

Resident & Non-Resident Business Entity Licensing
Frequently Asked Questions
Business Entity licensing became effective July 1, 2003.

What are the definitions of business entity and insurance agency in the West Virginia Code?

“Business entity” means a corporation, association, partnership, limited liability company, or other legal entity.

"Insurance agency" means an individual, corporation, partnership, association, limited liability company, or other legal entity except for an employee of the individual, corporation, partnership, association, limited liability company, or other legal entity, and other than an insurer or an adjuster as defined by 33-12B-1 of the West Virginia Code, which employs individuals licensed to engage in activity or whose members engage in any activity be performed only by a licensed individual insurance producer or solicitor. It shall not include sole proprietor or partnerships in which there is only one licensed insurance producer.

What types of entities can be licensed? Corporations, General partnerships, Limited liability companies, Limited partnerships, Limited liability partnerships, Sole proprietors.

Does an entity need a license to receive direct commissions? Entities cannot sell, solicit or negotiate insurance or receive direct commissions, however, producers may assign commissions to an entity. A written assignment must be maintained in the files and available for review by the Insurance Commissioner on request.

Does an entity need a license if the producer is not assigning commissions directly to the agency?

If the producer is working and selling for the agency, then the agency is doing insurance business in West Virginia. Regardless of where the commissions are being assigned (i.e., if the producer is writing in WV and employed by the agency) the agency must be licensed as a West Virginia business entity.

W.Va. Code § 33-12-2(e) defines an insurance agency:

For the purpose of this article:

"Insurance agency" means an individual, corporation, partnership, association, limited liability company, or other legal entity except for an employee of the individual, corporation, partnership, association, limited liability company, or other legal entity, and other than an insurer or an adjuster as defined by section twelve-b [§ 33-1-12b, see editor's notes], article one of this chapter, which employs individuals licensed to engage in activity or whose members engage in any activity be performed only by a licensed individual insurance producer or solicitor. It shall not include sole proprietor or partnerships in which there is only one licensed insurance producer.

Assignment of commissions is not a relevant factor in determination for the requirement of licensing the insurance agency.

Does an entity need a license to receive assigned commissions? YES, unless exempted pursuant to W.Va. Code § 33-12-23(c).

What happens if the nonresident applicant's home state does not license agencies? In lieu of a Letter of Certification, a letter from the applicant's home state insurance department that agencies are not licensed must be attached with the application.

Are articles of incorporation organization/partnership agreements required to be submitted with a resident or a nonresident application? NO

Does the entity need to name at least one designated responsible producer on the application? YES

Does the designated responsible producer have to be an officer/director/partner of the agency? YES

Is the agency required to include a list with the application of all agents who may be selling through or on behalf of the agency? This list not required to be submitted with application, however, should be available upon request by the Insurance Commissioner.

Are agencies appointed to insurance companies ? NO

Do designated agents and all other agents in the entity need to be appointed individually ? YES

Does the insurance department need to approve any name, true or DBA prior to licensure ? NO, however, an application may be rejected if a name is misleading or may be the same or so similar to another agency to be misleading.

Are branch offices required to be licensed? Only if the branches are considered separate legal entities.

When do changes in agency officers/directors/partners or changes to the designated responsible producer need to be reported to the Insurance Commissioner? The Insurance Commissioner's office must be notified, in writing, 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.

When is a sole proprietor exempt from Business Entity licensing? If the sole proprietor is the only licensed individual in the office, a Business Entity license is not needed. An exempt sole proprietor may not have another producer employed, contracted with, or affiliated with the office and maintain the exempt status.

Under what circumstances would a Sole Proprietor need a Business Entity license? License would be needed if there is more than one licensed individual producer employed, contracted with, or affiliated with the office.