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Nov 16 6 49 AM '00

WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

OFFICE OF THE SECRETARY OF STATE

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November 12, 2000

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Paul Marteny
Insurance Commissioner
Capitol Complex
Box 50540

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **Examiners' Compensation, Qualifications and Classification, 114CSR15**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

- 1. Authorize the agency to promulgate the Legislative rule
 - (a) as originally filed
 - (b) as modified by the agency
- 2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached.
- 3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.
- 5. Recommends that the Legislative rule be withdrawn; a statement of reasons for such recommendation is attached.

SCANNED

FILED

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Oct 31 9 26 AM '00

Agency: Insurance Commissioner
Subject: Examiner's Compensation, Qualifications and Classification, 114 CSR 15
Date: October 26, 2000
Counsel: Rita A. Pauley

OFFICE OF THE VIRGINIA
SECRETARY OF STATE

PERTINENT DATES

Filed for public comment:	August 1, 2000
Public comment period ended:	August 31, 2000
Filed following public comment period:	September 1, 2000
Filed LRMRC:	September 1, 2000
Filed as emergency:	N/A

Fiscal Impact: The Agency anticipates increased travel expenses of \$13,680 annually. This results from allowing the examiners to go home 24 times a year rather than 6 times a year. This will not impact state revenues because the examiner's program is paid for from funds collected from insurance companies.

ABSTRACT

This is a current legislative rule which establishes standards for the compensation, qualification and classification of persons who conduct financial solvency monitoring of insurance companies. The proposed amendments to this rule focus on clarifying the method of reimbursing insurance examiners for travel expenses. The following is a synopsis of the substantive amendments.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 is the definition section. Definitions for "on-site", "residence", and "lodging" have been added.

Subsection 4.3 on "accrued time" has been amended to provide that travel expenses may be reimbursed in connection with an authorized trip home even if annual leave is taken.

Section 5 establishes the requirements for reimbursement of travel and living expenses. It has been substantially rewritten. The most significant change is in the determination of reimbursement for living expenses. Under the current rule, the Commissioner may choose one of three ways to reimburse living expenses. The amendment specifies the manner in which living expenses will be reimbursed. Lodging will be reimbursed at a rate equal to the actual cost or \$100 a night whichever is less. If the lodging costs will exceed \$100 per night, they must be approved in writing prior to the expenditure. The rule also provides that meals and incidental expenses will be reimbursed at a per diem rate equal to the rate of the Governor's travel rules. Meals and incidental expenses will not be provided for single day travel. If meals are provided for the examiner, the per diem rate will be reduced accordingly. If the examiner stays at a hotel over a weekend or a holiday, the lodging and incidental expenses actually incurred will be reimbursed.

AUTHORITY

Statutory authority: W.Va. Code, §33-2-10, which provides, in part, as follows:

The commissioner is authorized to promulgate and adopt such rules and regulations relating to insurance as are necessary to discharge his duties and exercise his powers and to effectuate the provisions of this chapter and to protect and safeguard the interests of policyholders and the public of this state.

ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

Yes.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has suggested technical modifications.