

INFORMATIONAL LETTER NO. 89
JULY 1993

TO: All Resident and Non-Resident Agents and Insurance Companies
Licensed in West Virginia and Other Interested Parties

RE: AGENTS' APPOINTMENT REQUIREMENTS

The 1993 regular session of the West Virginia Legislature enacted House Bill 2182 which created two new subsections to Chapter 33, Article 12, Section 19 of the West Virginia Code and addressed appointment requirements for agents which became effective April 9, 1993.

This bill reinforces the existing requirement that a licensed agent must be appointed by an insurer and such appointment must be approved by the Insurance Commissioner *before* the agent can solicit, market, sell or transact business of any kind on behalf of that insurer.

House Bill 2182 created an exception to this requirement which allows a licensed agent, without an appointment, to submit an inquiry (not an application) to a licensed insurer and obtain a bid from such insurer for any kind of life insurance, health (accident and sickness) insurance or an annuity for which the agent has a valid and effective license. The agent, however, must be appointed before marketing, selling or otherwise transacting business of any kind on behalf of the insurer from which the agent obtained the bid.

It must be emphasized that this exception applies only to life insurance, health (accident and sickness) insurance, and annuities and does not apply to any other type of insurance.

This limited exception allows those licensed agents, who may not be appointed to numerous insurance companies, to search the market for the best life, health (accident and sickness) or annuity product available for the client.

The agent is prohibited from discussing the bid, the terms of coverage or the policy provisions with the client until such time as the agent has been appointed as an agent for the insurer and the Insurance Commissioner has approved such appointment.

Informational Letter No. 89
July 1993
Page Two

In addition to the above, all agents and insurance companies are reminded of the following:

1. An agent may not transact the business of insurance on risks to be located in West Virginia without first being licensed by the West Virginia Insurance Commissioner to transact the particular kind of insurance.
2. An agent may not receive any commission on any insurance business from an insurer unless the agent was appointed by the insurer and such appointment was approved by the Insurance Commissioner at the time the agent transacted the insurance business.
3. An agent must be properly appointed *before* binding coverage or accepting premium from a client.

In summary, the only pre-appointment activities a licensed agent may lawfully undertake are (1) submit an inquiry (not an application) to a licensed life, health (accident and sickness) or annuity insurance company for which such agent is not appointed and (2) obtain a bid on such coverage from the insurance company.

Failure to comply with the provisions of law regulating insurance agents and insurance companies activities may result in disciplinary action by the Insurance Commissioner.

Inquiries regarding this letter should be directed, in writing, to Jane Strother, Agents Licensing & Education, West Virginia Insurance Department, P. O. Box 50541, Charleston, WV 25305-0541.

HANLEY C. CLARK
Insurance Commissioner