



114CSR2

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 2

LICENSING AND CONDUCT OF AGENTS, ~~BROKERS~~  
INDIVIDUAL INSURANCE PRODUCERS, AGENCIES AND SOLICITORS

Section

114-2-1. General.

114-2-2. Requirements for Licensing.

114-2-3. Requirements for Licensing Insurance Agencies.

114-2-4. Commissions.

114-2-5. Switching.

114-2-6. Referrals.

FILED

114CSR2

2002 OCT -1 P 2:32

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

WEST VIRGINIA  
SECRETARY OF STATE

SERIES 2

LICENSING AND CONDUCT OF AGENTS, ~~BROKERS~~  
INDIVIDUAL INSURANCE PRODUCERS, AGENCIES AND SOLICITORS

§114-2-1. General.

1.1. Scope. -- This regulation establishes the general requirements and practices of agents, brokers and solicitors.

1.2. Authority. -- W. Va. Code §33-2-10.

1.3. Filing Date. -- ~~September 13, 1966.~~

1.4. Effective Date. -- ~~October 13, 1966.~~

§114-2-2. Requirements for Licensing.

2.1. Trustworthiness. -- Insurers making requisitions for ~~agents'~~ individual insurance producers' licenses shall make an investigation as to the suitability of the appointee for the ~~agent's~~ individual insurance producer's license. The requisitioning company shall, prior to submitting the requisition to this ~~department~~ office, satisfy itself that the appointee is a suitable person and is trustworthy and qualified to act as its ~~agent~~ individual insurance producer. The Insurance Commissioner may, at any time, direct the requisitioning company to furnish proof that ~~said~~ the company has made ~~such~~ the investigation and that the investigation was made prior to the execution of the requisition.

2.2. Competency. -- The competency of persons applying to the Insurance Commissioner for an ~~agent's~~ individual insurance producer's license shall be determined by examination with the exception of those persons qualifying under subsection 2.3 of this ~~regulation~~ rule.

2.3. Waiver of examination. -- The Insurance Commissioner will not require an examination as proof of competency for those persons applying to this ~~department~~ office for an ~~agent's~~ individual insurance producer's license if such person holds the designation of Chartered Life Underwriter or Chartered Property Casualty Underwriter, the person is currently licensed as a resident and in good standing in his or her home state and otherwise meets the requirements of W. Va. Code §33-12-14(a), or if such person has satisfied the Insurance Commissioner as to his competency in insurance.

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2.4. Reexamination - automobile lines. -- All agents individual insurance producers, except those who qualify under subsection 2.3 of these rules, presently licensed by this department office to sell casualty lines or automobile lines must be reexamined by this department office to maintain such license if all of the following conditions exist:

a. The agent individual insurance producer is appointed by a company qualified to write automobile liability insurance, and

b. The agent individual insurance producer has been licensed to write automobile liability insurance for a period of five (5) years prior to ~~such~~ the appointment described in subdivision a herein, and

c. The agent individual insurance producer has not, in fact, for a period of five (5) years prior to ~~such~~ the appointment referred to in subdivision a herein, actively represented a company qualified to write automobile liability insurance.

The phrase "qualified to write automobile liability insurance" ~~shall be defined as being means~~ all licensed casualty companies who have had approved by this department office the necessary rate and form filings for automobile liability insurance.

2.5. Reexamination - miscellaneous casualty lines. -- All agents individual insurance producers, except those who qualify under ~~subdivision~~ subsection 2.3 of these rules, presently licensed by this department office to sell miscellaneous casualty lines of insurance must be reexamined by this department office to maintain such license if all of the following conditions exist:

a. The agent individual insurance producer is appointed by a company qualified to write miscellaneous casualty insurance, and

b. The agent individual insurance producer has been licensed to write miscellaneous casualty insurance for a period of five (5) years prior to ~~such~~ the appointment described in subdivision a herein, and

c. The agent individual insurance producer has not, in fact, for a period of five (5) years prior to ~~such~~ the appointment referred to in subdivision a herein, actively represented a company qualified to write miscellaneous casualty insurance.

The phrase "qualified to write miscellaneous casualty insurance" ~~shall be defined as being means~~ all licensed casualty companies who have had approved by this department office the necessary rate and form filings for miscellaneous casualty insurance.

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~~2.6. Reexamination after cancellation. — If, for any period longer than forty five (45) days, records in this department indicate that an agent is appointed by no company, his license shall be canceled. After one (1) year from the date of cancellation, no such canceled license shall be renewed without examination.~~

~~2.7.~~ 2.6. Repeating examinations. -- All persons having taken the examination as required by subdivision subsections 2.2, 2.4 and 2.5 and 2.6 of these rules, may repeat any examination after the first failure on the next scheduled date; after the second failure he or she must wait thirty (30) days; after the third failure or subsequent failure he or she must wait ninety (90) days.

**§114-2-3. Requirements for Licensing Insurance Agencies.**

3.1. Each agency, as defined in W. Va. Code §33-12-2(e), as amended, shall file an application with the commissioner for an agency insurance producer license on a form provided by this office. This applies to each corporation, partnership, limited liability company, or other business entity in which more than one person has an interest or which operates under a corporate or trade name. The requirement for an agency insurance producer license does not apply to any agency owned by, and operated under the name of, an individual licensed producer, so long as no other person, firm or entity has any interest in, or affiliation with, the business of the individual insurance producer or his agency.

3.2. No agency insurance producer shall be licensed under a name which is likely to lead a reasonable person to believe that the agency is an insurer, an agency of any government, or a club, fraternity, association or social or military organization, or which is otherwise deceptive or misleading.

3.3. No business entity may be licensed pursuant to this rule under any name which includes the word "insurance" or "insurer" unless the name also includes the word "agency" or "agent."

3.4. No license shall be issued in a trade name except upon proof satisfactory to the commissioner that the trade name has been lawfully registered.

3.5. Foreign corporations, limited partnerships and any other entities required by law to be registered with the Secretary of State must be so registered before a license will be issued.

3.6. Each agency is required to submit an application for an agency insurance producer license to the Insurance Commissioner to be accompanied by the fee required by W. Va. Code §33-12-10. Each insurer is required to notify every agency affiliated with the insurer of its responsibility

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**Legislative Rule**  
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to file an agency insurance producer application and to pay the required fee. No agency is required to obtain more than one agency insurance producer license regardless of the number of insurers it represents, but all insurers then represented must be identified in the application. When an agency ceases to have a stockholder, officer, director, member, employee or associate possessing a current, individual insurance producer's license, the agency insurance producer license shall be considered terminated. The agency insurance producer shall surrender the agency insurance producer license for cancellation not more than thirty (30) days after the last person to hold such an individual insurance producer license ceased affiliation with the agency or was no longer so licensed.

3.7. A domestic insurance agency must be organized pursuant to the laws of this state and must maintain its principal place of business in this state.

3.8. No business entity may be licensed as an agency insurance producer unless the primary purpose of the entity is the transaction of insurance or the entity is a national banking association that qualifies for an insurance agency license pursuant to federal law or the regulations and policies of the United States Comptroller of the Currency or the Board of Governors of the Federal Reserve System, or a bank that qualifies for an agency insurance producer license pursuant to West Virginia law.

3.9. The licensee shall notify the commissioner of all changes in status among its members, directors, and officers, and all other individuals designated in the application within ten (10) days after the change.

3.10. No individual whose individual insurance producer license has been revoked by order of the commissioner or who may be denied a license pursuant to W. Va. Code §33-12-24, nor any entity in which such individual has a majority ownership interest, whether direct or indirect, may own any interest in any agency licensed under this section.

3.11. No individual insurance producer whose license has been revoked by order of the commissioner or who may be denied a license pursuant to W. Va. Code §33-12-24, may be employed by an insurance agency in any position that involves the transaction of insurance.

3.12. The provisions of this section shall become effective on July 1, 2003.

**§114-2-4. Commissions.**

**4.1. Commission Sharing**

An individual insurance producer may pay a commission for or on account of the solicitation or negotiation in this state of insurance on property or risks in this state only to another licensed individual insurance producer appointed by the insurer with whom such insurance was placed.

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4.2. Any licensee who accepts any commission or compensation from the sale of a policy issued by an insurer who has not appointed the licensee is subject to the penalties prescribed by West Virginia Code Section 33-12-24.

**§114-2-5. Switching.**

5.1. No bank, trust company, loan company, building and loan association, individual, or other loaning agency that owns an insurance agency or otherwise has a connection therewith may require, as a condition precedent to securing a loan, that the borrower cancel insurance and purchase new insurance with the lender or with an agency with which the lender is in any way connected.

5.2. Any individual insurance producer who, directly or indirectly, or by subterfuge or artifice aids, abets or participates in the practice of switching is guilty of violating this section and is subject to the penalties prescribed by W. Va. Code §33-12-24.

5.3. The act of any bank, trust company, loan company, building and loan association, individual, or any other loaning agency having a direct or indirect connection with an insurance agency or individual insurance producer will be considered to be the act of the individual insurance producer or agency insurance producer with whom the bank, trust company, loan company, building and loan association, individual, or loaning agency is connected. The individual insurance producer or agency insurance producer will be held strictly accountable for any act of the bank, trust company, loan company, building and loan association, individual, or other loaning agency which is in violation of this rule.

5.4. Any insurance company, licensed under the laws of West Virginia, that accepts business from an insurance producer under circumstances or conditions that the insurer knew or a reasonable person should have known that the insurance producer is in violation of this rule is subject to the penalties prescribed by W. Va. Code §33-3-11.

**§114-2-6. Referrals.**

6.1. A person who is not licensed to sell insurance may refer a customer who seeks to purchase or seeks an opinion or advice on any insurance product to a person or provide the phone number of a person who sells or provides opinions or advice on such product, only if the person making the referral receives no fee or only a nominal fee for such referral and such fee is not based on the customer's application for or purchase of the insurance.

6.2. Any individual insurance producer or agency insurance producer licensed under the laws of West Virginia who violates this rule is subject to the penalties prescribed by W. Va. Code §33-12-24.



STATE OF WEST VIRGINIA

Offices of the Insurance Commissioner

Legal Division

**BOB WISE**  
Governor

**JANE L. CLINE**  
Insurance Commissioner

October 1, 2002

**HAND DELIVERED**

Ms. Judy Cooper, Director  
Administrative Law Division  
Office of Secretary of State  
State Capitol  
Charleston, West Virginia 25305


Dear Ms. Cooper:

Please find attached one (1) copy of the following for filing:

- 1) Notice of a Rule Modification of a Proposed Rule and Consent of Tax and Revenue Cabinet Secretary to Proposed Rule; and
- 2) The proposed rule entitled "Licensing and Conduct of Individual Insurance Producers, Agencies and Solicitors" (Series 2).

Please contact me if further information is required.

Sincerely,

  
Vincent J. King  
General Counsel

VJK/jz  
Attachment

# MEMORANDUM

FILED

TO: Judy Cooper, Secretary of State's Office

2002 OCT -7 P 2:33

FROM: Vincent J. King, General Counsel 

SECRETARY OF STATE  
GEORGIA

RE: **SERIES 2 - LICENSING AND CONDUCT OF INDIVIDUAL  
INSURANCE PRODUCERS, AGENCIES AND SOLICITORS**  
**SERIES 20 - EXCESS LINE BROKERS**

DATE: October 7, 2002

cc: Jane L. Cline, Insurance Commissioner  
Debra Graham, Legislative Rule-making Review Committee

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Attached herewith is one (1) copy each of the above subject proposed rules with technical changes per Connie Bowling's recommendations. Please replace the Series 2 and Series 20 modified rules, filed with your office on October 1, 2002, with the attached.

If you have any questions or comments regarding the above, please contact our office.

Attachments

114CSR2

**WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER**

**SERIES 2  
LICENSING AND CONDUCT OF AGENTS, ~~BROKERS~~  
INDIVIDUAL INSURANCE PRODUCERS, AGENCIES AND SOLICITORS**

Section

- 114-2-1. General.
- 114-2-2. Requirements for Licensing.
- 114-2-3. Requirements for Licensing Insurance Agencies.
- 114-2-4. Commissions.
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- 114-2-6. Referrals.

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WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 2

LICENSING AND CONDUCT OF AGENTS, BROKERS  
INDIVIDUAL INSURANCE PRODUCERS, AGENCIES AND SOLICITORS

**§114-2-1. General.**

1.1. Scope. -- This regulation establishes the general requirements and practices of agents, brokers and solicitors.

1.2. Authority. -- W. Va. Code §33-2-10.

1.3. Filing Date. -- ~~September 13, 1966.~~

1.4. Effective Date. -- ~~October 13, 1966.~~

**§114-2-2. Requirements for Licensing.**

2.1. Trustworthiness. -- Insurers making requisitions for agents' individual insurance producers' licenses shall make an investigation as to the suitability of the appointee for the agent's individual insurance producer's license. The requisitioning company shall, prior to submitting the requisition to this department office, satisfy itself that the appointee is a suitable person and is trustworthy and qualified to act as its agent individual insurance producer. The Insurance Commissioner may, at any time, direct the requisitioning company to furnish proof that said the company has made such the investigation and that the investigation was made prior to the execution of the requisition.

2.2. Competency. -- The competency of persons applying to the Insurance Commissioner for an agent's individual insurance producer's license shall be determined by examination with the exception of those persons qualifying under subsection 2.3 of this regulation rule.

2.3. Waiver of examination. -- The Insurance Commissioner will not require an examination as proof of competency for those persons applying to this department office for an agent's individual insurance producer's license if such person holds the designation of Chartered Life Underwriter or Chartered Property Casualty Underwriter, the person is currently licensed as a resident and in good standing in his or her home state and otherwise meets the requirements of W. Va. Code §33-12-14(a), or if such person has satisfied the Insurance Commissioner as to his competency in insurance.

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2.4. Reexamination - automobile lines. -- All agents individual insurance producers, except those who qualify under subsection 2.3 of these rules, presently licensed by this department office to sell casualty lines or automobile lines must be reexamined by this department office to maintain such license if all of the following conditions exist:

a. The agent individual insurance producer is appointed by a company qualified to write automobile liability insurance, and

b. The agent individual insurance producer has been licensed to write automobile liability insurance for a period of five (5) years prior to ~~such~~ the appointment described in subdivision a herein, and

c. The agent individual insurance producer has not, in fact, for a period of five (5) years prior to ~~such~~ the appointment referred to in subdivision a herein, actively represented a company qualified to write automobile liability insurance.

The phrase "qualified to write automobile liability insurance" ~~shall be defined as being means~~ all licensed casualty companies who have had approved by this department office the necessary rate and form filings for automobile liability insurance.

2.5. Reexamination - miscellaneous casualty lines. -- All agents individual insurance producers, except those who qualify under ~~subdivision~~ subsection 2.3 of these rules, presently licensed by this department office to sell miscellaneous casualty lines of insurance must be reexamined by this department office to maintain such license if all of the following conditions exist:

a. The agent individual insurance producer is appointed by a company qualified to write miscellaneous casualty insurance, and

b. The agent individual insurance producer has been licensed to write miscellaneous casualty insurance for a period of five (5) years prior to ~~such~~ the appointment described in subdivision a herein, and

c. The agent individual insurance producer has not, in fact, for a period of five (5) years prior to ~~such~~ the appointment referred to in subdivision a herein, actively represented a company qualified to write miscellaneous casualty insurance.

The phrase "qualified to write miscellaneous casualty insurance" ~~shall be defined as being means~~ all licensed casualty companies who have had approved by this department office the necessary rate and form filings for miscellaneous casualty insurance.

**Insurance Commissioner  
Legislative Rule  
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~~2.6. Reexamination after cancellation. — If, for any period longer than forty five (45) days, records in this department indicate that an agent is appointed by no company, his license shall be canceled. After one (1) year from the date of cancellation, no such canceled license shall be renewed without examination.~~

~~2.7. 2.6. Repeating examinations. -- All persons having taken the examination as required by subdivision subsections 2.2, 2.4 and 2.5 and 2.6 of these rules, may repeat any examination after the first failure on the next scheduled date; after the second failure he or she must wait thirty (30) days; after the third failure or subsequent failure he or she must wait ninety (90) days.~~

**§114-2-3. Requirements for Licensing Insurance Agencies.**

3.1. Each agency, as defined in W. Va. Code §33-12-2(e), as amended, shall file an application with the commissioner for an agency insurance producer license on a form provided by this office. This requirement applies to each corporation, partnership, limited liability company, or other business entity in which more than one person has an interest or which operates under a corporate or trade name. The requirement for an agency insurance producer license does not apply to any agency owned by, and operated under the name of, an individual licensed producer, so long as no other person, firm or entity has any interest in, or affiliation with, the business of the individual insurance producer or his agency.

3.2. No agency insurance producer shall be licensed under a name which is likely to lead a reasonable person to believe that the agency is an insurer, an agency of any government, or a club, fraternity, association or social or military organization, or which is otherwise deceptive or misleading.

3.3. No business entity may be licensed pursuant to this rule under any name which includes the word "insurance" or "insurer" unless the name also includes the word "agency" or "agent."

3.4. No license shall be issued in a trade name except upon proof satisfactory to the commissioner that the trade name has been lawfully registered.

3.5. Foreign corporations, limited partnerships and any other entities required by law to be registered with the Secretary of State must be so registered before a license will be issued.

3.6 Each application shall be accompanied by the fee required by W. Va. Code §33-12-10. Each insurer is required to notify every agency affiliated with the insurer of its responsibility to file an agency insurance producer application and to pay the required fee. No agency is required to obtain more than one agency insurance producer license regardless of the number of insurers it represents, but all insurers then represented must be identified in the application. When an agency

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ceases to have a stockholder, officer, director, member, employee or associate possessing a current individual insurance producer's license, the agency insurance producer license shall be considered terminated. The agency insurance producer shall surrender the terminated agency insurance producer license for cancellation not more than thirty (30) days after the last person to hold the individual insurance producer license ceased affiliation with the agency or was no longer so licensed.

3.7. A domestic insurance agency must be organized pursuant to the laws of this state and must maintain its principal place of business in this state.

3.8. No business entity may be licensed as an agency insurance producer unless the primary purpose of the entity is the transaction of insurance or the entity is a national banking association that qualifies for an insurance agency license pursuant to federal law or the regulations and policies of the United States Comptroller of the Currency or the Board of Governors of the Federal Reserve System, or a bank that qualifies for an agency insurance producer license pursuant to West Virginia law.

3.9. The licensee shall notify the commissioner of all changes in status among its members, directors, and officers, and all other individuals designated in the application within ten (10) days after the change.

3.10. No individual whose individual insurance producer license has been revoked by order of the commissioner or whose application for a license may be denied pursuant to W. Va. Code §33-12-24, nor any business entity in which such individual has a majority ownership interest, whether direct or indirect, may own any interest in any agency licensed under this section.

3.11. No individual insurance producer whose license has been revoked by order of the commissioner or whose application for a license may be denied pursuant to W. Va. Code §33-12-24, may be employed by an insurance agency in any position that involves the transaction of insurance.

3.12. The provisions of this section shall become effective on July 1, 2003.

**§114-2-4. Commissions.**

4.1. Commission Sharing

An individual insurance producer may pay a commission for or on account of the solicitation or negotiation in this state of insurance on property or risks in this state only to another licensed individual insurance producer appointed by the insurer with whom such insurance was placed.

4.2. Any licensee who accepts any commission or compensation from the sale of a policy issued by an insurer who has not appointed the licensee is subject to the penalties prescribed by West Virginia Code Section 33-12-24.

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Title 114, Series 2**

**§114-2-5. Switching.**

5.1. No bank, trust company, loan company, building and loan association, individual, or other loaning agency that owns an insurance agency or otherwise has a connection therewith may require, as a condition precedent to securing a loan, that the borrower cancel insurance and purchase new insurance with the lender or with an agency with which the lender is in any way connected.

5.2. Any individual insurance producer who, directly or indirectly, or by subterfuge or artifice aids, abets or participates in violating this section is subject to the penalties prescribed by W. Va. Code §33-12-24.

5.3. The act of any bank, trust company, loan company, building and loan association, individual, or any other loaning agency having a direct or indirect connection with an insurance agency or individual insurance producer will be considered to be the act of the individual insurance producer or agency insurance producer with whom the bank, trust company, loan company, building and loan association, individual, or loaning agency is connected. The individual insurance producer or agency insurance producer will be held strictly accountable for any act of the bank, trust company, loan company, building and loan association, individual, or other loaning agency which is in violation of this rule.

5.4. Any insurance company licensed under the laws of West Virginia that accepts business from an insurance producer, which knows or, under the circumstances reasonably should have known to have violated this rule is subject to the penalties prescribed by W. Va. Code §33-3-11.

**§114-2-6. Referrals.**

6.1. A person who is not licensed to sell insurance may refer a customer who seeks to purchase or seeks an opinion or advice on any insurance product to, or provide the phone number of, a person who sells or provides opinions or advice on such product, only if the person making the referral receives no fee or only a nominal fee for the referral and such fee is not based on the customer's application for or purchase of the insurance product.

6.2. Any individual insurance producer or agency insurance producer licensed under the laws of West Virginia who violates this rule is subject to the penalties prescribed by W. Va. Code §33-12-24.

# MEMORANDUM

FILED

**TO:** Judy Cooper, Secretary of State's Office

2002 OCT 21 A 9:50

**FROM:** Vincent J. King, General Counsel *VJK*

OFFICE, WEST VIRGINIA  
SECRETARY OF STATE

**RE:** **SERIES 2 - LICENSING AND CONDUCT OF INDIVIDUAL  
INSURANCE PRODUCERS, AGENCIES AND SOLICITORS**

**DATE:** October 21, 2002

**cc:** Jane L. Cline, Insurance Commissioner  
Debra Graham, Legislative Rule-making Review Committee

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Attached herewith is one (1) copy of the above subject proposed rule with technical changes per Connie Bowling's recommendations. Please replace the previously filed Series 2 modified rule with the attached.

If you have any questions or comments regarding the above, please contact our office.

Thank you.

Attachment

FILED

114CSR2

2002 OCT 21 A 9:50

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**SERIES 2**

**LICENSING AND CONDUCT OF AGENTS, ~~BROKERS~~  
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Section

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INSURANCE COMMISSIONER

SERIES 2

LICENSING AND CONDUCT OF AGENTS, BROKERS  
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2.2. Competency. -- The competency of persons applying to the Insurance Commissioner for an ~~agent's~~ individual insurance producer's license shall be determined by examination with the exception of those persons qualifying under subsection 2.3 of this ~~regulation~~ rule.

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**Insurance Commissioner  
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b. The ~~agent~~ individual insurance producer has been licensed to write automobile liability insurance for a period of five (5) years prior to ~~such~~ the appointment described in subdivision a herein, and

c. The ~~agent~~ individual insurance producer has not, in fact, for a period of five (5) years prior to ~~such~~ the appointment referred to in subdivision a herein, actively represented a company qualified to write automobile liability insurance.

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**Insurance Commissioner  
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~~2.7. 2.6. Repeating examinations. -- All persons having taken the examination as required by subdivision subsections 2.2, 2.4 and 2.5 and 2.6 of these rules, may repeat any examination after the first failure on the next scheduled date; after the second failure he or she must wait thirty (30) days; after the third failure or subsequent failure he or she must wait ninety (90) days.~~

**§114-2-3. Requirements for Licensing Insurance Agencies.**

3.1. Each agency, as defined in W. Va. Code §33-12-2(e), as amended, shall file an application with the commissioner for an agency insurance producer license on a form provided by this office. This requirement applies to each corporation, partnership, limited liability company, or other business entity in which more than one person has an interest or which operates under a corporate or trade name. The requirement for an agency insurance producer license does not apply to any agency owned by, and operated under the name of, an individual licensed producer, so long as no other person, firm or entity has any interest in, or affiliation with, the business of the individual insurance producer or his agency.

3.2. No agency insurance producer shall be licensed under a name which is likely to lead a reasonable person to believe that the agency is an insurer, an agency of any government, or a club, fraternity, association or social or military organization, or which is otherwise deceptive or misleading.

3.3. No business entity may be licensed pursuant to this rule under any name which includes the word "insurance" or "insurer" unless the name also includes the word "agency" or "agent."

3.4. No license shall be issued in a trade name except upon proof satisfactory to the commissioner that the trade name has been lawfully registered.

3.5. Foreign corporations, limited partnerships and any other entities required by law to be registered with the Secretary of State must be so registered before a license will be issued.

3.6 Each application shall be accompanied by the fee required by W. Va. Code §33-12-10. Each insurer is required to notify every agency affiliated with the insurer of its responsibility to file an agency insurance producer application and to pay the required fee. No agency is required to obtain more than one agency insurance producer license regardless of the number of insurers it represents, but all insurers then represented must be identified in the application. When an agency

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ceases to have a stockholder, officer, director, member, employee or associate possessing a current individual insurance producer's license, the agency insurance producer license shall be considered terminated. The agency insurance producer shall surrender the terminated agency insurance producer license for cancellation not more than thirty (30) days after the last person to hold the individual insurance producer license ceased affiliation with the agency or was no longer so licensed.

3.7. A domestic insurance agency must be organized pursuant to the laws of this state and must maintain its principal place of business in this state.

3.8. No business entity may be licensed as an agency insurance producer unless the primary purpose of the entity is the transaction of insurance or the entity is a national banking association that qualifies for an insurance agency license pursuant to federal law or the regulations and policies of the United States Comptroller of the Currency or the Board of Governors of the Federal Reserve System, or a bank that qualifies for an agency insurance producer license pursuant to West Virginia law.

3.9. The licensee shall notify the commissioner of all changes in status among its members, directors, and officers, and all other individuals designated in the application within ten (10) days after the change.

3.10. No individual whose individual insurance producer license has been revoked by order of the commissioner or whose application for a license may be denied pursuant to W. Va. Code §33-12-24, nor any business entity in which such individual has a majority ownership interest, whether direct or indirect, may own any interest in any agency licensed under this section.

3.11. No individual insurance producer whose license has been revoked by order of the commissioner or whose application for a license may be denied pursuant to W. Va. Code §33-12-24, may be employed by an insurance agency in any position that involves the transaction of insurance.

3.12. The provisions of this section shall become effective on July 1, 2003.

**§114-2-4. Commissions.**

4.1. Commission Sharing

An individual insurance producer may pay a commission for or on account of the solicitation or negotiation in this state of insurance on property or risks in this state only to another licensed individual insurance producer appointed by the insurer with whom such insurance was placed.

4.2. Any licensee who accepts any commission or compensation from the sale of a policy issued by an insurer who has not appointed the licensee is subject to the penalties prescribed by West Virginia Code Section 33-12-24.

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**§114-2-5. Switching.**

5.1. No bank, trust company, loan company, building and loan association, individual, or other loaning agency that owns an insurance agency or otherwise has a connection therewith may require, as a condition precedent to securing a loan, that the borrower cancel insurance and purchase new insurance with the lender or with an agency with which the lender is in any way connected.

5.2. Any individual insurance producer who, directly or indirectly, or by subterfuge or artifice aids, abets or participates in violating this section is subject to the penalties prescribed by W. Va. Code §33-12-24.

5.3. The act of any bank, trust company, loan company, building and loan association, individual, or any other loaning agency having a direct or indirect connection with an insurance agency or individual insurance producer will be considered to be the act of the individual insurance producer or agency insurance producer with whom the bank, trust company, loan company, building and loan association, individual, or loaning agency is connected. The individual insurance producer or agency insurance producer will be held strictly accountable for any act of the bank, trust company, loan company, building and loan association, individual, or other loaning agency which is in violation of this rule.

5.4. Any insurance company licensed under the laws of West Virginia that accepts business from an insurance producer, which it knows or reasonably should know to have violated this rule is subject to the penalties prescribed by W. Va. Code §33-3-11.

**§114-2-6. Referrals.**

6.1. A person who is not licensed to sell insurance may refer a customer who seeks to purchase or seeks an opinion or advice on any insurance product to, or provide the phone number of, a person who sells or provides opinions or advice on such product, only if the person making the referral receives no fee or only a nominal fee for the referral and such fee is not based on the customer's application for or purchase of the insurance product.

6.2. Any individual insurance producer or agency insurance producer licensed under the laws of West Virginia who violates this rule is subject to the penalties prescribed by W. Va. Code §33-12-24.