

STATE OF WEST VIRGINIA



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OFFICE OF THE SECRETARY OF STATE

FRED E. WRIGHT
INSURANCE COMMISSIONER

OFFICES OF THE
INSURANCE COMMISSIONER
LEGAL DIVISION
2100 WASHINGTON STREET, EAST
CHARLESTON, WEST VIRGINIA 25305
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ARCH A. MOORE, JR.
GOVERNOR

NOTICE OF PUBLIC HEARING ON AN EMERGENCY RULE

AGENCY: INSURANCE COMMISSIONER

RULE TYPE: LEGISLATIVE

RULE TITLE: WEST VIRGINIA ESSENTIAL PROPERTY
INSURANCE ASSOCIATION

A PUBLIC HEARING ON THE ABOVE PROPOSED RULE WILL BE HELD AT
9:30 A.M. ON TUESDAY, DECEMBER 2, 1986 IN ROOM 522, BUILDING
NO. 3, STATE CAPITOL COMPLEX, 1800 WASHINGTON STREET, EAST,
CHARLESTON, WEST VIRGINIA

BOTH ORAL AND WRITTEN COMMENTS WILL BE RECEIVED AT THE HEARING.
COMMENTS MAY ALSO BE MAILED TO: 2100 WASHINGTON STREET, EAST,
CHARLESTON, WEST VIRGINIA 25305, ATTENTION: CHERYL L. DAVIS
THE ISSUES TO BE HEARD SHALL BE LIMITED TO THE PROPOSED RULE.

A handwritten signature in cursive script, appearing to read "Fred E. Wright".

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

"We are an Equal Opportunity Employer"

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SECRETARY OF STATE

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

CHAPTER 33-20A
SERIES XXI

WEST VIRGINIA ESSENTIAL PROPERTY
INSURANCE ASSOCIATION

- Section 1. General
- Section 2. Definitions
- Section 3. Type of Organization
- Section 4. Administration
- Section 5. Management
- Section 6. Commencement and Termination of Operation
- Section 7. Rates
- Section 8. Policy Forms
- Section 9. Coverage Limits and Types
- Section 10. Underwriting
- Section 11. Application for Insurance
- Section 12. Agent Commissions
- Section 13. Inspection of Property
- Section 14. Appeal Procedures
- Section 15. Premium Taxes
- Section 16. Annual Report
- Section 17. Severability

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

CHAPTER 33-20A
SERIES XXI

West Virginia Essential Property
Insurance Association

Section 1. General

1.1 Scope - This legislative rule sets forth the plan of operation of the West Virginia Essential Property Insurance Association.

1.2 Authority - West Virginia Code §§ 33-20A-3(b), 33-2-10.

1.3 Filing Date -

1.4 Effective Date -

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

2.1 Agent - Shall mean an individual licensed by the Commissioner to sell property and casualty insurance in West Virginia.

2.2 Association - Shall mean the West Virginia Essential Property Insurance Association.

2.3 Board - Shall mean the Board of Directors of the Association.

2.4 Commissioner - Shall mean the Insurance Commissioner of the State of West Virginia.

2.5 Eligible Applicant - Shall mean any person having an insurable interest in habitational or commercial property eligible for coverage under the provisions of this legislative rule and the Association's Plan of Organization.

2.6 Essential Property Insurance Coverage - Shall mean indemnification against loss caused by the perils of fire, lightning, riot, explosion, vehicle, smoke, hail, aircraft and wind.

2.7 Insurer - Shall mean any insurance company authorized to write and engage in writing essential property insurance coverage in West Virginia.

Ins. Commissioner
Leg. Rule 33-20A
Series XXI, Sec. 3

Section 3. Type of Organization

3.1 Nonprofit Unincorporated Organization - The Association shall be a nonprofit unincorporated organization.

Section 4. Administration

4.1 Board of Directors - The Association shall be administered by a Board of Directors under the general supervision of the Commissioner.

(A) The Board shall be appointed by the Commissioner with due consideration given to the composition of the membership of the Association and to the interests of the insureds who are provided essential property insurance coverage by the Association.

(B) The Board shall consist of not less than five nor more than nine members serving terms of one year or until their successors are appointed.

Section 5. Management

5.1 Servicing Facilities - The Board may contract with one or more servicing facility(ies) and/or hire its own employee(s) as are necessary to issue and service policies on risks insured by the Association.

5.2 Approval by Commissioner - Designation of a servicing facility by the Board is subject to approval by the Commissioner.

Section 6. Commencement and Termination of Operation

6.1 Commencement of Operation - The Association shall begin issuing policies of insurance for risks found insurable by the Association effective November 1, 1986.

6.2 Termination of Operation - The Association shall be dissolved at the earliest date when essential property insurance coverage becomes readily available in the voluntary market.

(A) Dissolution of the Association is subject to approval of the Commissioner.

(B) Dissolution of the Association shall be accomplished under the supervision of the Commissioner in an equitable and reasonable manner.

Ins. Commissioner
Leg. Rule 33-20A
Series XXI, Sec. 7

Section 7. Rates

7.1 Establishment of Rates - The Association shall establish appropriate rates, rate classifications and rating adjustments in accordance with the provisions of West Virginia Code §33-20A-5(b)(6).

7.2 Approval of Rates - The Association's rates, rate classifications and rating adjustments are subject to approval by the Commissioner.

Section 8. Policy Forms

8.1 Standard Fire Policy - All policies issued by the Association shall conform with the provisions of West Virginia Code §33-17-2.

8.2 Total or Partial Fire Loss - All policies issued by the Association shall conform with the provisions of West Virginia Code §33-17-9.

8.3 Policy Term - All policies issued by the Association shall be for a term of one (1) year.

8.4 Policy Form Approval - Policies and endorsements may be issued only on forms approved by the Commissioner.

Section 9. Coverage Limits and Types

9.1 Coverage Limits - Coverage for risks found insurable by the Association shall be provided in an amount up to the reasonable insurable value of the property, but in no event shall coverage provided by the Association exceed the amount of one hundred thousand dollars (\$100,000.00) for any one habitational risk or three hundred thousand dollars (\$300,000.00) for any one commercial risk.

9.2 Coverage Types - Coverage issued by the Association shall be limited to indemnification against loss caused by the perils of fire, lightning, riot, explosion, vehicle, smoke, hail, aircraft and wind.

Section 10. Underwriting

10.1 Underwriting Standards - The Board shall adopt reasonable and equitable underwriting standards.

Ins. Commissioner
Leg. Rule 33-20A
Series XXI, Sec. 10
Mar 30, 1968

10.2 Approval by Commissioner - Underwriting standards adopted by the Board are subject to approval by the Commissioner.

Section 11. Application for Insurance and Policy Issuance

11.1 Method of Application - An eligible applicant shall authorize an agent to make written application to the Association for essential property insurance coverage. The application shall be accompanied by proof, in such form as may be prescribed or approved by the Commissioner, of the applicant's effort and inability to obtain essential property insurance in the voluntary market.

11.2 Policy Issuance - Upon approval by the Association of an application for coverage and upon receipt by the Association of the full amount of the premium due, the Association shall issue a policy and a binding receipt. The Association may decline to issue a policy and binding receipt when the applicant owes premium monies to the Association for previous insurance coverage.

Section 12. Agent Commissions

12.1 New and Renewal Business - Agent commission shall be ten percent (10%) of the premium on new business and at such level as the Board shall determine on renewal business, not to exceed ten percent (10%) of the renewal commission.

12.2 Cancellation of Business - Upon cancellation of a policy, the agent shall refund commissions on the return premium to the Association at the same rate at which such commissions were originally paid.

Section 13. Inspection of Property

13.1 Inspection of Property - Upon submission to the Association of a completed application for insurance, the property requested to be insured may be physically inspected.

13.2 Cost of Inspection - Any physical inspection shall be made without cost to the eligible applicant.

13.3 Inspection Report - A written inspection report shall be made for each property inspected and a copy provided to the eligible applicant.

Ins. Commissioner
Leg. Rule 33-20A
Series XXI, Sec. 14

Section 14. Appeal Procedures

14.1 Initial Appeal to Board - Any applicant for insurance, person insured by the Association or member insurer aggrieved by any ruling, action or decision of the Association or the designated servicing Facility may appeal to the Board within fifteen (15) days of such ruling, action or decision. The appeal shall be in writing. The Board or an Appeals Committee designated by the Board shall hear and determine the appeal within fifteen (15) days after the appeal is filed.

14.2 Appeal to Commissioner - The determination of the Board may be appealed in writing to the Commissioner within ten (10) days of such determination. The Commissioner shall render a decision concerning the appeal within thirty (30) days.

Section 15. Premium Taxes

15.1 Premium Tax Liability - The Association shall be liable for premium taxes to the same extent and in the same manner as a licensed insurer engaged in writing fire and extended coverage insurance in West Virginia.

Section 16. Annual Report

16.1 Annual Report - The Board shall, on or before March 1 of each year, submit to the Commissioner a report of the operation of the Association for the previous calendar year.

Section 17. Severability

17.1 Severability - If any provision of this legislative rule is held invalid, the remainder of the rule shall not be affected thereby.