of a trip or event;

22 (ii) Loss of baggage or personal effects;

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

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

26 (B) “Travel insurance” does not include major medical plans  
27 that provide comprehensive medical protection for travelers with  
28 trips lasting six months or longer, including, but not limited to,  
29 those working overseas as expatriates or military personnel  
30 deployed overseas.

31 (4) “Travel insurance entity producer” means an entity  
32 which is licensed under this section, is appointed by an insurer,  
33 and has the duties set forth in subsection (d) of this section.

34 (5) “Travel retailer” means an entity that makes, arranges or  
35 offers travel services, which may offer and disseminate travel  
36 insurance on behalf of and under the direction of a travel  
37 insurance entity producer.

38 (b) License requirements. – Notwithstanding any other  
39 provision of law:

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

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

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

48 (c) Conditions for travel retailers. – A travel retailer may  
49 offer and disseminate travel insurance policies under a license  
50 issued to a travel insurance entity producer only if all of the  
51 following conditions are met:

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

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

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

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

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

64       (A) State the identity and contact information of the insurer  
65 and the travel insurance entity producer;

66       (B) Describe the material terms, or contain the actual  
67 material terms, of the travel insurance coverage;

68       (C) Describe the process for filing a claim under the travel  
69 insurance policy;

70       (D) Describe the review and cancellation processes for the  
71 travel insurance policy;

72       (E) Explain that the purchase of travel insurance is not  
73 required in order to purchase any other product or service from  
74 the travel retailer; and

75       (F) Explain that a travel retailer not licensed by the  
76 commissioner may provide general information about the travel  
77 insurance offered, including a description of the coverage and  
78 price, but is not qualified or authorized to answer technical  
79 questions about the travel insurance or to evaluate the adequacy  
80 of a prospective purchaser's existing insurance coverage.

81       (3) The travel retailer ensures that each employee and  
82 authorized representative of the travel retailer whose duties

83 include offering and disseminating travel insurance successfully  
84 completed the training required by this section.

85 (d) Conditions for travel insurance entity producers. – A  
86 travel insurance entity producer may offer and disseminate travel  
87 insurance policies through a travel retailer only if all of the  
88 following conditions are met:

89 (1) On a form prescribed by the commissioner, the travel  
90 insurance entity producer establishes, maintains and updates  
91 annually a register of all travel retailers that offer travel  
92 insurance on behalf of the travel insurance entity producer:

93 (A) The register shall include the name, address, and contact  
94 information of each travel retailer and of the person who directs  
95 or controls the travel retailer’s operations, and the travel  
96 retailer’s federal tax identification number;

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

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

101 (2) The travel insurance entity producer designates one of its  
102 employees who is a licensed individual producer as the

103 responsible producer for the travel insurance entity producer's  
104 compliance with this section and any rules promulgated  
105 hereunder.

106 (3) The designated responsible producer, and the president,  
107 secretary, treasurer and any other person who directs or controls  
108 the travel insurance entity producer's insurance operations,  
109 comply with the fingerprinting requirements applicable to  
110 insurance producers in the resident state of the travel insurance  
111 entity producer.

112 (4) The travel insurance entity producer pays all applicable  
113 insurance producer licensing fees set forth in this chapter or rules  
114 promulgated hereunder.

115 (5) The travel insurance entity producer requires each  
116 employee and authorized representative of the travel retailer  
117 whose duties include offering and disseminating travel insurance  
118 to receive a program of instruction or training, which the  
119 commissioner may review and approve or disapprove. The  
120 training program shall, at a minimum, contain instructions on the  
121 types of insurance offered, ethical sales practices, and required  
122 disclosures to prospective customers.



123 (e) A licensee under this section, and those registered under  
124 its license pursuant to subdivision one, subsection (d) of this  
125 section, are exempt from examination under section five of this  
126 article and from continuing education requirements under section  
127 eight of this article.

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

130 (g) License renewal. – The commissioner shall annually  
131 renew, on the expiration date as provided in this subsection, the  
132 license of a licensee who qualifies and applies for renewal on a  
133 form prescribed by the commissioner and pays the fee set forth  
134 in subdivision three, subsection (b) of this section: *Provided,*  
135 That the commissioner may fix the dates of expiration of travel  
136 insurance entity producer licenses as he or she deems advisable  
137 for efficient distribution of the workload of his or her office:

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

141 (2) If the expiration date so fixed would upon first  
142 occurrence lengthen the period for which a license fee has been

143 paid, the commissioner shall charge no additional fee for the  
144 lengthened period;

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

148 (4) A licensee that fails to timely renew its license may  
149 reinstate its license, retroactive to the expiration date, upon  
150 submission of the renewal application within twelve months  
151 after the expiration date and payment of a penalty in the amount  
152 of \$50.

153 (h) *Appointment.* – A travel insurance entity producer may  
154 not act as an agent of an insurer unless the insurer appoints the  
155 travel insurance entity producer as its agent, as follows:

156 (1) The insurer shall file, in a format approved by the  
157 commissioner, a notice of appointment within fifteen days from  
158 the date the agency contract is executed and shall pay a  
159 nonrefundable appointment processing fee in the amount of \$25:  
160 *Provided, That an insurer may elect to appoint a travel insurance*  
161 *entity producer to all or some insurers within the insurer's*

162 holding company system or group by filing a single notice of  
163 appointment;

164 (2) Upon receipt of a notice of appointment, the  
165 commissioner shall verify within a reasonable time, not to  
166 exceed thirty days, that the travel insurance entity producer is  
167 eligible for appointment: *Provided*, That the commissioner shall  
168 notify the insurer within five days of a determination that the  
169 travel insurance entity producer is ineligible for appointment;  
170 and

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

175 (4) The insurer shall maintain a current list of travel  
176 insurance entity producers appointed to accept applications on  
177 behalf of the insurer, and shall make the list available to the  
178 commissioner upon reasonable request for purposes of  
179 conducting investigations and enforcing the provisions of this  
180 chapter.

181 (i) Effect of registration. – Notwithstanding any other  
182 provision of law, if a travel retailer’s insurance-related activities,  
183 and those of its employees and authorized representatives, are  
184 limited to offering and disseminating travel insurance on behalf  
185 of and under the direction of a licensed travel insurance entity  
186 producer, the travel retailer may perform those activities and  
187 receive related compensation, upon registration by the travel  
188 insurance entity producer pursuant to subdivision one,  
189 subsection (d) of this section.

190 (j) Liability. – As the insurer’s appointed agent, the travel  
191 insurance entity producer is liable for the acts or omissions of  
192 the travel retailer in offering and disseminating travel insurance  
193 under the travel insurance entity producer’s license and shall use  
194 reasonable means to ensure compliance by the travel retailer  
195 with this section.

196 (k) Enforcement. – In enforcing the provisions of this  
197 section, the commissioner may utilize any enforcement  
198 mechanisms in this chapter.

199 (1) If the commissioner determines that a travel retailer or its  
200 employee has violated this section, the commissioner may after  
201 notice and hearing:

202 (A) Impose fines not to exceed \$500 per violation or \$5,000

203 in the aggregate for the conduct; and

204 (B) Impose other or additional penalties that the

205 commissioner deems necessary and reasonable to carry out the

206 purpose of this section, including but not limited to:

207 (i) Suspending or revoking the privilege of offering and

208 disseminating travel insurance pursuant to this section by

209 specific business retailers or at specific business retail locations

210 where violations have occurred;

211 (ii) Suspending or revoking the privilege of individual

212 employees of a travel retailer to act under this section; and

213 (iii) Placing the travel retailer or its employees on probation

214 under terms and conditions prescribed by the commissioner.

215 (2) If the commissioner determines that a travel insurance

216 entity producer has failed to perform its duties under this section

217 or has otherwise violated this section, the travel insurance entity

218 producer is subject to the provisions of section twenty-four of

219 this article.

220 (l) The commissioner may propose rules for legislative

221 approval in accordance with the provisions of article three,

222 chapter twenty-nine-a of this code to implement this section.





