

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Filing Date

FILED
1991 JUN 28 PM 12:01
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #7

Effective Date

July 1, 1991 *ja*

NOTICE OF AN EMERGENCY RULE

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY: West Virginia Code §§ 33-2-9 and 33-2-10

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES NO (Repeal and Replace)

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 15

TITLE OF RULE BEING AMENDED EXAMINERS' COMPENSATION,
QUALIFICATIONS AND CLASSIFICATION

IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: _____

TITLE OF RULE BEING FILED AS AN EMERGENCY: _____

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 35TH DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

(SEE ATTACHED)

Use Additional Sheets if Necessary.

Hanley C. Clark
Signature
Hanley C. Clark
Insurance Commissioner

4.40

FILED

1991 JUN 28 PM 12:02

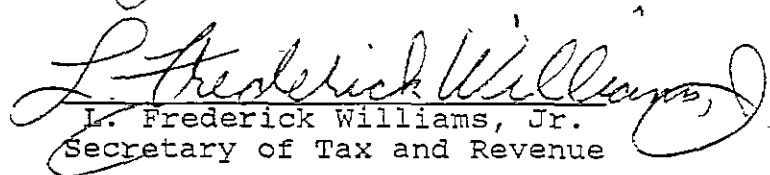
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

CONSENT TO PROPOSAL OF RULE

To Whom It May Concern:

Pursuant to West Virginia Code §5F-2-2(a)(12), the undersigned hereby grants consent to the proposal of the following rule proposed by the Insurance Commissioner of the State of West Virginia: Title 114, Series 15, relating to Examiners' Compensation, Qualifications and Classification.

Signed this 27th day of June, 1991.


L. Frederick Williams, Jr.
Secretary of Tax and Revenue

Insurance Commissioner
Leg. Rule 33-2, Series 15
Title 114
EMERGENCY

FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY

On March 10, 1991 the West Virginia Legislature passed H. B. 2462 which amended §33-2-9 of the West Virginia Code. These amendments radically changed the process by which the costs of statutory examinations of the financial condition of insurance entities are to be assessed. The present regulation was rendered obsolete and totally ineffective to enforce the intent of the amended Code.

The amended Code requires that on or before July 1, 1991 and every first day of July thereafter, each licensed company shall pay an examination assessment fee of eight hundred dollars (\$800). Four hundred and fifty dollars (\$450) will be placed in a special revolving fund known as "Commissioner's Examination Revolving Fund" and three hundred and fifty dollars (\$350) will be paid to the State Treasurer.

Those monies in the "Commissioner's Examination Revolving Fund" are for costs expended in the examinations of companies or for the purchase of equipment, supplies, travel, education and training for his deputies, examiners and other employees necessary to fulfill statutory obligations in this section of the West Virginia Code.

The Insurance 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 by §33-2-10 of the West Virginia Code.

The Insurance Commissioner is therefore promulgating the instant rule on an emergency basis pursuant to West Virginia Code §29A-3-15(g) to meet the July 1, 1991 implementation of the amendments to §33-2-9 of the West Virginia Code made by the enrollment and enactment into law of H. B. 2462 on March 10, 1991.

FISCAL NOTE FOR PROPOSED RULES

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Rule Title: Examiners' Compensation, Qualifications and Classification
Title 114, Series 15

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Type of Rule: Legislative Interpretive Procedural

Agency: Insurance Commissioner Address: 2019 Washington Street, East,
Charleston, West Virginia 25305

1. Effect of Proposed Rule	Increase	ANNUAL		FISCAL YEAR	
		Decrease	Current	Next	Thereafter
Estimated Total Cost			See attached Expenditure Schedule Account Summary, Fiscal Year 1991-92		

- Personal Services
- Current Expense
- Repairs & Alterations
- Equipment
- Other

2. Explanation of above estimates:

The attached schedule is a legislative appropriation.

3. Objectives of these rules:

To enforce amended §33-2-9 of West Virginia Code, as amended by H. B. 2462, enrolled and enacted March 10, 1991.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There are approximately 1,250 licensed insurance entities that will pay this \$800 fee, \$350 of the fee will go to the General Revenue Fund or approximately \$437,500.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

This rule will reduce the costs of statutory examinations for West Virginia domestic insurance companies.

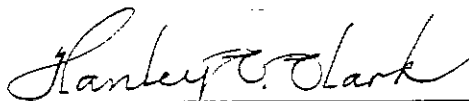
There should be no impact on political subdivisions or specific groups of citizens.

C. Economic Impact on Citizens/Public at Large.

Directly there will be no effect on the public at large but indirectly the Insurance Commissioner will have strengthened ability to monitor and regulate the insurance industry, and thus protect policyholders' and the general public's financial interests.

Date: June 28, 1991

Signature of Agency Head or Authorized Representative



Hanley C. Clark
Insurance Commissioner

SUMMARY OF RECEIPTS AND DISBURSEMENTS
FISCAL YEAR 1991-92

- APPROPRIATED FEDERAL FUNDS ACCOUNTS (LISTED IN BUDGET ACT)
- APPROPRIATED SPECIAL REVENUE ACCOUNTS (LISTED IN BUDGET ACT)
- FEDERAL BLOCK GRANTS (LISTED IN BUDGET ACT)
- OTHER FEDERAL FUNDS
- OTHER SPECIAL REVENUE ACCOUNTS

SPENDING UNIT INSURANCE COMMISSION

DEPARTMENT OF TAX & REVENUE

ADDRESS 2019 WASHINGTON STREET EAST

PAGE NO. 2

AMENDMENT DATE _____

AMENDMENT NO. _____

Account Name	Number	Estimated Balance 6-30-91	ESTIMATED RECEIPTS				TOTAL	ESTIMATED DISBURSEMENTS				Estimated Balance 6-30-92	
			1st Quarter	2nd Quarter	3rd Quarter	4th Quarter		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter		
WASHINGTON REVOLVING FUND	8014	586,700				555,300	555,300	140,000	120,000	120,000	120,000	500,000	642,000
TOTAL		586,700				555,300	555,300	140,000	120,000	120,000	120,000	500,000	642,000

DEPARTMENT OF TAX & REVENUE

DIVISION OF INSURANCE COMMISSION

Stanley D. Black
Stanley M. White
 Approved Secretary

Approved Secretary
Department of Administration

DATE _____

ESTIMATE OF RECEIPTS AND DISBURSEMENTS
(CONTINUED)

Fiscal Year 1991-92

PAGE NO. 4
AMENDED _____
AMEND NO. _____

SPENDING UNIT INSURANCE COMMISSION ACCT. NO. 8014
DEPARTMENT OF TAX & REVENUE AGENCY NO. 616

REPAIRS & ALTERATIONS	
060-Labor (Contractual)	
061-Office Equipment Repairs	
062-Research, Educational, and Medical Equipment Repairs	
063-Building, Household, and Communication Equipment Repairs	
064-Building Repairs & Alterations	
065-Vehicle Repairs	
066-Ground Improvements	
067-Farm & Construction Equipment Repairs	
068-Other Repairs & Alterations	
TOTAL REPAIRS & ALTERATIONS	\$ -0-
EQUIPMENT	
070-Office & Communication	10,000
071-Medical	
072-Research and Educational	
073-Household Equipment & Furnishings	
074-Building	
075-Vehicles	
076-Livestock, Farm, Construction	
077-Books	
078-Other Equipment	
TOTAL EQUIPMENT	\$ 10,000
TOTAL EXPENDITURES/APPROPRIATIONS	\$ 500,000
BALANCE END OF YEAR 6-30-92	\$ 642,000

INSURANCE COMMISSION

ACCT. NO. 8014 FEDERAL _____

TAX & REVENUE

AGENCY NO. 616

	DEPARTMENT		FY 1991-92 Budgeted				
	FY 1991-92 Leg Digest		General	Federal	Special	Other	Total
Number of Positions					5		5
PERSONAL SERVICES	251,000				251,000		251,000
Number of Positions					3		3
ANNUAL INCREMENT	900				900		900
TOTAL PERS. SERVICES	251,900				251,900		251,900
EMPLOYEE BENEFITS							
10 Pys. Dis., Pub Em Ins. & Ret.					900		900
11 Social Security Matching					19,270		19,270
12 Pub. Emp. Ins. Premium					25,270		25,270
13 Other Health Insurance							
14 Workers' Comp. (Rate)					1,000		1,000
15 Unemp. Comp.							
16 Pen. & Retm. Cont.					23,930		23,930
TOTAL EMPLOYEE BENEFITS	70,570				70,370		70,370
CURRENT EXPENSES							
20 Office, Post. & Int. Exp.					4,000		4,000
21 Printing & Binding							
22 Rental Expenses (Building)							
23 Utilities							
24 Telephone & Telegraph							
25 Contractual & Professional							
26 Travel					162,730		162,730
27 ISSD							
28 Consultants & Consulting Fees							
29 Vehicle Rental							
30 Rental (Machine & Misc.)							
31 Association Dues							
32 Fire, Auto, Bond & Oth. Ins.							
33 Food Products							
34 Cloth & Household Sup.							
35 Advertising							
36 Vehicles Maintenance Expense							
37 Research, Ed. & Med.							
38 Maintenance Contracts							
39 Manufacturing Supplies							
40 Merchandise for Resale							
41 Security Service							
42 Hospitality							
43 Ed. Training (Stipends)							
44 Promotional							
45 Farm Expense							
46 Subsistence							
47 Debt Service							
48 Discharge & Parole Allow.							
50 Recreational Supplies							
51 Miscellaneous					1,000		1,000
TOTAL CURRENT EXPENSES					167,730		167,730
REPAIRS & ALTERATIONS							
60 Labor (Contractual)							
61 Office Equipment Repairs							
62 Resrch. Ed. Med. Equip. Reps							
63 Bldgs. Hsehd. Comm. Equip. Reps							
64 Bldg. Repairs & Alterations							
65 Vehicle Repairs							
66 Ground Improvements							
67 Farm & Const. Equip. Rep.							
68 Other Repairs & Alt.							
TOTAL REPAIRS & ALTERATIONS							
EQUIPMENT							
70 Office & Communication					10,000		10,000
71 Medical							
72 Research & Educational							
73 Household Equip. & Furn.							
74 Building							
75 Vehicles							
76 Livestock, Farm, Const.							
77 Books							
78 Other Equipment							
TOTAL EQUIPMENT					10,000		10,000
Unclassified	177,730						177,730
NET TOTAL	500,000				500,000		500,000

FILED

1991 JUN 28 PM 12: 01

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
FROM: OFFICE OF THE INSURANCE COMMISSIONER
DATE: June 28, 1991

EMERGENCY RULE TITLE: Examiner's Compensation, Qualifications
and Classification
(Title 114, Series 15)

1. Date of filing: June 28, 1991

2. Statutory authority for promulgating the emergency rule:
West Virginia Code 33-2-10

3. Date of filing of proposed legislative rule: June 28, 1991

4. Does the emergency rule adopt new language or does it amend
or repeal a current legislative rule?
Repeals and replaces

5. Has the same or similar emergency rule previously been
filed and expired?
No

6. State, with particularity, those facts and circumstances
which make the emergency rule necessary for the immediate
preservation of public peace, health, safety or welfare.
See next question.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

West Virginia Code §33-2-9 as amended by H. B. 2462
requires that this rule be effective July 1, 1991 to
enforce the amended Code.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

See previous question.

Insurance Commissioner
Leg. Rule 33-2, Series 15
Title 114
EMERGENCY

BRIEF SUMMARY

This proposed emergency rule implements the amendments to §33-2-9 of the West Virginia Code made by the enrollment and enactment into law of H. B. 2462 on March 10, 1991. The rule enforces the changes in the process by which the costs of statutory examinations of the financial condition of insurance entities are assessed.

EMERGENCY

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

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1991 JUN 28 PM 12:02
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

CHAPTER 33-2
SERIES 15

EXAMINERS' COMPENSATION, QUALIFICATIONS
AND CLASSIFICATION

- Section 1. General
- Section 2. Definitions
- Section 3. Travel and Living Expenses
- Section 4. Accredited Examiners' Compensation and Accrued Time
- Section 5. Examination, Analysis, and Review Activities and Funding
- Section 6. Examiner Reporting Requirements

EMERGENCY
WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

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1991 JUN 28 PM 12:0

CHAPTER 33-2
SERIES 15

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

EXAMINERS' COMPENSATION, QUALIFICATIONS
AND CLASSIFICATION

Section 1. General

1.1 Scope. This legislative rule establishes standards for the compensation, qualifications and classification of persons who conduct or participate in any analysis, review or examination provided for in West Virginia Code §33-2-9.

1.2 Authority. - West Virginia Code §§33-2-9, 33-2-10

1.3 Filing Date. - June 28, 1991

1.4 Effective Date. - July 1, 1991

1.5 This legislative rule repeals and replaces Title 114, Series 15, Examiners' Compensation, Qualification and Classification, which became effective on July 1, 1987.

Section 2. Definitions

As used in this legislative rule:

2.1 "Commissioner" means the Insurance Commissioner of the State of West Virginia.

2.2 "Deputy" means any individual appointed by the Commissioner as Deputy or Special Deputy Commissioner of Insurance.

2.3 "Other Employee" means any individual who is an employee of the Department of Insurance of the State of West Virginia, excluding the Commissioner's Accredited Examiners.

2.4 "Accredited Examiner" or "Examiner" means a person who is an employee of the Department of Insurance and has been classified according to his or her qualifications as either Insurance Company Examiner, Supervising Insurance Company Examiner, Market Conduct Examiner or Supervising Market Conduct Examiner pursuant to the classification plan of the West Virginia Division of Personnel or such other equivalent classification plan as the State of West Virginia may adopt.

2.5 "Other individual" means any individual who is not an employee of the Department of Insurance, to include but not be limited to independent certified public accountants, independent

Insurance Commissioner
Leg. Rule 33-2
Series 15, Sec. 3
EMERGENCY

actuaries, qualified insurance examiners or other individuals with particular skills or areas of expertise, deemed competent by the Commissioner to conduct or participate in any examination, analysis or review as allowed by West Virginia Code §33-2-9 or this regulation.

2.6 "Examination Assessment Fee" means the annual fee due on or before July 1 of every year, as specified in West Virginia Code §33-2-9.

2.7 "Additional Examination Assessment Fee" means any additional or increased examination assessment fee levied by order of the Commissioner in excess of the annual examination assessment fee as allowed by the provisions of West Virginia Code §33-2-9.

Section 3. Examination, Analysis and Review Activities and Funding

3.1 Every entity subject to the provisions of West Virginia Code §33-2-9 shall remit the examination assessment fee specified by the Code or as increased by the Commissioner on or before July 1 of each year.

3.2 Every entity subject to the provisions of West Virginia Code §33-2-9 shall remit any additional examination assessment fee ordered by the Commissioner on or before the date specified by such order.

3.3 The monies collected by the Commissioner from the examination assessment fee and any additional examination assessment fee shall be deposited as specified in West Virginia Code §33-2-9. Such monies so deposited into the Commissioner's Examination Revolving Fund may be used for any of the following:

(A) Salaries and expenses of the Insurance Department's Accredited Examiners as specified in this regulation for any activities conducted pursuant to West Virginia Code §33-2-9 or this regulation.

(B) Salaries and/or expenses of the Insurance Department's Special Deputies or other employees for activities conducted pursuant to West Virginia Code §33-2-9 or this regulation.

(C) Salaries and/or expenses of other individuals for activities conducted pursuant to West Virginia Code §33-2-9 or this regulation.

Insurance Commissioner
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Series 15, Sec. 4
EMERGENCY

(D) Equipment, supplies, travel, education, and training and other incidental expenses for the Commissioner, his deputies, other employees and accredited examiners as deemed necessary by the Commissioner for the performance of the duties and activities conducted pursuant to West Virginia Code §33-2-9 or this regulation.

3.4 Examination, analysis and review activities shall include the following as they relate to the operation of entities, individuals or persons subject to the provisions of West Virginia Code §33-2-9:

(A) Examination of the financial condition or market conduct practices of any such entity, individual or person.

(B) On-site analysis or review of any practice or condition affecting the entity, individual or person.

(C) Review of any statements, reports, or reviews of an entity, individual or person's financial condition, performance or market conduct practices including the review or development of any forecasts or projections or any type of filing made or intended to be made with the Department of Insurance. This shall include but not be limited to the review or investigation of any audited financial report, compilation or review performed by a certified public accountant, actuarial statement or certification, documents submitted in application for licensure or registration in the State, or other matters or materials deemed necessary by the Commissioner to fulfill his statutory obligations.

3.5 Other individuals may, as the Commissioner deems necessary, bill and receive payments directly from the entities subject to the provisions of West Virginia Code §33-2-9 and this regulation for their work, travel and living expenses at rates approved by the Commissioner while involved in any of the aforementioned activities.

Section 4 Compensation and Accrued Time of Accredited Examiners

4.1 Salary - Subject to the Commissioner's approval, Supervising Insurance Company Examiners and Supervising Market Conduct Examiners shall receive the salary recommended by the Financial Condition Examiners Handbook of the National Association of Insurance Commissioners for Supervising Insurance Examiners. Subject to the Commissioner's approval, Insurance Company Examiners and Market Conduct Examiners shall receive the salary recommended by the Financial Condition Examiners Handbook of the National Association of Insurance Commissioners for Insurance Company Examiners.

Insurance Commissioner
Leg. Rule 33-2
Series 15, Sec. 5
EMERGENCY

4.2 Examiners salary shall be calculated based upon a five-day work week.

4.3 Accrued Time - Annual leave and sick leave shall accrue at the rates and in the manner established by current West Virginia Division of Personnel regulations for state employees or by such other equivalent method as may be adopted by the State of West Virginia.

(A) On any West Virginia state or national holiday that a company being examined chooses to remain open and an examiner chooses to work, such examiner shall be properly compensated.

(B) Approval - Annual leave may be taken by the Examiner only upon written approval by the Commissioner, Deputy Commissioner or Chief Examiner. Approval must be requested at least as far in advance of leave as the length of leave requested. i.e., for four (4) days leave, the request must be submitted at least four (4) days in advance. In a case of emergency, the requirement periods for advance request may be waived by the Commissioner, Deputy Commissioner or Chief Examiner.

(C) Examiners shall not be reimbursed for travel or living expenses for any day authorized as annual leave.

(D) On any day that the examiner is absent due to sickness, said examiner shall telephone and inform the Chief Examiner directly of his or her planned absence before 9:30 a.m. on the day of the absence. In cases in which sick leave extends beyond three (3) working days, the reason for such absence shall be verified by a physician's statement. An examiner will be subject to the appropriate disciplinary action for failure to comply with these notification and physician's statement requirements.

(E) Examiners shall continue to be reimbursed for living expenses during times of sick leave as long as the examiner does not travel to his or her place of residence as a result of the illness.

Section 5. Travel and Living Expenses

5.1 Travel - Travel by Examiners in connection with activities conducted pursuant to West Virginia Code §33-2-9 or this regulation shall not be undertaken unless authorized by the Commissioner, Deputy Commissioner or Chief Examiner. Travel expenses shall be subject to the following limitations:

(A) All travel shall be by automobile unless otherwise authorized by the Commissioner, Deputy Commissioner or Chief Examiner.

Insurance Commissioner
Leg. Rule 33-2
Series 15, Sec. 5
EMERGENCY

(1) Examiners shall be compensated for the actual mileage traveled, and such compensation shall be computed at the rate currently mandated by the Governor's travel regulations or equivalent compensation plan adopted by the State of West Virginia.

(2) When an automobile is used, the distance traveled shall be not less than 400 miles per day as determined by the Rand McNally road map; Provided, That examiners shall be compensated for actual mileage traveled if the distance to an examination or to an assignment is less than four hundred (400) miles.

(B) When air travel is authorized, a maximum of one day's travel time shall be allowed and the examiner shall be reimbursed for actual travel expenses incurred.

5.2 Examiners shall be reimbursed for living expenses on a basis of seven (7) days per week for the duration of the on-site examination or assignment as follows:

(A) Living expenses may be reimbursed by any one of the following three methods as authorized by the Commissioner:

(1) Actual living expenses, provided that expenditures can be adequately substantiated and are approved by the Commissioner.

(2) A per diem allowance selected by the Commissioner.

(i) The street address of the facility housing the examiners during their assignment shall be used in determining the per diem allowance.

(ii) Changes in this per diem allowance due to the examiners performing work in connection with an assignment at a different street address shall only be authorized if the street address of the new facility is in excess of fifty (50) miles from the previous facility and if the examiner shall be housed in the new facility in excess of three (3) days.

(3) The method recommended by the Financial Condition Examiners Handbook of the National Association of Insurance Commissioners.

(B) Living expenses shall not be authorized if the examination takes place in a location within fifty (50) miles (one way) of an examiner's residence. However, the examiner shall be compensated for actual mileage traveled at the rate currently mandated by the Governor's travel regulations or equivalent compensation plan adopted by the State of West Virginia.

Insurance Commissioner
Leg. Rule 33-2
Series 15, Sec. 6
EMERGENCY

(C) Examiners and other employees may, with the approval of the Commissioner or Deputy Commissioner, be compensated for travel and living expenses in accordance with the Governor's travel regulations or equivalent compensation plan adopted by the State of West Virginia when attending training, educational courses, conferences, seminars or other activities authorized by the Commissioner. Registration fees shall be included as expenses that can be reimbursed to the examiners or other employees.

(D) Examiners may, with the Commissioner's approval, be reimbursed for examination fees incurred as a consequence of examination for designation as a Certified Financial Examiner, provided that a passing score is achieved on the examinations. Other expenses incurred in connection with the examination, including travel, lodging and meals, shall not be reimbursed.

(E) Other individuals involved in activities conducted pursuant to West Virginia Code §33-2-9 or this regulation who are billing directly as authorized in Section 3.4 of this regulation shall file a schedule of their fees and charges with the Commissioner prior to incurring any charges. Such other individuals shall submit copies of their billings to the Commissioner simultaneously with their submission to the billed entity, individual or person.

(F) An examiner shall be authorized to return to his or her place of residence twice in any one fiscal year. The examiner shall be reimbursed the lesser of air fare or mileage in lieu of living expenses. An examiner shall utilize his or her accrued leave time for such travel. It is understood that such travel will be done with a minimum amount of work time lost. For purposes of this subsection of this regulation, "place of residence" shall refer to an examiner's place of legal residence as on file with the Department of Insurance. An examiner shall immediately inform the department of any change in legal residence.

Section 6. Examiner Reporting Requirements

6.1 Each examiner shall prepare an "Examiner's Bimonthly Days Worked Report" to be submitted on a form prescribed by the Commissioner. Said form shall be submitted to the Commissioner within three (3) days of the end of each two-week pay period. Such report shall contain the following information:

(A) Period of time the report covers.

(B) Name of entity, individual or person that examiner has been examining and their normal hours of operation.

(C) Mailing address and street address, including county, of the facility housing the examiner.

Insurance Commissioner
Leg. Rule 33-2
Series 15, Sec. 6
EMERGENCY

(D) Telephone number and extension where the examiner can be reached at all times.

(E) The domiciliary state, if the examination is being performed on a non-domestic entity.

(F) The examiner in charge if other than the reporting examiner.

(G) A listing of any other examiners participating in the assignment and their domicile or zone representation.

(H) A description of the phases of the examination or assignment that the examiner worked on during the reporting period.

(I) Comments on any unusual or controversial items.

(J) Tentative closing date of the assignment.

(K) A schedule of each of the days in the reporting period and the examiners status on that day, to include the following work status categories:

(1) Work day, annual day, sick day, expense day.

(2) Each category shall be totalled at the bottom of the schedule.

(L) The examiners name, signature and a statement that the information provided is true and correct.

(M) The name and signature of the examiner in charge, if other than the reporting examiner, verifying the information.

6.2 The information identified in Section 6.1 of this regulation is necessary to satisfy the substantiation of business expenses requirement of the Internal Revenue Service placed upon the Insurance Department as an employer. Failure on the part of the examiner to provide any of the information could require the Insurance Department to report expense amounts as income of the examiner to the Internal Revenue Service.

6.3 An examiner shall report changes to his or her telephone number and extension to the Commissioner between reporting periods. Failure to report such changes could affect the Insurance Department's ability to consider an examiners business expenses as substantiated.

STATE OF WEST VIRGINIA



GASTON CAPERTON
GOVERNOR

HANLEY C. CLARK
INSURANCE COMMISSIONER

OFFICES OF THE
INSURANCE COMMISSIONER
2019 WASHINGTON STREET, EAST
CHARLESTON, WEST VIRGINIA 25305

LEGAL DIVISION
304) 348-0401

FACSIMILE
(304) 348-0412

June 28, 1991

HAND DELIVERED . . .

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

Dear Ms. Cooper:

Enclosed please find for filing fourteen (14) copies of the following:

- (1) Notice of an Emergency Rule;
- (2) Notice of a Comment Period on a Proposed Rule (only one copy enclosed as required);
- (3) Brief Summary;
- (4) Legislative Rule-Making Review Committee Questionnaire;
- (5) Fiscal Note;
- (6) Consent to Proposed Rule;
- (7) Examiners' Compensation, Qualifications and Classification regulation (Series 15).

Please contact me if further information is required.

Very truly yours,

A handwritten signature in cursive script that reads "Linda Gay".

Linda Gay
Assistant Attorney General

LG/iw
Enclosures

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
Corporations: 342-8000



STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

SHEREE COHEN
Special Assistant

(Plus all the volunteer
help we can get)

FILED IN THE OFFICE OF
THE SECRETARY OF STATE

THIS DATE July 1, 1991
ADMINISTRATIVE LAW DIVISION

July 1, 1991

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

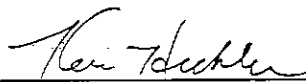
AGENCY: Insurance Commissioner

RULE: Amendments, Series 15, Examiners' Compensation, Qualifications and Classification

DATE RULE FILED AS AN EMERGENCY RULE: June 28, 1991

DECISION NO. 41-91

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be approved. A copy of the complete decision with required findings is available from this office.


KEN HECHLER
Secretary of State

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

ROBERT E. WILKINSON
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 345-4000
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

Charleston 25305

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

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(Plus all the volunteer
help we can get)

DECISION

EMERGENCY RULE DECISION
(ERD 41-91)

AGENCY: Insurance Commissioner
RULE: Amendments, Series 15, Examiners' Compensation, Qualifications
and Classification
FILED AS EMERGENCY RULE: June 28, 1991

- par. 1 The Insurance Commissioner (Commissioner) has filed amendments to the above emergency rule.
- par. 2 West Virginia Code 29A-3-a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [(29A-3-a(a))].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 The Commissioner filed this emergency rule with supporting documents with the Secretary of State June 28, 1991 and with the LRMRC June 28, 1991.

par. 7 It is the determination of the Secretary of State that the Commissioner has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §33-2-10:

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.

par. 9 It is the determination of the Secretary of State that the Commissioner has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency WV Code 29A-3-15 (g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Commissioner are as follows:

On March 10, 1991 the W. Va. Legislature passed HB 2462 which amended §33-2-9 of the W. Va. Code. These amendments radically changed the process by which the costs of statutory examinations of the financial condition of insurance entities are to be assessed. The present regulation was rendered obsolete and totally ineffective to enforce the intent of the amended code.

The amended code requires that on or before July 1, 1991 and every first day of July thereafter, each licensed company shall pay an examination assessment fee of eight hundred

dollars (\$800). Four hundred and fifty dollars (\$450) will be placed in a special revolving fund known as "Commissioner's Examination Revolving Fund" and three hundred and fifty dollars (\$350) will be paid to the State Treasurer.

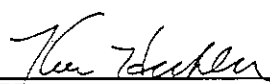
Those monies in the "Commissioner's Examination Revolving Fund" are for costs expended in the examinations of companies or for the purchase of equipment, supplies, travel, education and training for his deputies, examiners and other employees necessary to fulfill statutory obligations in this section of the W. Va. Code.

The Insurance 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 safeguard the interests of policyholders and the public of this state by §33-2-10 of the W. Va. Code.

The Insurance commissioner is therefore promulgating the instant rule on an emergency basis pursuant to W. Va. Code §29A-3-15(g) to meet the July 1, 1991 implementation of the amendments to §33-2-9 of the West Virginia Code made by the enrollment and enactment into law of HB 2462 on March 10, 1991.

par. 13 It is the determination of the Secretary of State that this proposal qualifies under the definition of an emergency as defined in §29A-3-15(g). . . "immediate preservation of public peace, health, safety or welfare" and "prevent substantial harm to public interest."

par. 14 This decision shall be cited as Emergency Rule Decision 40-91 or ERD 40-91 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Health Care Cost Review Authority, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
Secretary of State

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE July 1, 1991
ADMINISTRATIVE LAW DIVISION

Entered _____