

STATE OF WEST VIRGINIA



FRED E. WRIGHT
INSURANCE COMMISSIONER

OFFICES OF THE
INSURANCE COMMISSIONER
2100 WASHINGTON STREET, EAST
CHARLESTON, WEST VIRGINIA 25305
TELEPHONE (304) 348-3354

ARCH A. MOORE, JR.
GOVERNOR

NOTICE OF AGENCY APPROVAL

LEGISLATIVE RULE: Examiners' Compensation, Qualification
and Classification

The attached legislative rule constitutes the official rule
approved by the Insurance Commissioner
on 18th day of August, 1986 and filed
pursuant to law with the West Virginia Secretary of State
and the Legislative Rule-Making Review Committee.

Fred E. Wright / cw
Fred E. Wright
Insurance Commissioner of the
State of West Virginia

FILED

1986 AUG 18 PM 4:04

OFFICE OF THE
SECRETARY OF STATE

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Examiners' Compensation, Qualification and Classification

Type of Rule: Legislative Interpretive Procedural

Agency Insurance Commissioner Address 2100 Washington St. E.
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Personal Services	-0-	-0-	-0-	-0-	-0-
Current Expense	-0-	-0-	-0-	-0-	-0-
Repairs and Alterations	-0-	-0-	-0-	-0-	-0-
Equipment	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-

2. Explanation of above estimates.

This rule will have no fiscal impact on the Insurance Commissioner's Office.

3. Objectives of these rules:

To update and clarify the Insurance Commissioner's existing Regulation concerning the compensation, qualification and classification of examiners.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

This Rule will have no economic impact on state government.

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

This Rule will result in slightly higher examination expenses for insurance companies.

C. Economic Impact on Citizens/Public at Large.

This Rule will have no economic impact on citizens or the public at large.

Date August 18, 1986

Signature of Agency Head or Authorized Representative

Fred E. Wright / cw

FRED E. WRIGHT
INSURANCE COMMISSIONER OF
THE STATE OF WEST VIRGINIA

DATE: August 18, 1986

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Fred E. Wright, Insurance Commissioner

LEGISLATIVE RULE TITLE: Examiners' Compensation, Qualification
and Classification

1. Authorizing statute(s) citation _____

West Virginia Code §33-2-9, 33-2-10

2. a. Date filed in State Register with Notice of Hearing:
Emergency Rule Filed May 6, 1986
Notice of Hearing Filed May 16, 1986

b. What other notice, including advertising, did you
give of the hearing?

None

c. Date of Hearing(s): June 24, 1986

d. Attach list of persons who appeared at hearing,
comments received, amendments, reasons for
amendments.

Attached _____ No comments received X

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

August 18, 1986

f. Name and phone number of agency person to contact
for additional information:

Cheryl L. Davis

General Counsel

348-3354 / 3394

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: _____

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

d. Attach findings and determinations and reasons:

Attached _____

FILED

1985 AUG 18 PM 4:04

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

CHAPTER 33-2
SERIES XV

EXAMINERS' COMPENSATION,
QUALIFICATION AND CLASSIFICATION

Section 1. General

Section 2. Definitions

Section 3. Examiner Qualification and Classification

Section 4. Guidelines for Computing Compensation

Section 5. Collection Procedures for Examination Expense

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

CHAPTER 33-2
SERIES XV

Examiners' Compensation,
Qualification and Classification

Section 1. General

1:01--Identification of Rule--This regulation is a Legislative Rule, as defined by the provisions of Chapter 29A, Article 17, Section 2(a) of the Code of West Virginia of 1931, as amended.

1:02--Reference--This regulation relates to Chapter 33, Article 2, Section 9 of the Code of West Virginia of 1931, as amended.

1:03--Authority--This regulation is promulgated under the authority vested in the Insurance Commissioner by Chapter 33, Article 2, Section 10 of the Code of West Virginia of 1931, as amended.

1:04--Purpose--The purpose of this regulation is to implement the provisions of Chapter 33, Article 2, Section 9 of the West Virginia Code of 1931, as amended, to provide for the compensation, qualification and classification of persons conducting an examination of either a domestic or foreign insurer in behalf of the Commissioner.

1:05--Applicability and Scope--This regulation shall apply in connection with any examination conducted pursuant to Chapter 33, Article 2, Section 9 of the West Virginia Code of 1931, as amended, by the Commissioner or his representatives, of any insurer, whether domestic or foreign, at such time as the Commissioner deems necessary.

1:06--Effective Date--This regulation shall become effective upon filing in the Office of the Secretary of State.

1:07--Filing Date--This regulation was filed in the Office of the Secretary of State on April 26, 1982.

1:08--Certification--This regulation is certified authentic by the Insurance Commissioner of West Virginia by Certificate Number 15.

1.1 Scope - This legislative rule establishes standards for the compensation, qualification and classification of persons who conduct examinations of domestic, foreign and alien insurers on behalf of the Insurance Commissioner pursuant to West Virginia Code §33-2-9.

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

1.3 Filing Date -

1.4 Effective Date -

1.5 Amendment of Former Rule - This legislative rule amends West Virginia Legislative Rule "Insurance Commissioner, Chapter 33-2, Series XV, Examiners' Compensation, Qualification and Classification (1982)", filed April 26, 1982.

Section 2. Definitions - As used in this Regulation-legislative rule:

~~2-01~~ 2.1 Commissioner - Shall mean the Insurance Commissioner of the State of West Virginia.

~~2-02~~ 2.2 Examiner - Shall mean any a person deemed qualified and who is an employee of the department of insurance and who is authorized by the Commissioner to visit each insurer, whether domestic or foreign a domestic, foreign or alien insurer and thoroughly examine its financial condition and methods of doing business and ascertain whether it has complied with all the laws and regulations of this State. An examiner may be designated by the Commissioner to be classified as:

~~(A) -- Examiner-I,~~

~~(B) -- Examiner-II, or~~

~~(C) -- Examiner-III.~~

~~2-03~~ 2.3 Examiner Fees - Shall mean an examiner's salary and other expenses incurred in the examination process, excluding travel and living expenses and fringe benefits and other incidental expenses incurred by or on behalf of an examiner in the conduct of an examination.

2.4 Home Base - Shall mean the Charleston, West Virginia Office of the Commissioner.

Section 3. Qualifications of Examiners by Category
Examiner Qualification and Classification

~~3-01 -- Examiner-I Qualifications -- An Examiner-I shall have the following education or experience.~~

~~(A) -- A bachelor's degree from an accredited four-year college or university with at least fifteen college credits~~

in accounting and a major in either accounting, finance, insurance, statistics, general business administration or economics; or

(D) -- Accounting experience for a minimum of three years in the capacity of treasurer, assistant treasurer, controller, assistant controller or auditor for an insurance company's home office or autonomous branch office;

3.02 -- Examiner IIH Qualifications -- An Examiner IIH shall have the following education or experience:

(A) -- A bachelor's degree from an accredited four-year college or university with a major in either accounting, finance, insurance, statistics, general business administration or economics and a minimum of fifteen college credits in accounting, plus at least four years of insurance department examination experience; or

(B) -- Designation as an Accredited Financial Examiner (AFE) by the Society of Financial Examiners;

3.03 -- Examiner IIIH Qualifications -- An Examiner IIIH shall have the following education and/or experience:

(A) -- A bachelor's degree from an accredited four-year college or university with a major in accounting, finance, insurance, statistics, general business administration or economics and a minimum of fifteen college credits in accounting, plus at least six years of insurance department examination experience; or

(B) -- Designation as a Certified Financial Examiner (CFE) by the Society of Financial Examiners; or

(C) -- Public or private insurance accounting experience for a minimum of six years and at least fifteen college credits in accounting; or

(D) -- Accounting experience for at least ten years in the capacity of treasurer, assistant treasurer, controller, assistant controller or auditor in an insurance company's home office or autonomous branch office; or

(E) -- An advance college degree in business administration, accounting, finance, insurance, statistics, economics, or other related field or a law degree which may be substituted for three years of the required experience.

3.1 Examiner Classification - An examiner shall be classified 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 Civil Service System or by such other classification plan as the West Virginia Civil Service System shall from time to time adopt.

3.2 Examiner Qualification - An examiner shall have such qualifications as are specified for that particular class of examiner by the West Virginia Civil Service System.

Section 4. Guidelines for Computing Compensation

~~4-01~~ 4.1 Examiner Fees - Salary and other expenses incurred in the examination process, excluding travel and living expenses, shall be charged to the company being examined at a rate which is 173.3 percent of the salary recommended for each class of examiner by the Examiners Handbook of the National Association of Insurance Commissioners or its successor. Examiner fees shall be charged to and collected from the insurer being examined. The charge to the insurer shall include the examiner's salary and an appropriate factor, as determined by the Commissioner, for the examiner's fringe benefits and other incidental expenses incurred by or on behalf of the examiner in the conduct of the examination.

~~4-02~~ 4.2 Computation Period for Examiner Fees - Salary and other expenses incurred in the examination process, excluding travel and living expense, Examiner Fees shall be charged to the company being examined for:

(A) Each day or portion thereof actually worked at the office of the company to be being examined during regular company hours;

(B) Actual time used for travel if on a day other than a weekend or holiday; and

(C) Each day or portion thereof used in preparing the examination report, reviewing the examination report with employees of the Commissioner at Home Base or preparing for hearing on the examination report.

~~The charge for examiner fees shall cease upon termination of the examiner's active participation in the examination.~~

~~4-03~~ 4.3 Travel - Travel by examiners in connection with the examination process shall not be undertaken unless authorized by the Commissioner. Travel expenses incurred in the examination process shall be charged to the company being examined in the following manner:

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

(B) If an automobile is used, the distance traveled shall not be less than three hundred seventy-five miles per day as determined by the Rand McNally road map.

(C) When an examiner travels from an examination of one company directly to an examination of another company, the company to be examined bears the examiner's travel expense.

(D) When an examiner travels to home base immediately following an examination, the company just examined bears the examiner's travel expense to home base. The company to be examined bears the examiner's travel expense from home base to the company.

(E) 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.

4-04 4.4 Authorized Days Per Week - Authorized living expenses shall be charged to the company being examined on a basis of seven days per week for the duration of the on-site examination unless the examiner travels home or away from the vicinity of the company being examined, or takes annual leave. Living expenses shall not be authorized if the examination takes place in a town ~~in which the examiner maintains a residence~~ within fifty (50) miles (one way) of an examiner's residence, however, in such cases examiners shall be compensated for actual mileage traveled as provided in §4.3(E). Living expenses shall not be authorized unless an examiner actually incurs such expenses.

4-05 4.5 Holidays -

(A) On any State or National holiday or any day that the company has optionally closed for business, ~~if~~ and the examiner is available for work, examiner fees and living expenses shall be charged for that particular day.

(B) On any day declared a holiday by the State of West Virginia but not recognized by the company, living expenses shall be charged, except that if the examiner chooses to work, examiner fees shall also be charged, ~~but no~~ and extra leave time or compensation shall be earned.

4-06 4.6 Unavailability of Examiner - No examiner fees shall be charged for any day on which an examiner is absent

due to sickness, annual leave, or any other cause, provided the company is open for the normal transaction of business.

4-07 4.7 Sick Leave - The company being examined shall be charged for the examiner's living expenses for any day on which the examiner is absent due to sickness provided that the examiner remains in the vicinity of the company being examined and does not travel home as a result of the illness. In cases in which sick leave extends beyond three working days, the reason for such absence shall be verified by a physician's statement.

4-08 4.8 Annual Leave - On any day authorized for use by the examiner for annual leave:

(A) The company shall not be charged and the examiner shall not be reimbursed for travel or living expenses; and

(B) The company shall not be charged for examiner fees, but salary shall be paid for accrued time provided that prior approval as specified in Subsection 4:10 4.10 has been received.

4-09 4.9 Accrued Time - Annual leave and sick leave shall accrue at the rates established by the current West Virginia Civil Service Regulations for State employees.

4-10 4.10 Approval - Annual leave may be taken by the examiner only upon written approval by the Commissioner, Deputy Commissioner or the Chief Examiner-Director-of-Financial Conditions. Approval must be requested at least as far in advance of the leave as the length of leave requested, i.e., for four days leave, the request must be submitted at least four days in advance. In a case of emergency, the requirement periods for advance request may be waived by the Commissioner.

4-11 4.11 Reassignment - Dual travel and living expenses shall not be charged when an examiner has been reassigned within the same vicinity and is, therefore, involved with more than one company on the same day. Such expenses shall be prorated between the companies.

4-12 4.12 Optional Per Diem Allowance - In lieu of reimbursement for actual living expenses, examiners may, subject to approval by the Commissioner, receive a the per diem allowance of \$40.00 per day when assigned within the State of their employment and \$50.00 per day when assigned out-of-state recommended by the Financial Condition Examiner's Handbook of the National Association of Insurance Commissioners. The

Commissioner may, prior to commencement of the examination, authorize an increase or decrease of these allowances because of local conditions, ~~provided vouchers and other justification for such changes are submitted.~~

~~4.13~~ 4.13 Other Examiners - In the event the Commissioner ~~should deem an immediate examination of a company necessary~~ and the Department's ~~qualified~~ examiners are either unavailable, or do not possess the qualifications or expertise necessary to conduct a particular examination, the Commissioner may utilize other examiners or department personnel which he may deem qualified to perform the work and may charge the company for the salary and other expense incurred therein.

~~4.14~~ 4.14 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 Examiner's Handbook of the National Association of Insurance Commissioner's 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 Examiner's Handbook of the National Association of Insurance Commissioners for Insurance Company Examiners.

~~4.15~~ 4.15 Continuing Education Expenses

(A) Examiners shall be compensated for expenses incurred as a consequence of attendance at educational seminars conducted by the Society of Financial Examiners, or its successor organization. Registration fees shall be compensated in full and travel and living expenses shall be compensated in accordance with the Governor's Travel Regulation.

(B) Subject to the Commissioner's prior written approval, examiners may be compensated in the same manner as above for expenses incurred as a consequence of other continuing education activities which the Commissioner deems necessary for maintenance or advancement of the examiner's professional skills.

~~4.16~~ 4.16 Examination For Certified Financial Examiner Designation - Examiners shall be reimbursed for examination fees incurred as a consequence of examination for designation as a Certified Financial Examiner (CFE); provided, however, that no reimbursement shall be made if an examiner fails to achieve a passing score on the examination. Other expenses incurred in connection with the examination, including travel, lodging and meals, shall not be reimbursed regardless of whether the examiner achieves a passing score on the examination.

Section 5. Collection Procedures for Examination Expense

5:01 5.1 Weekly Report - Each examiner shall prepare an "Examiner's Weekly Expense and Days Worked Report" in conjunction with the examinations of each insurance company. An examiner participating in the examination of a foreign insurance company shall forward the originals of the reports to the Commissioner each week and retain copies for the examiner's own record. The examiner-in-charge of the examination of a domestic insurance company will approve and forward the original copy of each examiner's report to the Commissioner each week and retain one copy of each report for his records.

5:02 5.2 Periodic Billing - Upon verification of the weekly reports, the Commissioner or his designee shall prepare an invoice and bill the company twice per month for charges for days worked, as well as for the expense charges for each examiner. All invoices for expenses and daily work charges are to be billed directly by the Department of Insurance to the company under examination. The company is directed by the invoice to submit its payments directly to the Department of Insurance for both expenses and charges for the days worked and to make checks payable to West Virginia Insurance Commissioner. Upon receipt of the amount due from the company, the Commissioner or his designee shall remit the amount thereof to the Treasurer of the State for deposit in the Examiner's Revolving Fund, pursuant to ~~Chapter-33, Article-2, Section-9 of the Code of West Virginia of 1931, as amended; West Virginia~~ Code §33-2-9.

Payment shall be submitted within thirty (30) calendar days of the date of invoice. A company which wishes to protest any aspect of an invoice shall remit payment under protest within the thirty (30) day period and may request a hearing on the invoice pursuant to West Virginia Code §33-2-13. A company which fails to remit payment within the thirty (30) day period may be subject to disciplinary action by the Commissioner.

STATE OF WEST VIRGINIA



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ARCH A. MOORE, JR.
GOVERNOR

EXPLANATION OF RULE MODIFICATION

Legislative Rule Title: Examiners' Compensation Qualification
And Classification

No public comment concerning the above-titled rule was received. The following aspects of the rule, however, have modified as a consequence of comments and suggestions by staff of the Insurance Department:

- 1) Section 2.3 has been modified to expand the definition of "Examiners' Fees" to include other incidental expenses incurred by or on behalf of an examiner in the conduct of an examination. This language was added to conform to the provisions of §33-2-9 and to enlarge the previous definition of "Examiners' Fees" which was believed to be too narrow.
- 2) Section 4.2 (C) was modified to clarify that examiners' fees may be charged for any time spent by the examiner in connection with examination report, including in house conferences with Department staff members and preparation for administrative hearing.
- 3) Section 4.13 was reworded to clarify the circumstances in which the Commissioner may utilize examiners other than staff examiners.
- 4) Section 5 was modified to require payment of invoices by companies within thirty (30) days and to establish a grievance procedure for companies to contest examination fees.

Fred E. Wright
Fred E. Wright
Insurance Commissioner of
the State of West Virginia

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