

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

Do Not Mark In this Box

FILED IN THE OFFICE OF
THE SECRETARY OF STATE
THIS DATE Aug 9, 1991
ADMINISTRATIVE LAW DIVISION

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

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

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 NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Hanley C. Clark
Insurance Commissioner

FILED

1991 AUG -9 PM 3:45

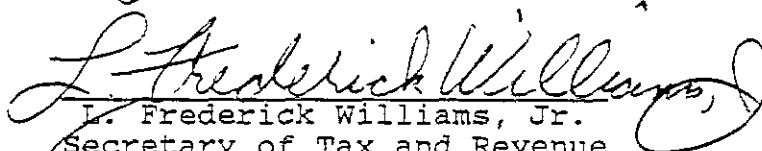
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

FISCAL NOTE FOR PROPOSED RULES FILED

1991 AUG -9 PM 3:45

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

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Type of Rule: X 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				
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- 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.

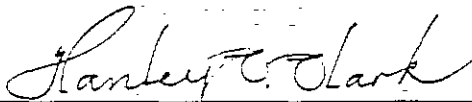
There should be no impact on political subdivisions or specific groups of citizens.

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

ENDING UNIT INSURANCE COMMISSION

DEPARTMENT OF TAX & REVENUE

ON JS 2019 WASHINGTON STREET EAST

PAGE NO. 2

AMENDMENT DATE _____

AMENDMENT NO. _____

Account Number	Estimated Balance 6-30-91	ESTIMATED RECEIPTS					ESTIMATED DISBURSEMENTS					Estimated Balance 6-30-92
		1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	TOTAL	
MINNATON REVOLVING	80114	586,700			555,300	555,300	110,000	120,000	120,000	120,000	500,000	612,000
TOTAL		586,700			555,300	555,300	110,000	120,000	120,000	120,000	500,000	612,000

DEPARTMENT OF TAX & REVENUE

DIVISION OF INSURANCE COMMISSION

Stanley P. Black
Approved Secretary

Approved Secretary
Department of Administration
DATE _____

ESTIMATE 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

PAGE NO. 3
 AMENDMENT DATE _____
 AMENDMENT NO. _____
 ACCOUNT NO. 8014
 AGENCY NO. 615
 FUND NO. 13

SPENDING UNIT: INSURANCE COMMISSION
 DEPARTMENT OF: TAX & REVENUE
 NAME OF ACCOUNT: EXAMINATION REVOLVING FUND

SOURCE OF INCOME AND ITEM OF EXPENDITURE	GRANT ID NUMBER	ESTIMATED REVENUE
ESTIMATED CASH <u>6-30-91</u>		585,700
PLUS: ESTIMATED REVENUE 1991-92 (LIST EACH SOURCE)		
INS. CO. ASSESSMENT FEES		555,300
TOTAL RECEIPTS AND BALANCE		1,142,000

LESS: EXPENDITURES:

PERSONAL SERVICES*		
Number of Positions		5
Personal Services		251,000
Number of Increment Positions		3
Annual Increment		900
TOTAL PERSONAL SERVICES		\$ 251,900
EMPLOYEE BENEFITS		
10-Pers. Div., Pub. Emp. Ins. & Ret. Fees		900
11-Social Security Matching		19,270
12-Pub. Emp. Ins. Premium		25,270
13-Other Health Insurance		
14-Workers' Compensation (RATE:)		1,000
15-Unemp Comp		
16-Pen. & Retmt. Cont.		23,930
TOTAL EMPLOYEE BENEFITS		\$ 70,370
CURRENT EXPENSES		
20-Office, Post. & Frt. Exp.		4,000
21-Printing & Binding		
22-Rental Expenses (Building)		
23-Utilities		
24-Telephone & Telegraph		
25-Contractual & Professional		
26-Travel		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
TOTAL CURRENT EXPENSES		\$ 167,730

*If amounts for Personal Services are to be paid from this account, include total here and submit detail on Personal Services expenditure schedule printout.

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

DETAIL SUMMARY
Fiscal Year 1991-92

AMENDED _____
AMEND NO. _____

INSURANCE COMMISSION

ACCT. NO. B01H FEDERAL _____

TAX & REVENUE

AGENCY NO. 616

	FY 1991-92 Leg Digest	FY 1991-92 Budgeted				Total
		General	Federal	Special	Other	
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 Pns. Ory. Pub Em. Ins. & Ret.				900		900
11 Social Security Matching				19,270		19,270
12 Pub. Em. Ins. Premiums				25,270		25,270
13 Other Health Insurance						
14 Workers' Comp. (Rate)				1,000		1,000
15 Unemo. Comp.						
16 Pen. & Retmt. Cont.				23,930		23,930
TOTAL EMPLOYEE BENEFITS	70,370			70,370		70,370
CURRENT EXPENSES						
20 Office, Post. & Frl. 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 (Spendts)						
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. Reprs.						
63 Bldgs. Hsehd. Comm. Eq. Rps						
64 Bldg. Repairs & Alterations						
65 Vehicle Repairs						
66 Ground Improvements						
67 Farm & Const. Equip. Rep.						
68 Other Repairs & All.						
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 AUG -9 PM 3:46
TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
FROM: OFFICE OF THE INSURANCE COMMISSIONER
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
DATE: August 9, 1991
LEGISLATIVE RULE TITLE: Examiners' Compensation, Qualifications
and Classification (Series 15)

DESCRIPTION OF RULE

This proposed 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.

DATE: August 9, 1991

FILED

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE AUG -9 PM 3:46

FROM: OFFICE OF THE INSURANCE COMMISSIONER OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

LEGISLATIVE RULE TITLE: Examiners' Compensation, Qualifications
and Classification (Series 15)

1. Authorizing statute(s) citation West Virginia Code
§§ 33-2-9 and 33-2-10

2. a. Date filed in State Register with Notice of Hearing:
June 28, 1991

- b. What other notice, including advertising, did you give
of the hearing?
None

- c. Date of hearing(s): The public comment period ended
on August 2, 1991 at 4:30 p.m.

- d. Attach list of persons who appeared at hearing,
comments received, amendments, reasons for amendments.
Attached X No comments received

- e. Date you filed in State Register the agency approved
proposed Legislative Rule following public hearing:
(be exact)
August 9, 1991

- f. Name and phone number of agency person to contact for
additional information:
B. Keith Huffman
General Counsel
(304) 348-0401

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

_____ Not applicable _____

b. Date of hearing: _____ Not applicable _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

_____ Not applicable _____

d. Attach findings and determinations and reasons:

Attached _____ Not applicable _____

EMERGENCY

FILED

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

1991 AUG -9 PM 3:46

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

FILED

1991 AUG -9 PM 3:46

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.

(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.

(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 Semimonthly 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 semimonthly 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.

ATTACHMENT TO QUESTION 2(d):

Comments concerning the proposed rule were received from C. Ronald Roark, CFE, CIE. Mr. Roark is a Supervising Insurance Company Examiner for the West Virginia Insurance Department. A copy of his comments are attached hereto and incorporated herein by reference.

The Insurance Commissioner is not amending the proposed rule to implement any of Mr. Roark's proposed changes in travel-related provisions of the rule. Making those suggested changes would place an unacceptable increased financial burden upon the Insurance Department.

In response to Mr. Roark's final suggested change, the Insurance Commissioner is striking through the word "Bimonthly" and inserting the word "Semimonthly" in its place in line one of Section 6.1 on page 6 of the rule. In addition, the Commissioner is striking through the word "two-week" and inserting the word "semimonthly" in its place in line four of Section 6.1 on page 6.

July 23, 1991

John M. Collins, Director/Chief Examiner
Financial Conditions Division
Insurance Commission
2100 Washington Street East
Charleston, WV 25305

Re: Emergency Legislative Rule
Examiners Compensation
Qualification and Classification

Dear Mr. Collins:

I'd like to submit the following observations, suggestions and recommendations regarding this Legislative Rule:

- 5.1 (B) It may be determined for practicality, that a distantly conducted examination will be less costly if air travel and rental cars are used; based on examination time lost to travel.
- 5.1 (B)(1) I suggest that we add, "...Daily travel by automobile, fares, tolls, parking and other daily travel expenses shall also be reimbursed".
- 5.2 (B) I suggest that we add, "...and where appropriate, fares, tolls, parking and other daily travel expenses shall also be reimbursed".
- 5.2 (F) I suggest we revise to read, "Authorization for an examiner to travel to his or her place of residence shall be on the basis currently recommended by the National Association of Insurance Commissioners, published in the Examiners Handbook." This suggestion is for the purpose of adoption of Model Laws as recommended for review under the new State Certification Program. (See attached Financial Conditions and Market Conduct Examiner Handbook recommendations and Attachment A).
- 6.1 Typographical error on the last line: Correct two-week to become bi-monthly.

Very truly yours,


C. Ronald Roark, CFE, CIE
Supervising Insurance Company Examiner

Attachment

cc: Martha Bradford

- C. Effective January 1, 1988 expenses shall be paid on a basis not to exceed the total of the geographical expense reimbursement plan (GERP) (See Attachment B of this Section) with receipts for lodging. A meal allowance should be paid on a basis consistent with GERP.

In lieu of the above, it is recommended that examiners working within a 50 mile radius of their official domicile receive a commuting allowance.

Necessary exceptions or clarifications to the preceding should be directed by the Commissioner of the state employing the examiner consistent with the intent of this policy.

- D. It is recommended that examiners be authorized to return to the official domicile every other weekend. Expense will be paid based upon the lesser of airfare or mileage. This reimbursement is made in lieu of the per diem allowance. It is understood that the travel will be done with a minimum amount of work time lost.
- E. All payments covering insurance department examinations shall be made directly to the home state of the examiner, if consistent with the laws and fiscal procedure of such state.
- F. The foregoing shall be subject to the statutory provisions in any state governing compensation and expenses of department examiners representing such state.

IV. INSURANCE COMPANY EXAMINER QUALIFICATIONS

An Insurance Company Examiner shall be an insurance department employee or self-employed with a contract for services directly with an insurance department; and be certified by the Society of Financial Examiners to be eligible to hold the title of Accredited Financial Examiner (AFE) or Certified Financial Examiner (CFE).

V. SUPERVISING INSURANCE COMPANY EXAMINER QUALIFICATIONS

A Supervising Insurance Company Examiner shall be an insurance department employee or self-employed with a contract for services directly with an insurance department; and be certified by the Society of Financial Examiners to be eligible to hold the title of Certified Financial Examiner (CFE).

VI. RESUME, ROSTER SUBMISSION AND EXAMINER IDENTIFICATION

- A. Each state shall submit to its NAIC Zone Secretary and the NAIC Examination Coordinator the resume for each examiner authorized to participate in an association examination.
- B. Only examiners that have had their resume submitted to the Zone Secretary of the zone represented and the NAIC Examination Coordinator and are on the approved list of Zone Examiners, may be selected for an association examination.
- C. The NAIC Examination Coordinator shall periodically convey to each state a roster of qualified examiners.
- D. The NAIC Examination Coordinator shall annually prepare and distribute examiner identification cards reflecting each examiner's classification. Such identification shall be signed by the appropriate Zone Secretary and the commissioner of the examiners home state. New or revised identification shall be issued as necessary during the year.

VII. RESUME CONTENT

All resumes for Zone Examiners shall be substantially as appears on Attachment A of this section with regard to form and content.

ATTACHMENT A

West Virginia appears to be unique in not recognizing the need for frequent examiner "at home" time. Generally, businesses and other governmental agencies allow travel time and expenses for their employees to return home frequently; without charging leave time.

Other States' Practices:

Ohio: For in-state, or nearby examinations when participating as a zone examiner, Ohio requires its examiners to travel home on weekends; allowing time on Monday and Friday for travel. They recognize the travel as a legitimate part of the job function. The per-diem is adjusted on Monday and Friday, but a mileage allowance is paid.

Missouri: When air travel is appropriate based on the time and distance, Missouri permits the use of rental cars of medium size and returns to home each weekend. No per-diem is paid for the weekend.

New York: New York's provisions are similar to Missouri, except that returns home are permitted every other week.

Texas: Texas permits some options for intermediate distanced examinations with the choice to drive or fly and rent a car. Texas permits the NAIC recommended trip home every other week.

Indiana: Indiana examiners do very little zone participation but there are circumstances where they do travel out of state to examine Indiana companies or do branch work. The examiners are allowed reasonable travel time in lieu of the per-diem, each week, in or out of state for visits home.