

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2647

BY DELEGATES WESTFALL, MAYNARD, HARTMAN,

ATKINSON AND ESPINOSA

[Introduced January 24, 2019; Referred
to the Committee on Banking and Insurance then the
Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §33-12-38, relating to establishing a limited lines insurance license for self-
3 storage providers; defining terms.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. INSURANCE PRODUCERS AND SOLICITORS.

§33-12-38. Self Storage Limited License Act.

1 (a) Definitions. For purposes of this section, the following terms have the following
2 meanings:

3 (1) "Leased space" means the individual storage space at the self-service storage facility
4 which is leased or rented to an occupant pursuant to a rental agreement;

5 (2) "Location" means any physical location in the State of West Virginia or any website,
6 call center site, or similar location directed to residents of the State of West Virginia.

7 (3) "Occupant" means a person entitled to the use of a leased space at a self-service
8 storage facility under a rental agreement, or the person's sublessee, successor or assign;

9 (4) "Owner" means the owner, operator, lessor or sublessor of a self-service storage
10 facility or the owner's agent or any other person authorized to manage the facility or to receive
11 rent from any occupant under a rental agreement;

12 (5) "Personal property" means movable property not affixed to land and includes, but is
13 not limited to, goods, wares, merchandise, motor vehicles, and household items and furnishings;

14 (6) "Rental agreement" means any agreement or lease that establishes or modifies the
15 terms, conditions or rules concerning the lawful and reasonable use and occupancy of leased
16 space at a self-service storage facility;

17 (7) "Self-service storage facility" means any real property used for renting or leasing
18 individual storage spaces, other than storage spaces which are leased or rented as an incident
19 to the lease or rental of residential property or dwelling units, to which the occupants have access
20 for storing or removing their personal property;

21 (8) "Self-service storage insurance" means personal property insurance offered in
22 connection with and incidental to the lease or rental of leased space at a self-storage facility and
23 that provides coverage to occupants at the self-service storage facility where the insurance is
24 transacted for the loss of or damage to personal property that occurs at that facility or when the
25 property is in transit to or from that facility during the period of the rental agreement; and

26 (9) "Supervising entity" means a business entity that is a licensed insurance producer or
27 an insurer.

28 (b) Licensure of owners.

29 (1) An owner shall hold a limited lines license under this section if the owner sells, solicits,
30 or offers coverage for self-service storage insurance. Notwithstanding any other provision of this
31 section to the contrary, an owner is not required to be licensed solely to display and make
32 available to occupants and prospective occupants brochures and other promotional materials
33 created by or on behalf of an authorized insurer or surplus lines insurer.

34 (2) A limited lines license issued under this section is limited to authorizing an owner and
35 the owner's employees and authorized representatives to sell, solicit, and offer coverage for self-
36 service storage insurance to occupants.

37 (3) A limited lines license issued under this section authorizes an owner and the owner's
38 employees and authorized representatives to sell, solicit, and offer self-service storage insurance
39 coverage at each location at which the owner conducts business.

40 (4) An owner shall maintain, and share with its supervising entity, a list of all locations in
41 this state at which self-service storage insurance is offered on its behalf. The supervising entity
42 shall submit the list to the Insurance Commissioner within 30 days upon request.

43 (5) An owner and its employees and authorized representatives are not subject to the
44 agent prelicensing education, examination, or continuing education requirements of this article.

45 (c) Requirements for Sale of Self-Service Storage Insurance.

46 (1) At every location where self-service storage insurance is offered to occupants,
47 brochures or other written or electronic materials must be made available to occupants which:

48 (A) Disclose that self-service storage insurance may provide a duplication of coverage
49 already provided by an occupant's homeowner's insurance policy, renter's insurance policy or
50 other source of coverage;

51 (B) State that the enrollment by the occupant for the self-service storage insurance
52 coverage offered by the owner is not required in order to lease or rent leased space from the
53 owner;

54 (C) Provide the actual terms of the self-service storage insurance coverage, or summarize
55 the material terms of the insurance coverage, including:

56 (i) The identity of the insurer;

57 (ii) The identity of the supervising entity;

58 (iii) The amount of any applicable deductible and how it is to be paid;

59 (iv) Benefits of the coverage; and

60 (v) Key terms and conditions of coverage.

61 (D) Summarize the process for filing a claim.

62 (E) State that the occupant may cancel enrollment for the self-service storage insurance
63 coverage at any time and the person paying the premium shall receive a refund of any applicable
64 unearned premium.

65 (2) Self-service storage insurance may be provided under an individual policy or under a
66 commercial, corporate, group, or master policy.

67 (3) Eligibility and underwriting standards for occupants electing to enroll in coverage shall
68 be established for each self-service storage insurance program.

69 (d) Authority of Owners.

70 (1) The employees and authorized representatives of owners may sell, solicit, and offer
71 self-service storage insurance to occupants and shall not be subject to licensure as an insurance
72 producer under this article provided that:

73 (A) The owner obtains a limited lines license to authorize the owner's employees and
74 authorized representatives to sell, solicit, and offer self-service storage insurance;

75 (B) The insurer issuing the self-service storage insurance appoints a supervising entity to
76 supervise the administration of the program including development of a training program for
77 employees and authorized representatives of the owner who sell, solicit, or offer self-service
78 storage insurance. The training required by this subdivision shall comply with the following:

79 (i) The training shall be delivered to all employees and authorized representatives of the
80 owner who sell, solicit, or offer self-service storage insurance;

81 (ii) The training may be provided in electronic form. However, if provided in an electronic
82 form the supervising entity shall implement a supplemental education program regarding the self-
83 service storage insurance that is provided and overseen by licensed employees of the supervising
84 entity; and

85 (iii) Each employee and authorized representative selling, soliciting, or offering self-service
86 storage insurance shall receive basic instruction about the self-service storage insurance offered
87 to occupants and the disclosures required under subsection (C).

88 (C) No employee or authorized representative of an owner shall advertise, represent or
89 otherwise hold himself or herself out as a licensed insurance producer, unless so licensed.

90 (D) No employee or authorized representative of an owner is compensated based
91 primarily on the number of occupants enrolled for self-service storage insurance coverage.
92 Employees and authorized representatives may receive compensation for enrolling occupants for
93 self-service storage insurance coverage so long as the compensation for those activities is
94 incidental to their overall compensation.

95 (2) The charges for self-service storage insurance coverage may be billed and collected
96 by the owner. Any charge to the occupant for coverage that is not included in the cost associated
97 with the lease or rental of leased space shall be separately itemized on the occupant's bill. If the
98 coverage is included in the lease or rental of leased space, the owner shall clearly and
99 conspicuously disclose to the occupant that the self-service storage insurance coverage is
100 included with the lease or rental of leased space. An owner billing and collecting such charges
101 shall not be required to maintain the funds in a segregated account, provided that the owner is
102 authorized by the insurer to hold the funds in an alternative manner and remits the amounts to
103 the supervising entity or insurer within 60 days of receipt. All premiums received by an owner from
104 an occupant for self-service storage insurance shall be considered funds held by the owner in a
105 fiduciary capacity for the benefit of the insurer. Owners may receive compensation for billing and
106 collection services.

107 (e) Suspension of Privileges.

108 (1) If an owner or its employee or authorized representative violates any provision of this
109 section, the commissioner may do any of the following:

110 (A) After notice and hearing, impose fines not to exceed \$500 per violation or \$5,000 in
111 the aggregate for such conduct.

112 (B) After notice and hearing, impose other penalties that the commissioner deems
113 necessary and reasonable to carry out the purpose of this article, including:

114 (i) Suspending the privilege of transacting self-service storage insurance pursuant to this
115 section at specific business locations where violations have occurred; and

116 (ii) Suspending or revoking the ability of individual employees or authorized
117 representatives to act under this section.

118 (2) If a supervising entity is determined by the commissioner to have not performed its
119 required duties under this section or has otherwise violated any provision of this section, it shall
120 be subject to the administrative actions set forth in §33-12-24 of this code.

NOTE: The purpose of this bill is to create a limited lines insurance license for self storage providers and to establish procedures for regulatory authority by the offices of the Insurance Commissioner.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.