

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #6

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2008 MAY -6 AM 10:18

SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE
AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 2A

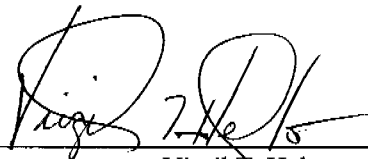
TITLE OF RULE BEING PROPOSED: Fingerprinting Requirements For Applicants For Insurance
Producer License

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 417

SECTION 64-7-2(k), PASSED ON March 8, 2008

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: August 1, 2008



Virgil J. Helton
Cabinet Secretary
West Virginia Department of Revenue

\$3.00

TITLE 114

**LEGISLATIVE RULE
OFFICES OF THE INSURANCE COMMISSIONER**

**SERIES 2A
FINGERPRINTING REQUIREMENTS FOR APPLICANTS
FOR INSURANCE PRODUCER LICENSE**

Section

- 114-2A-1. General
- 114-2A-2. Definitions.
- 114-2A-3. Producer Fingerprints.
- 114-2A-4. Provisional Work Authority; Change in Residence Status.
- 114-2A-5. Fingerprint Format and Complete Application.
- 114-2A-6. Use of Fingerprints.
- 114-2A-7. Nonresident Producers.

TITLE 114

LEGISLATIVE RULE
OFFICES OF THE INSURANCE COMMISSIONER

SERIES 2A
FINGERPRINTING REQUIREMENTS FOR APPLICANTS
FOR INSURANCE PRODUCER LICENSE

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§114-2A-1. General.

1.1. Scope. -- This rule implements Enrolled Committee Substitute for House Bill 2764, enacted during the 2007 regular session of the West Virginia Legislature and made effective June 9, 2007, which mandates that the Insurance Commissioner procure fingerprints from certain classes of applicants for producer licenses for the purpose of obtaining criminal history record check from the Federal Bureau of Investigation and State Police.

1.2. Authority. -- W. Va. Code §§33-2-10 and 33-12-37.

1.3. Filing Date. -- May 6, 2008.

1.4. Effective Date. -- August 1, 2008.

§114-2A-2. Definitions.

2.1. "Fingerprint" means an impression of the lines on the finger taken for the purpose of identification. The impression may be obtained electronically or in ink converted to an electronic format.

2.2. "Initial home state license" means an insurance producer license issued to a West Virginia resident pursuant to the provisions of W. Va. Code §33-12-1 et seq. to authorize such individual to sell, solicit and negotiate insurance in this state; an initial home state license does not include a temporary license issued pursuant to the provisions of W. Va. Code §33-12-16 or a reinstatement of a resident license pursuant to the provisions of W. Va. Code §33-12-9(c).

§114-2A-3. Producer Fingerprints.

3.1. Every applicant must:

a. Provide for the collection of a complete set of fingerprints in accordance with section 5 of this rule and submit the completed fingerprint card to the Insurance Commissioner with the application;

b. Pay forty-six dollars (\$46.00) to cover the processing fees charged by

the West Virginia State Police and the Federal Bureau of Investigation to perform the criminal history record checks. The fee will be payable to the vendor that collects the prints or, if the prints are collected by an approved law enforcement agency, directly to the Insurance Commissioner with the application; and

c. Submit all additional identifying information required by the West Virginia State Police and the Federal Bureau of Investigation to complete the criminal history record check.

3.2. The Insurance Commissioner may waive the fingerprint requirement if the applicant previously provided the commissioner a complete, legible fingerprint card or electronic set of fingerprints as part of an earlier application that was granted under W. Va. Code §33-12-1 et seq. or W. Va. Code §33-12C-1 et seq. and which license is in good standing on, or within the previous sixty (60) days prior to, the date of the subsequent application or: *Provided*, That the Insurance Commissioner may require a complete set of fingerprints and payment of all fingerprint processing fees from an applicant if the previously submitted set of fingerprints is unable to be used to obtain a criminal history record check.

3.3. The Insurance Commissioner may waive any requirements of this rule if it is impossible for the applicant to provide fingerprints due to physical injury.

3.4. Failure to provide a complete set of fingerprints and the required fees and information in accordance with this rule constitutes grounds for denial of an application.

§114-2A-4. Provisional Work Authority; Change in Residence Status.

4.1. The Insurance Commissioner may issue a provisional license prior to receipt of a criminal history record check to an applicant who has submitted in proper form the items required by section 3 of this rule if the submission does not disclose any matter that may disqualify the applicant from being licensed. A provisional license issued pursuant to this section shall expire on the earlier of the expiration date set forth on the provisional license or the issuance of the Insurance Commissioner's decision granting or denying the license applied for.

4.2. An applicant seeking a resident insurance producer license under change of home state provisions shall, within thirty (30) days after establishing residency in West Virginia, notify the Insurance Commissioner of his or her change of address and contact information and, within ninety (90) days of establishing residency, submit an application to qualify as a resident insurance producer in West Virginia. The licensee shall submit completed fingerprint forms in a format prescribed by the Insurance Commissioner, including electronic fingerprinting. Upon the Insurance Commissioner's approval of the application, the licensee's status shall be changed from nonresident to resident.

§114-2A-5. Fingerprint Format and Complete Application.

5.1. Every applicant shall provide a complete set of his or her fingerprints to an

examination vendor or a criminal law enforcement agency (including a sheriff's office or police department) that has been approved by the Insurance Commissioner. The applicant shall pay the vendor or the law enforcement agency the fee it charges for collecting the fingerprints. The amount of any collection fee and the manner in which it is to be paid shall be set forth in a contract or agreement between the Insurance Commissioner and the vendor or agency. Applicants are advised that processing time and rejection rates for applications and submissions with paper fingerprint cards may be substantially greater than with electronic fingerprints.

5.2. Approved vendors and law enforcement agencies may obtain fingerprint cards by sending a written request to the Agent Licensing Division, Offices of the West Virginia Insurance Commissioner.

5.3. All fingerprint impressions must be legible and suitable for use by the West Virginia State Police and Federal Bureau of Investigation.

5.4. An application for licensure is not complete until the Insurance Commissioner receives the criminal history record information.

§114-2A-6. Use of Fingerprints.

The Insurance Commissioner shall submit all fingerprints received pursuant to this rule to the West Virginia State Police and the Federal Bureau of Investigation to obtain criminal history record checks and use the information obtained only to determine applicants' fitness for licensure, authorization, certification, permit, registration or control of an entity holding or seeking a license, authorization, certificate, permit, or registration.

§114-2A-7. Nonresident Producers.

7.1. As authorized under W. Va. Code §33-12-33, the Insurance Commissioner may waive the requirement in W. Va. Code §33-12-37 to promote reciprocal licensing between the states for nonresident individuals holding an individual insurance producer license in their state of residence or to the extent necessary to comply with federal law.

7.2. The requirements of this rule do not alter the reporting requirements set forth in W. Va. Code §33-12-34.