

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2682**

BY DELEGATES WESTFALL, HOTT AND ESPINOSA

(BY REQUEST OF THE INSURANCE COMMISSIONER)

[Introduced February 23, 2021; referred to the  
Committee on Banking and Insurance then the

Judiciary]



1 A BILL to amend and reenact §33-12-8 and §33-12-9 of the Code of West Virginia, 1931, as  
2 amended, and to amend and reenact §33-12B-13 and §33-12B-14 of said code, all relating  
3 to the issuance of license suspensions to insurance producers and insurance adjusters  
4 who have failed to meet continuing education requirements; changing the requirement  
5 that the Insurance Commissioner send license suspensions to insurance producers by  
6 certified mail with a requirement that the suspensions be sent by electronic mail or regular  
7 mail, if requested; providing that each agent, insurance agency, solicitor, or service  
8 representative must report his or her respective electronic mail address to the Insurance  
9 Commissioner and providing time periods to report changes of information provided to  
10 Insurance Commissioner; changing the requirement that the Insurance Commissioner  
11 send license suspensions to insurance adjusters by certified mail with a requirement that  
12 the suspensions be sent by electronic mail or regular mail, if requested; and providing that  
13 each insurance adjuster must report his or her respective electronic mail address to the  
14 Insurance Commissioner and providing time periods to report changes of information  
15 provided to Insurance Commissioner.

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

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

### **§33-12-8. Continuing education required.**

1 The purpose of this ~~provision~~ section is to provide continuing education requirements  
2 under guidelines set up under the Insurance Commissioner's office ~~with the guidelines to be set~~  
3 ~~up under~~ in conjunction with the ~~board~~ Board of Insurance Agent Education.

4 (a) This section applies to individual insurance producers licensed to engage in the sale  
5 of the following types of insurance:

6 (1) Life. — Life insurance coverage on human lives, including benefits of endowment and  
7 annuities, and may include benefits in the event of death or dismemberment by accident and  
8 benefits for disability income;

9 (2) Accident and health or sickness. — Insurance coverage for sickness, bodily injury or  
10 accidental death and may include benefits for disability income;

11 (3) Property. — Property insurance coverage for the direct or consequential loss or  
12 damage to property of every kind;

13 (4) Casualty. — Insurance coverage against legal liability, including that for death, injury  
14 or disability or damage to real or personal property;

15 (5) Variable life and variable annuity products. — Insurance coverage provided under  
16 variable life insurance contracts and variable annuities;

17 (6) Personal lines. — Property and casualty insurance coverage sold to individuals and  
18 families for primarily noncommercial purposes; and

19 (7) Any other line of insurance permitted under state laws or regulations.

20 (b) This section does not apply to:

21 (1) Individual insurance producers holding limited line credit insurance licenses for any  
22 kind or kinds of insurance offered in connection with loans or other credit transactions or insurance  
23 for which an examination is not required by the commissioner, nor does it apply to any limited or  
24 restricted license as the commissioner may exempt; and

25 (2) Individual insurance producers selling credit life or credit accident and health  
26 insurance.

27 (c)(1) The Board of Insurance Agent Education as established by ~~section seven of this~~  
28 ~~article §33-12-7 of this code~~ shall develop a program of continuing insurance education and  
29 submit the proposal for the approval of the commissioner on or before ~~the thirty first day of~~  
30 ~~December of each year~~ December 31, of each year. No program may be approved by the  
31 commissioner that includes a requirement that any individual insurance producer complete more  
32 than 24 hours of continuing insurance education biennially. No program may be approved by the  
33 commissioner that includes a requirement that any of the following individual insurance producers  
34 complete more than six hours of continuing insurance education biennially:

35 (A) Individual insurance producers who sell only preneed burial insurance contracts; and

36 (B) Individual insurance producers who engage solely in telemarketing insurance products  
37 by a scripted presentation which scripted presentation has been filed with and approved by the  
38 commissioner.

39 (C) The biennium mandatory continuing insurance education provisions of this section  
40 become effective on the reporting period beginning ~~the first day of July, two thousand six~~ July 1,  
41 2006.

42 (2) The commissioner and the board, under standards established by the board, may  
43 approve any course or program of instruction developed or sponsored by an authorized insurer,  
44 accredited college or university, agents' association, insurance trade association or independent  
45 program of instruction that presents the criteria and the number of hours that the board and  
46 commissioner determine appropriate for the purpose of this section.

47 (d) Individual insurance producers licensed to sell insurance and who are not otherwise  
48 exempt shall satisfactorily complete the courses or programs of instructions the commissioner  
49 may prescribe.

50 (e) Every individual insurance producer subject to the continuing education requirements  
51 shall furnish, at intervals and on forms as may be prescribed by the commissioner, written  
52 certification listing the courses, programs or seminars of instruction successfully completed by the  
53 person. The certification shall be executed by, or on behalf of, the organization sponsoring the  
54 courses, programs, or seminars of instruction.

55 (f) Subject to the approval by the commissioner, the active annual membership by an  
56 individual insurance producer in an organization or association recognized and approved by the  
57 commissioner as a state, regional, or national professional insurance organization or association  
58 may be approved by the commissioner for up to two hours of continuing insurance education:  
59 *Provided*, That not more than two hours of continuing insurance education may be awarded to an  
60 individual insurance producer for membership in a professional insurance organization during a

61 biennial reporting period. Credit for continuing insurance education pursuant to this subdivision  
62 may only be awarded to individual insurance producers who are required to complete more than  
63 six hours of continuing education biennially.

64 (g) Individual insurance producers who are required to complete more than six hours of  
65 continuing education biennially and who exceed the minimum continuing education requirement  
66 for the biennial reporting period may carry-over a maximum of six credit hours only into the next  
67 reporting period.

68 (h) Any individual insurance producer failing to meet the requirements mandated in this  
69 section and who has not been granted an extension of time, with respect to the requirements, or  
70 who has submitted to the commissioner a false or fraudulent certificate of compliance shall have  
71 his or her license automatically suspended and no further license may be issued to the person for  
72 any kind or kinds of insurance until the person demonstrates to the satisfaction of the  
73 commissioner that he or she has complied with all of the requirements mandated by this section  
74 and all other applicable laws or rules.

75 (i) The commissioner shall notify the individual insurance producer of his or her  
76 suspension pursuant to subsection (h) of this section by ~~certified~~ electronic mail ~~return receipt~~  
77 ~~requested~~ or regular mail, if requested, to the last ~~address~~ respective address on file with the  
78 commissioner pursuant to ~~subsection (e), section nine of this article~~ §33-12-9(f) of this code. Any  
79 individual insurance producer who has had a suspension ~~order~~ notice entered against him or her  
80 pursuant to this section may, within 30 calendar days of receipt of the ~~order~~ notice, file with the  
81 commissioner a request for a hearing for reconsideration of the matter.

82 (j) Any individual insurance producer who does not satisfactorily demonstrate compliance  
83 with this section and all other laws applicable thereto as of the last day of the biennium following  
84 his or her suspension shall have his or her license automatically canceled and is subject to the  
85 education and examination requirements of ~~section five of this article~~ §33-12-5 of this code.

86 (k) The commissioner is authorized to hire personnel and make reasonable expenditures  
87 considered necessary for purposes of establishing and maintaining a system of continuing  
88 education for insurers. The commissioner shall charge a fee of \$25 to continuing education  
89 providers for each continuing education course submitted for approval which shall be used to  
90 maintain the continuing education system. The commissioner may, at his or her discretion,  
91 designate an outside administrator to provide all of or part of the administrative duties of the  
92 continuing education system subject to direction and approval by the commissioner. The fees  
93 charged by the outside administrator shall be paid by the continuing education providers. In  
94 addition to fees charged by the outside administrator, the outside administrator shall collect and  
95 remit to the commissioner the \$25 course submission fee.

**§33-12-9. Issuance of license.**

1 (a) Unless denied licensure pursuant to ~~article twenty-four of this chapter~~ §33-12-24 of this  
2 code, individuals who have met the requirements of ~~articles five and six of this chapter~~ §33-12-5  
3 and §33-12-6 of this code shall be issued an insurance producer license. An insurance producer  
4 may receive qualification for a license in one or more of the following lines of authority:

5 (1) Life insurance coverage on human lives including benefits of endowment and  
6 annuities, and may include benefits in the event of death or dismemberment by accident and  
7 benefits for disability income;

8 (2) Accident and health or sickness. — Insurance coverage for sickness, bodily injury or  
9 accidental death and may include benefits for disability income;

10 (3) Property insurance coverage for the direct or consequential loss or damage to property  
11 of every kind;

12 (4) Casualty. — Insurance coverage against legal liability, including that for death, injury  
13 or disability or damage to real or personal property;

14 (5) Variable life and variable annuity products. — Insurance coverage provided under  
15 variable life insurance contracts and variable annuities;

16 (6) Personal lines. — Property and casualty insurance coverage sold to individuals and  
17 families for primarily noncommercial purposes;

18 (7) Credit. — Limited line credit insurance; or

19 (8) Any other line of insurance permitted under state laws or regulations.

20 (b) An insurance producer license shall remain in effect unless revoked or suspended as  
21 long as the fee set forth in ~~section thirteen, article three of this chapter~~ §33-3-13 of this code is  
22 paid and education requirements for resident individual producers are met by the due date.

23 (c) An individual insurance producer who allows his or her license to lapse may, within 12  
24 months from the due date of the renewal fee, reinstate the same license without the necessity of  
25 passing a written examination. However, a penalty in the amount of double the unpaid renewal  
26 fee shall be required for any renewal fee received after the due date.

27 (d) An individual licensed insurance producer who is unable to comply with license renewal  
28 procedures due to military service or some other extenuating circumstance (e.g., a long-term  
29 medical disability) may request a waiver of those procedures. The producer may also request a  
30 waiver of any examination requirement or any other fine or sanction imposed for failure to comply  
31 with renewal procedures.

32 (e) The license shall contain the licensee's name, address, personal identification number,  
33 and the date of issuance, the lines of authority, the expiration date and any other information the  
34 Insurance Commissioner considers necessary.

35 ~~(f) Licensees shall inform the Insurance Commissioner by any means acceptable to the~~  
36 ~~Insurance Commissioner of a change of address or residency within 30 days of the change. Upon~~  
37 application for licensure, the applicant shall inform the Insurance Commissioner of his, her, or its  
38 full name, physical address (and mailing address if different), and electronic mail address. Each  
39 agent, insurance agency, solicitor, or service representative that is licensed on the effective date  
40 of the amendments made to this subsection during the 2021 regular legislative session shall  
41 provide the Insurance Commissioner with his, her, or its electronic mail address in connection



42 with the next license renewal application of the respective licensee. If a change occurs to the  
43 licensee's name, physical address, mailing address, or electronic mail address after licensure,  
44 the licensee shall accordingly inform the Insurance Commissioner by any means acceptable to  
45 the Insurance Commissioner within 30 days of the change. Failure to timely inform the Insurance  
46 Commissioner of a change in legal name, residency, ~~or~~ mailing address, or electronic mail  
47 address may result in a penalty pursuant to ~~section twenty-four of this article~~ §33-12-24 of this  
48 code. The commissioner shall maintain the ~~mailing address of~~ information provided pursuant to  
49 this subsection for each agent, insurance agency, solicitor and service representative on file.

50 (g) In order to assist in the performance of the Insurance Commissioner's duties, the  
51 Insurance Commissioner may contract with nongovernmental entities, including the ~~national~~  
52 ~~association~~ National Association of Insurance ~~Commissioner~~ Commissioners (NAIC) or any  
53 affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including  
54 the collection of fees, related to producer licensing that the Insurance Commissioner and the  
55 nongovernmental entity may consider appropriate.

**ARTICLE 12B. ADJUSTERS.**

**§33-12B-13. Continuing education.**

1 (a) The purpose of this section is to provide continuing education requirements for  
2 individual adjusters under guidelines established by the commissioner's office in conjunction with  
3 the Board of Insurance Agent Education as provided in §33-12-7 of this code.

4 (b) This section applies to company adjusters, independent adjusters, and public adjusters  
5 licensed pursuant to §33-12B-2 of this code.

6 (c) This section shall not apply to:

7 (1) Licensees not licensed for one full year prior to the end of the applicable continuing  
8 education biennium; or

9           (2) Licensees holding nonresident adjuster licenses who have met substantially similar  
10 continuing education requirements of their designated home state and whose home state gives  
11 credit to residents of this state on the same basis.

12           (d)(1) The Board of Insurance Agent Education as established by §33-12-7 of this code  
13 shall develop a program of continuing education for adjusters and submit the proposal for the  
14 approval of the commissioner on or before December 31 of each year. No program may be  
15 approved by the commissioner that includes a requirement that any individual adjuster complete  
16 more than 24 hours of continuing insurance education biennially.

17           (2) The biennium mandatory continuing education provisions of this section become  
18 effective on the reporting period beginning July 1, 2021.

19           (3) The commissioner and the Board of Insurance Agent Education, under standards  
20 established by the board, may approve any course or program of instruction developed or  
21 sponsored by an authorized insurer, accredited college or university, adjusters' association,  
22 insurance trade association, or independent program of instruction that presents the criteria and  
23 the number of hours that the board and commissioner determine appropriate for the purpose of  
24 this section.

25           (e) An individual who holds an adjuster license and who is not exempt shall satisfactorily  
26 complete a minimum of 24 hours of continuing education courses, of which three hours must be  
27 in ethics, reported to the commissioner on a biennial basis in conjunction with their license renewal  
28 cycle.

29           (f) Every individual adjuster subject to the continuing education requirements shall furnish,  
30 at intervals and on forms as may be proposed by the commissioner, written certification listing the  
31 courses, programs, or seminars of instruction successfully completed by the adjuster. The  
32 certification shall be executed by, or on behalf of, the organization sponsoring the courses,  
33 programs, or seminars of instruction.

34 (g) Subject to the approval of the commissioner, the active annual membership by an  
35 adjuster in an organization or association recognized and approved by the commissioner as a  
36 state, regional, or national professional insurance organization or association may be approved  
37 by the commissioner for up to two hours of continuing insurance education: *Provided*, That not  
38 more than two hours of continuing education may be awarded to an adjuster for membership in a  
39 professional insurance organization during a biennial reporting period.

40 (h) Adjusters who exceed the minimum continuing education requirement for the biennial  
41 reporting period may carry over a maximum of six credit hours only into the next reporting period.

42 (i) Any individual adjuster failing to meet the requirements mandated in this section and  
43 who has not been granted an extension of time with respect to the requirements, or who has  
44 submitted to the commissioner a false or fraudulent certificate of compliance, shall have his or  
45 her license automatically suspended and no further license may be issued to the person until the  
46 person demonstrates to the satisfaction of the commissioner that he or she has complied with all  
47 of the requirements mandated by this section and all other applicable laws or rules.

48 (j) The commissioner shall notify the individual adjuster of his or her suspension pursuant  
49 to subsection (i) of this section by ~~certified~~ electronic mail return receipt requested or regular mail,  
50 if requested, to the last ~~address~~ respective address on file with the commissioner pursuant to ~~§33-~~  
51 ~~12B-2(b)~~ §33-12B-14(a) of this code. Any individual insurance adjuster who has had a suspension  
52 ~~order~~ notice entered against him or her pursuant to this section may, within 30 calendar days of  
53 receipt of the ~~order~~ notice, file with the commissioner a request for a hearing for reconsideration  
54 of the matter.

55 (k) Any individual adjuster who does not satisfactorily demonstrate compliance with this  
56 section and all other laws applicable thereto as of the last day of the biennium following his or her  
57 suspension shall have his or her license automatically terminated and is subject to the licensing  
58 and examination requirements of §33-12B-5 of this code.

59 (l) The commissioner is authorized to hire personnel and make reasonable expenditures  
60 considered necessary for purposes of establishing and maintaining a system of continuing  
61 education for adjusters. The commissioner shall charge a fee of \$25 to continuing education  
62 providers for each continuing education course submitted for approval which shall be used to  
63 maintain the continuing education system. The commissioner may, at his or her discretion,  
64 designate an outside administrator to provide all of or part of the administrative duties of the  
65 continuing education system subject to direction and approval by the commissioner. The fees  
66 charged by the outside administrator shall be paid by the continuing education providers. In  
67 addition to fees charged by the outside administrator, the outside administrator shall collect and  
68 remit to the commissioner the \$25 course submission fee.

**§33-12B-14. Current address of adjusters to be filed; effective notice of appearance at hearing before commissioner.**

1 (a) Each adjuster shall file with the commissioner the complete address of his principal  
2 place of business and the complete address of his residence including the name and number of  
3 the street, or if the street where the business is located is not numbered, the number of the post  
4 office box. An adjuster shall also file with the commissioner his or her electronic mail address. An  
5 adjuster that is licensed on the effective date of the amendments made to this subsection during  
6 the 2021 regular legislative session shall provide the commissioner with his or her electronic mail  
7 address in connection with the licensee's next license renewal application. Within ~~thirty~~ 30 days  
8 of a change of business or residence address or electronic mail address by an adjuster, the  
9 adjuster must file with the commissioner notice of such change of address. The commissioner  
10 shall maintain the information provided pursuant to this subsection for each adjuster on file.

11 (b) When conducting any hearing authorized by ~~section thirteen, article two of this chapter~~  
12 §33-2-13 of this code which concerns any adjuster, the commissioner shall give notice of such  
13 hearing and the matters to be determined therein to such adjuster by certified mail, return receipt  
14 requested, sent to the last address filed by such person or entity pursuant to this section.

15 (c) If an adjuster fails to appear at such hearing, the hearing may proceed, at which time  
16 the commissioner shall establish that notice was sent to such person pursuant to this section prior  
17 to the entry of any orders adverse to the interests of such adjuster based upon the allegations  
18 against such person which were set forth in the notice of hearing. Certified copies of all orders  
19 entered by the commissioner shall be sent to the person affected therein by certified mail, return  
20 receipt requested, at the last address filed by such person with the ~~division~~ commissioner.

21 (d) An adjuster who fails to appear at a hearing of which notice has been provided pursuant  
22 to this section, and who has had an adverse order entered by the commissioner against them as  
23 a result of their failure to so appear may, within 30 calendar days of the entry of such adverse  
24 order, file with the commissioner a written verified appeal with any relevant documents attached  
25 thereto, which demonstrates good and reasonable cause for the adjuster's failure to appear, and  
26 may request reconsideration of the matter and a new hearing. The commissioner in his or her  
27 discretion, and upon a finding that the adjuster has shown good and reasonable cause for his or  
28 her failure to appear, shall issue an order that the previous order be rescinded, that the matter be  
29 reconsidered, and that a new hearing be set.

30 (e) Orders entered pursuant to this section are subject to the judicial review provisions of  
31 ~~section fourteen, article two of this chapter~~ §33-2-14 of this code.

NOTE: The purpose of this bill is to replace a certified mail requirement with an electronic mail or regular mail requirement regarding the issuance of license suspensions by the Insurance Commissioner to insurance producers and insurance adjusters who have failed to meet continuing education requirements. The bill further requires a producer or adjuster to report to the Insurance Commissioner his or her electronic mail address.

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