

STATE OF WEST VIRGINIA



OFFICES OF THE

**INSURANCE COMMISSIONER**

LEGAL DIVISION

2100 WASHINGTON STREET, EAST  
CHARLESTON, WEST VIRGINIA 25305  
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**ARCH A. MOORE, JR.**  
GOVERNOR

**FRED E. WRIGHT**  
INSURANCE COMMISSIONER

NOTICE OF AGENCY ADOPTION

RULE TITLE: EXAMINERS' COMPENSATION, QUALIFICATION  
AND CLASSIFICATION

THE ATTACHED RULE CONSTITUTES THE OFFICIAL RULE ADOPTED BY THE  
INSURANCE COMMISSIONER ON May 6, 1987 AND  
FILED WITH THE SECRETARY OF STATE.

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

1987 MAY - 6 10 11 AM '87

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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 1, Section 2(d) 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 personnel 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.

SECRETARY OF STATE  
1982 MAY - 6 AM 11:52  
FILED

Ins. Commissioner  
Leg. Rule 33-2  
Series XV, Sec. 1

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.

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

1.3 Filing Date -

1.4 Effective Date - July 1, 1987

1.5 Amendment of Former File - 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

(B)---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-II-Qualifications---An Examiner-II 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-III-Qualifications---An Examiner-III 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-expenses, 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; provided, that examiners shall be compensated for actual mileage traveled if the distance to an examination or to home base is less than three hundred seventy five miles.

(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 expense 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. The company shall not be charged for examiners fees, but salary shall be paid from the Examiner's Revolving Fund for accrued time. 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 for examiner fees, but salary shall be paid from the Examiners' Revolving Fund for accrued time provided that prior approval as specified in Subsection ~~4.10~~ 4.10 has been received.



(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 expense, 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. ~~7-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 examination of each insurance company. An

Ins. Commissioner  
Leg. Rule 33-2  
Series XV, Sec. 5

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 3, 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.

H. B. 2612

(By Delegate Knight)

(Introduced February 4, 1987; referred to the  
Committee on Banking and Insurance)

10 A BILL to amend and reenact section thirty-three (two) (ten),  
11 article two, chapter sixty-four of the code of West Virginia,  
12 one thousand nine hundred thirty-one, as amended, relating to  
13 authorizing the insurance commissioner to promulgate  
14 legislative rules relating to examiners' compensation,  
15 qualification and classification.

16 Be it enacted by the Legislature of West Virginia:

17 That section thirty-three (two)(ten), article two, chapter  
18 sixty-four of the code of West Virginia, one thousand nine  
19 hundred thirty-one, as amended, be amended and reenacted to read  
20 as follows:

21 ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE  
22 LEGISLATIVE RULES.

23 §64-2-33(2)(10). Insurance commissioner.

24 (a) The legislative rules filed in the state register on the  
25 eighteenth day of October, one thousand nine hundred eighty-  
26 three, relating to the insurance commissioner (excess line  
27 brokers) are authorized.

2612

1       (b) The legislative rules filed in the state register on the  
2 eighteenth day of August, one thousand nine hundred eighty-six,  
3 modified by the insurance commissioner to meet the objection of  
4 the legislative rule-making review committee and refiled in the  
5 state register on the twelfth day of December, one thousand nine  
6 hundred eighty-six, relating to the insurance commissioner  
7 (examiners' compensation, qualification and classification), are  
8 authorized.

9 NOTE: The purpose of this bill is to authorize the Insurance  
10 Commissioner to promulgate legislative rules relating to the  
11 examiners' compensation, qualification and classification.

12  
13       - Strike-throughs indicate language that would be stricken  
14 from the present law, and underscoring indicates new language  
15 that would be added.

16

Senate Bill No. 380

(By Senator Tucker)

[Introduced February 5, 1987; referred to the Committee  
on BANKING AND INSURANCE ; then to  
the Committee on the Judiciary.]

A BILL to amend and reenact section thirty-three (two) (ten),  
article two, chapter sixty-four of the code of West Virginia,  
one thousand nine hundred thirty-one, as amended, relating to  
authorizing the insurance commissioner to promulgate  
legislative rules relating to examiners' compensation,  
qualification and classification.

Be it enacted by the Legislature of West Virginia:

That section thirty-three (two)(ten), article two, chapter  
sixty-four of the code of West Virginia, one thousand nine  
hundred thirty-one, as amended, be amended and reenacted to read  
as follows:

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE  
LEGISLATIVE RULES.

§64-2-33(2)(10). Insurance commissioner.

(a) The legislative rules filed in the state register on the  
eighteenth day of October, one thousand nine hundred eighty-  
three, relating to the insurance commissioner (excess line  
brokers) are authorized.

1       (b) The legislative rules filed in the state register on the  
2 eighteenth day of August, one thousand nine hundred eighty-six,  
3 modified by the insurance commissioner to meet the objection of  
4 the legislative rule-making review committee and refiled in the  
5 state register on the twelfth day of December, one thousand nine  
6 hundred eighty-six, relating to the insurance commissioner  
7 (examiners' compensation, qualification and classification), are  
8 authorized.

9 NOTE: The purpose of this bill is to authorize the Insurance  
10 Commissioner to promulgate legislative rules relating to the  
11 examiners' compensation, qualification and classification.

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13       Strike-throughs indicate language that would be stricken  
14 from the present law, and underscoring indicates new language  
15 that would be added.  
16

STATE OF WEST VIRGINIA



OFFICES OF THE

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

FRED E. WRIGHT  
INSURANCE COMMISSIONER

ARCH A. MOORE, JR.  
GOVERNOR

August 18, 1986

Mr. M. E. Mowery, Counsel  
Legislative Rule-Making Review Committee  
Room E-228, State Capitol  
Charleston, WV 25305

RE: Examiners' Compensation Qualification and  
Classification; Proposed Legislative Rule  
of the Insurance Commissioner

Dear Mr. Mowery:

Enclosed for filing please find fifteen (15) copies of  
each of the following:

- 1) proposed legislative rule
- 2) fiscal note
- 3) copy of agency approval and submission to Legislative  
Rule-Making Review Committee
- 4) explanation of rule modifications
- 5) Legislative Rule-Making Review Committee questionnaire

Please contact me if further information is required.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cheryl D. Davis".

Cheryl D. Davis  
General Counsel

CLD/csp

Enclosure

cc:  Richard O. Hartman  
Director, Administrative Law Division  
Office of the Secretary of State

**RECEIVED**

AUG 18 1986

Legislative Rule Making  
Review Committee

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