

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In this Box

FILED

1989 MAY 26 AM 2:18

STATE OF WEST VIRGINIA

**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 §§ 33-12B-12, 33-2-10

AMENDMENT TO AN EXISTING RULE: YES  NO

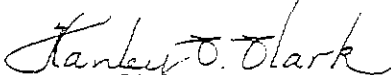
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 25

TITLE OF RULE BEING PROPOSED: Insurance Adjusters

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

FISCAL NOTE FOR PROPOSED RULES

FILED

1030 MAY 26 PM 2:19

Rule Title: Insurance Adjusters, Series 25

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Type of Rule:  Legislative  Interpretive  Procedural

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

1. Effect of Proposed Rule	ANNUAL		Current	FISCAL YEAR	
	Increase	Decrease		Next	Thereafter
Estimated Total Cost			\$1600		
Personal Services	-0-				
Current Expense	-0-		\$1600	-0-	-0-
Repairs & Alterations	-0-				
Equipment	-0-				
Other	-0-				

2. Explanation of above estimates:

Modifications to existing agent licensing computer system to allow records to be established on mainframe system.

3. Objectives of these rules:

Licensing and regulation of individuals who adjust claims arising out of property, casualty and surety insurance policies.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

See Number 1.

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

Licensing fee of twenty-five dollars per year will be imposed on each adjuster required by the rule to be licensed. Additionally, license applicants will incur an examination fee of seventy-five dollars.

C. Economic Impact on Citizens/Public at Large.

None.

Date:

May 26, 1989

Signature of Agency Head or Authorized Representative

Hanley C. Clark

Hanley C. Clark  
Insurance Commissioner

FILED

1989 MAY 23 PM 2:18

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER

DATE: May 26, 1989

LEGISLATIVE RULE TITLE: INSURANCE ADJUSTERS, SERIES 25

1. Authorizing statute(s) citation West Virginia Code  
§§ 33-12B-12, 33-2-10

2. a. Date filed in State Register with Notice of Hearing:  
February 7, 1989

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

None

c. Date of hearing(s): Original comment period scheduled  
to end March 17, 1989, at 4:30 p.m.; comment period  
extended to April 14, 1989, 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)  
May 26, 1989

f. Name and phone number of agency person to contact for  
additional information:  
Cheryl L. Davis  
General Counsel  
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

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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

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d. Attach findings and determinations and reasons:

Attached Not applicable

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

CHAPTER 33-12B  
SERIES 25

INSURANCE ADJUSTERS

- Section 1. General
- Section 2. Definitions
- Section 3. License Requirements
- Section 4. Categories and Types of Licenses
- Section 5. Qualifications
- Section 6. Waiver of Examination Requirement
- Section 7. Records Maintenance
- Section 8. Prohibited Practices; Voidable Contracts
- Section 9. Addresses of Adjusters; Filing
- Section 10. Change of Address; Notice
- Section 11. Licensing of Nonresident Adjusters
- Section 12. Application
- Section 13. License Fee
- Section 14. Expiration of License; Renewal
- Section 15. Revocation, Suspension or Refusal to Renew License; Penalty in Lieu Thereof
- Section 16. Severability

OFFICE OF THE  
SECRETARY OF STATE

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WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

CHAPTER 33-12B  
SERIES 25

INSURANCE ADJUSTERS

Section 1. General

1.1 Scope - This legislative rule establishes standards for licensing and regulation of insurance adjusters.

1.2 Authority - West Virginia Code § 33-12B-12 and § 33-2-10.

1.3 Filing Date -

1.4 Effective Date -

Section 2. Definitions

2.1 Adjuster - shall mean any individual who, for compensation, fee or commission, investigates and settles claims arising under property, casualty or surety insurance contracts on behalf solely of either the insurer or the insured. As used in this rule, the term 'adjuster' shall include both public adjusters and company adjusters unless specified otherwise.

2.2 Code - shall mean the West Virginia Code.

2.3 Commissioner - shall mean the Insurance Commissioner of the State of West Virginia.

2.4 Company adjuster - shall mean an individual representing the interests of the insurer, including independent contractors with and salaried employees of the insurer.

2.5 Public adjuster - shall mean an independent contractor representing solely the financial interests of the insured named in the policy.

Section 3. License Requirements

3.1 On and after July 1, 1989, no person shall in West Virginia act as or hold himself to be an adjuster unless then so licensed by the commissioner.

3.2 The following activities do not constitute acting as an adjuster so as to require licensure by the commissioner:

(A) An attorney at law who investigates and settles claims incidental to an attorney/client relationship.

(B) A licensed agent who without receiving specific compensation therefore, investigates, negotiates or settles undisputed claims solely for licensed insurers represented by such agent.

(C) Salaried office employee who performs primarily clerical or administrative duties attendant to the disposition of uncontested claims.

(D) Salaried employee of an insurer whose primary duties are not other than adjusting, or investigating or supervising claims.

(E) A person specially employed for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed adjuster, including but not limited to photographers, estimators/appraisers, marine surveyors, private detectives, engineers, handwriting experts and arbitrators.

(F) Person who adjusts life, accident or health claims.

(G) Person who adjusts claims for licensed farmers' mutual fire insurance companies.

(H) Person who engages solely in appraising motor vehicle physical damage and who does not endeavor to determine liability or negotiate the settlement of claims arising under automobile insurance contracts.

(I) Nonresident salaried employee of an insurer whose primary duty is supervision of adjusters licensed by the commissioner.

3.3 Claims arising out of a catastrophe or emergency which arises out of a disaster, act of God, riot, civil commotion, conflagration or other similar occurrence may be adjusted by a non-licensed adjuster upon registration with the commissioner, provided that the work of non-licensed persons working under a catastrophe situation must be supervised by an adjuster licensed in this state or by an insurance company authorized to do

business in this state. Registration shall be by letter to the commissioner by the supervising adjuster or insurance company within twenty days of the date on which the non-licensed person begins adjusting activity in connection with the catastrophic or emergency situation. The authority to work granted as provided herein to unlicensed persons shall be limited to ninety days from the commencement of the catastrophe or emergency with a single ninety day extension granted at the discretion of the commissioner.

The registration shall be valid for ninety days from the date of the registration letter. The commissioner may grant such ninety day extensions as he deems appropriate upon written request by the supervising adjuster or insurance company.

3.4 Claims arising out of a particular loss of unique or unusual character may be adjusted by a non-licensed adjuster upon registration with the commissioner, provided that the work of the non-licensed person must be supervised by an adjuster licensed in this state or by an insurance company authorized to do business in this state. The authority to work granted as provided herein to unlicensed persons shall be limited to three losses within any twelve month period.

#### Section 4. Categories and Types of Licenses

4.1 The types of licenses which may be issued are as follows:

- (A) Company adjuster
- (B) Public adjuster

4.2 An individual may be licensed concurrently under separate licenses as a company adjuster and as a public adjuster but shall not act as a company adjuster and a public adjuster with respect to the same claim.

#### Section 5. Qualifications

5.1 No individual may hold a license as an adjuster unless that individual

- (A) Is eighteen years of age or more.

(B) Is a resident of West Virginia, except for nonresident adjusters as provided in Code § 33-12B-9 and § 11 of this rule.

(C) Satisfies the commissioner that he is trustworthy and competent. The commissioner may, at his discretion, test the competency of an applicant for a license under this section by examination. If such examination is required by the commissioner, each examinee shall pay a twenty-five dollar examination fee for each examination to the commissioner which fees shall be used for the purposes set forth in Code § 33-3-13. The commissioner may, at his discretion, designate an independent testing service to prepare and administer such examination subject to direction and approval by the commissioner, and examination fees charged by such service shall be paid by the applicant.

5.2 An individual licensed as a company adjuster may file with the commissioner an application in such form as he prescribes, and upon payment of the requisite license fee, shall be licensed as a public adjuster without being required to take and pass an examination.

5.3 An individual licensed as a public adjuster may file with the commissioner an application in such form as he prescribes, and upon payment of the requisite license fee, shall be licensed as a company adjuster without being required to take and pass an examination.

#### Section 6. Waiver of Examination Requirement

6.1 Any individual who is a resident of West Virginia and is employed as an adjuster prior to July 1, 1989, may file with the commissioner on or before November 1, 1989, an application in such form as the commissioner prescribes, and upon payment of the requisite license fee, shall be licensed as a company adjuster and/or public adjuster without being required to take and pass an examination.

#### Section 7. Records Maintenance

7.1 All public adjusters shall maintain for three years after the termination of transactions with insureds a complete record of each of their transactions as an adjuster. The records required by this Section shall include:

- (A) name of the insured;
- (B) date, location and amount of loss;

(C) copy of the contract between the public adjuster and insured ~~or-between-the-company-adjuster-and-insurer;~~

(D) name of the insured, amount, expiration date and number of each policy carried with respect to the loss;

(E) itemized statement of the insured's and/or third party claimant's recoveries;

(F) copy of any settlement documents and/or releases executed in relation to the claim;

(G) statement of any fee, commission or other compensation received or to be received by the adjuster on account of the adjustment.

7.2 All company adjusters shall maintain in their claim files the information required in Section 7.1(A), (B), (D), (E), and (F). These files must be maintained by the company for three years after the termination of transactions with insureds and shall be open to examination by the commissioner at any time.

#### Section 8. Prohibited Practices; Voidable Contracts

8.1 A public adjuster shall not solicit or attempt to solicit a loss during progress of a loss-producing occurrence nor while the fire department or its representatives are engaged at the damaged premises.

8.2 A public adjuster shall not collect or attempt to collect a fee or charge from a repair contractor for obtaining repair work for the contractor.

8.3 A public adjuster shall not advance money or any other valuable thing to an insured pending adjustment of a claim.

8.4 A public adjuster shall not provide his or her services to a client until the adjuster has contracted in writing with the insured or his or her authorized representative. A contract which is executed within forty-eight hours after conclusion of the loss producing occurrence shall be voidable at the option of the insured for ten days after execution of the contract. The written contract shall constitute the entire agreement between the adjuster for the insured and the insured and shall disclose all fees to be

charged the insured by the public adjuster. A copy of the contract shall be given to the insured when the contract is executed.

Section 9. Addresses of Adjusters; Filing

Each adjuster shall file with the commissioner the complete address of his principal place of business and the complete address of his residence including the name and number of the street, or if the street where the business is located is not numbered, the number of the post office box. The commissioner may require the filing of other information for the purposes of identifying the principal place of business and the place of residence.

Section 10. Change of Address; Notice

An adjuster shall within thirty days of the change notify the department of any change of his business or residence address. The principal place of business may be at home or at a business address but it shall be the place at which the adjuster maintains a permanent office.

Section 11. Licensing of Nonresident Adjusters

11.1 An individual otherwise complying with the provisions of this rule and chapter 33 of the Code, who is a resident of another state and who is a licensed adjuster of such state, may be licensed as a nonresident adjuster in this state, if the state of residence of such nonresident has established, by law or regulation like requirements for the licensing of a resident of this state as a nonresident adjuster.

11.2 The commissioner may issue an adjuster's license to any applicant who is not a West Virginia resident and who cannot meet the requirements of § 11-1 if the applicant passes a written examination in West Virginia.

11.3 Any individual who is a nonresident of West Virginia and is employed as an adjuster prior to July 1, 1989, may file with the commissioner on or before November 1, 1989, an application in such form as the commissioner prescribes, and upon payment of the requisite license fee, shall be licensed as a company adjuster and/or public adjuster without being required to take and pass an examination.

Section 12. Application

12.1 Application for an adjuster's license or renewal thereof shall be made to the commissioner upon a form prescribed by the commissioner and shall contain such information and be accompanied by such supporting documents as the commissioner may require, and the commissioner may require such application to be made under the applicant's oath.

12.2 Wilful misrepresentation of any fact in any such application or any documents in support thereof is a violation of chapter 33 of the Code.

Section 13. License Fee

The fee for an adjuster license shall be as provided in § 33-12B-8 of the Code.

Section 14. Expiration of License; Renewal

All licenses of adjusters shall expire at midnight on the May thirty-first next following the date of issuance. The commissioner shall renew annually the license of all such licensees who qualify and make application therefor.

Section 15. Revocation, Suspension or Refusal to Renew License; Penalty in Lieu Thereof

Whenever, after notice and hearing, the commissioner is satisfied that any adjuster has violated any provision of this chapter, or is incompetent or untrustworthy, he shall revoke,

suspend, or, if renewal of license is pending, refuse to renew the license of such adjuster. In addition to revoking, suspending, or refusing to renew such license, the commissioner may in his discretion order such licensee to pay to the state of West Virginia an administrative penalty in a sum not to exceed one thousand dollars.

Section 16. Severability

If any provision of this regulation of the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

STATE OF WEST VIRGINIA



FILED

1989 MAY 26 PM 2:18

GASTON CAPERTON  
GOVERNOR

OFFICE OF THE  
SECRETARY OF STATE  
LEGAL DIVISION  
304) 348-0401

OFFICES OF THE  
**INSURANCE COMMISSIONER**

2019 WASHINGTON STREET, EAST  
CHARLESTON, WEST VIRGINIA 25305

HANLEY C. CLARK  
INSURANCE COMMISSIONER

FACSIMILE  
(304) 348-0412

TO: Legislative Rule-Making Review Committee  
FROM: Office of the Insurance Commissioner  
DATE: May 26, 1989  
RE: Insurance Adjusters, Series 25; Description of Proposed Rule

The 1988 session of the West Virginia Legislature enacted Article 12B of Chapter 33 which provides the Insurance Commissioner with the authority and responsibility to license property, casualty and surety insurance adjusters and to regulate the adjusters' business practices.

This rule addresses various aspects of the licensure and regulation of adjusters including, examination requirements, records maintenance, licensure requirements, nonresident adjusters, prohibited business practices, licensing fees and disciplinary action against adjusters.

Attachment to Question 2(d)

Comments concerning the proposed rule were received from the following: State Farm Insurance Companies, Erie Insurance Group, Westfield Companies; State Auto Insurance Companies, Brotherhood Mutual Insurance Company, West Virginia Claims Association, Crawford & Company, Verex Assurance, Inc., Geico and Maryland Casualty Company. Copies of the written comments are attached.

After reviewing the comments, the Department determined that several amendments to the proposed rule were appropriate. These amendments are indicated by the stricken and underlined language of the proposed rule. The amendments and the reasons for such amendments are as follows.

The first amendment concerns Section 3.3 which addresses adjustment of claims arising out of a catastrophe or emergency situation. Several commentators noted that the rule did not specify the manner by which non-licensed individuals would register with the Commissioner and the time period in which such registration must occur. The Department accordingly amended the regulation to provide that registration will be by letter to the Commissioner by the supervising adjuster or insurance company within twenty (20) days of the date on which the non-licensed person begins adjusting activity in West Virginia in connection with the catastrophic or emergency situation. Another commentor noted that an initial ninety day

registration period with a single ninety day extension may not be sufficient in some catastrophic or emergency situations. The Department accordingly amended the regulation to provide unlimited ninety day extensions at the discretion of the Commissioner upon written request by the supervising adjuster or insurance company.

Several companies noted that the record maintenance requirements of Section 7 should be modified to reflect the different functions and record retention practices of public adjusters and company adjusters. Section 7.1 now addresses the record retention requirements for public adjusters, while Section 7.2 addresses the requirements for company adjusters.

The third amendment concerning Section 8.4. A commentor recommended that the contract between the public adjuster and the client disclose all fees to be charged the client by the public adjuster. The Department believes that such disclosure is in the best interest of the client and has amended the rule accordingly.

Several commentators noted that Section 3.2(D) implies that all individuals who supervise claim adjusters must be licensed. Section 3.2(D) has been amended and Section 3.2(I) added to reflect the Department's position on licensure of supervisors.

The final amendment adds Section 11.3 which allows "grandfathering" of nonresident adjusters on the same basis as resident adjusters. This amendment was recommended by many of the commentators and the Department has incorporated the

suggestion into the proposed rule. Section 11.3 was also added to the emergency rule as an emergency amendment.

The Department also received a number of comments which were not incorporated into the proposed rule. The following discusses those comments and the reasons the comments were rejected.

Several commentators recommended that a trainee license and an apprentice license be issued. The Department chose not to establish such license classifications for several reasons. First, Section 33-12B-3, specifically provides for two types of license, company adjuster and public adjuster. The Department questions whether it has statutory authority to establish other types of adjuster licenses. The Department also believes that the administrative work load imposed by establishing a trainee license and/or an apprentice license would be unduly burdensome. In the past, the Department experimented with a temporary license for agent applicants. This temporary license, which was similar in nature to a trainee or apprentice license, greatly increased the Department's administrative work load. Thus, the Department rejected the concept of a trainee or apprentice license on the grounds of lack of statutory authority and the administrative burden such licenses would impose.

Several commentators requested that the regulation be amended to allow non-licensed individuals to enter the state and adjust West Virginia claims on an incidental or occasional basis, such as work overloads and vacations. One commentator

questioned the manner in which the Department would view incidental contacts by non-licensed adjusters in areas in which West Virginia borders another state. The example given by the commentator included a Parkersburg, West Virginia, resident who has an auto accident in West Virginia with a Marietta, Ohio, resident who is insured by the commentator's company. The commentator noted that under present company practice the claim would be assigned to an Ohio adjuster and felt that the Ohio adjuster should be exempt from obtaining a license as a non-resident adjuster under an incidental contact rule.

The Department has determined that exempting individuals from licensure under an incidental contact rule would seriously weaken the adjuster licensing statute and regulation. Discretion to send unlicensed individuals into the state under a necessarily vague definition of incidental contacts would permit companies to easily circumvent the licensing requirements. Additionally, there is little, if any, way for the Department to regulate such incidental contacts. The Department suggests that companies plan for incidental contact situations such as work overload and vacations by licensing individuals as nonresident adjusters and designating those individuals to come into the state in such situations. Situations involving the border areas can be resolved by companies altering their procedures to assign such claims to either a licensed West Virginia resident adjuster or a licensed nonresident adjuster.

Several comments concerned the status of individuals who adjust claims from a company's home office located outside of West Virginia. Generally, these individuals are physically located in the home office and coordinate adjustment of claims by a West Virginia licensed adjuster. In some cases, these individuals may have telephone contact with the insured or claimant. Since the claims are actually adjusted by a licensed adjuster with the home office adjuster serving in a support capacity, the Department feels it would be unduly burdensome for the company and would not provide measurable protection for the consumer to require home office adjusters to be licensed.

One commentator questioned whether individuals employed by the company to investigate potentially fraudulent claims need to be licensed as adjusters. Since the activities of these individuals center around determining whether fraud has been committed by a claimant or an insured rather than upon actual adjustment of the claim, the Department will not require these individuals to be licensed as adjusters.

One commentator requested that the regulation be amended to extend the "grandfathering" privilege to salaried employees of a licensed agent who has adjusted claims on and before July 1, 1989. The Department believes that the present language of the regulation would allow such an individual to be grandfathered and does not see a need to amend the regulation language.

One commentator suggested that the regulation be amended to require public adjusters to disclose to their client in writing that the client may make the same recovery without the services of the public adjuster. The Department believes that such a requirement would be unduly burdensome and inequitable to the public adjusters and has chosen not to incorporate such a requirement in the regulation.

A commentator noted that the regulation defines prohibited practices of public adjusters but does not address prohibited practices of company adjusters. The activities of company adjusters are regulated by the Unfair Trade Practice Act (Chapter 33, Article 11) and the Unfair Trade Practices Regulation (Series 11). The Department saw no reason to repeat these requirements in the present regulation. The activities of public adjusters, by contrast, are not addressed by other code or regulations provisions.

One commentator questioned whether a person who applies for grandfathered status but is subsequently denied such status will be penalized for acting without a license if he adjusts claims in the interim between application and denial. The Department contemplates that a period of only several weeks will pass between the time an applicant applies for grandfathering and the time such status is granted or denied. The Department has no plans to penalize individuals whose applications for grandfathering are denied for adjusting claims without a license during the interim period. The only exception could be that if the Department determines that the

application for grandfathering contained intentionally fraudulent or material misrepresentations. In such a case, the Department would seek to deny the individual an adjuster's license based upon the fraudulent and material misrepresentation in the application for grandfathering.

One commentator suggested that the regulation be amended to exempt agents who write first party checks in de minimus amounts. The Department feels that these individuals would be exempt from licensure under the language of Section 3.2(B) and finds no need to amend the regulation.

Several commentators requested that the language of Section 3.2(H) be amended by striking all words after the word "liability." The Department has spent considerable time reviewing this language and frankly does not understand the objection to retaining the language "or negotiate the settlement of claims arising under automobile insurance contracts." The purpose of this section is to exempt from licensure individuals who merely appraise automobile body damage and who do not resolve questions involving liability or negotiate with the insured or claimant in regard to the settlement of claims. The Department believes that the language is clear and unambiguous and sees no need to amend the rule.

Several comments concern the examination required for licensure. Some commentators felt that specialized examinations should be developed for different types of adjusters, for example, adjuster who handle only automobile

insurance claims would not be tested on homeowners' claims, surety claims or other type of property and casualty claims. The Department believes that specialized examinations are both administratively infeasible and would defeat the purpose of licensing and regulation of adjusters. The adjusters examination will be administered by Educational Testing Service, which presently administers the Department's agent licensing examination and administers adjuster licensing examinations in numerous other states. In order to pass the examination, an applicant must have an entry level knowledge of basic insurance principles and law and basic adjusting principles and law. The Department believes that it is important for all adjusters to have knowledge of these basic principles, regardless of the type of claim in which the individual may eventually specialize. A comparable situation exists in the agent licensing examination. An applicant for a property and casualty agent license is tested on the basic property and casualty insurance principles and law, even though the agent may choose to specialize in automobile insurance, homeowners insurance or commercial insurance. Additionally, the administrative work load of the Department would be greatly increased if multiple examinations were developed and administered.

Several commentators requested that course work, either company training course work or course work provided by various insurance educational associations, be substituted for the examination requirement. Allowing course work to be

substituted for the examination requirement would greatly increase the Department's administrative work load as each course would have to be reviewed by the Department to determine whether it instructed individuals in basic insurance adjusting principles and law. There are approximately five hundred insurers licensed to write property, casualty and surety coverage in this state. Review by the Department of even a small percentage of the training courses offered by these insurers would overwhelm the Department's personnel and resources.

Several commentators requested that the specific record retention requirements of Section 7 be replaced by a general statement that records maintained in the adjusters ordinary course of business are sufficient. The Department believes that specific record retention requirements are necessary and has chosen not to amend the regulation.

One commentator suggested language to address an applicant's right to retake the licensing examination following failure of the examination. The language suggested by the commentator is much more restrictive than the Department's practice. Under the Department's contract with Educational Testing Service, applicants must be provided their test scores within ten days of the examination. An applicant who does not pass the examination may take the examination at the next test administration date, which will usually be within two to four weeks. The Department believes that this reexamination process is very liberal and more

favorable to the applicant than the language suggested by the commentator.

Finally, a commentator questioned the manner in which a nonresident would be licensed if the domiciliary state of the nonresident does not have an adjuster licensing program. The commentator's inquiry is answered by Section 11.2 which provides that in such cases, the nonresident can become licensed by successfully passing the West Virginia adjuster licensing examination.

# State Farm Insurance Companies



April 10, 1989

One State Farm Plaza  
Bloomington, Illinois 61710

Michelle M. Redden  
Assistant Counsel  
(309) 766-2874

Cheryl L. Davis  
Office of the Insurance Commissioner  
2019 Washington Street East  
Charleston, WV 25305

RECEIVED

APR 13 1989

LEGAL DIVISION  
W. VA. INS. DEPT.

RE: Proposed Emergency Rule  
on Insurance Adjusters

Dear Ms. Davis:

I have reviewed the Proposed Regulations for Licensing Insurance Adjusters on behalf of State Farm Insurance Companies, and I have a few comments to submit for your consideration. Dave Hill, my predecessor in West Virginia, sent a letter to former Commissioner Wright in May, 1989 discussing some of our concerns. While you addressed several of the concerns raised, I thought it might help to have a further explanation of issues involved and suggested language that will correct the remaining problems.

## Residency

One of the primary concerns we have with the proposed regulations is the residency requirement and the language of the non-resident exemption. Most of the states that regulate and require licensing of claim adjusters primarily are concerned about public adjusters (including the neighboring states of Ohio and Maryland). Companies with their own adjusters are always held responsible for the activities of their employees through unfair trade practices acts and unfair claims settlement practices regulations. For this reason, company adjusters are usually excluded and reciprocity is generally denied. Despite this trend, the West Virginia law requires company and public adjusters to be licensed.

Since the laws of many of the surrounding states deal only with public adjusters, this creates a problem for company adjusters 1) who live in surrounding states while working on West Virginia claims, 2) who work out of a West Virginia office while handling exclusively out-of-state claims, or 3) who live and work in out-of-state offices, but on an as needed basis, handle an occasional West Virginia claim (during vacations or illnesses). Because of the cooperation between claim units and states that is common in a company situation, many problems are created by a licensing regulation that restricts the rights of out-of-state adjusters to handle West Virginia claims.

State Farm has problems in all three of the above-mentioned categories. 1) We have people in Wheeling, Parkersburg, and

Fairmont who work in West Virginia Offices, handling only West Virginia claims, but they reside in Ohio or Pennsylvania. We have people who handle only West Virginia claims but work out of Maryland offices, like our regional office in Frederick. 2) We have people in Parkersburg who work in a West Virginia office, but handle only Ohio claims. 3) We have people in Pinto and Williamsport who work and reside in Maryland and handle only Maryland claims, but occasionally they handle West Virginia claims when illnesses or vacations arise.

State Farm proposes a couple of minor changes in the regulation to provide for these situations.

1) Amend Section 3.1 to apply only to adjusters of West Virginia claims. This will solve the problem for the Ohio residents who handle Ohio claims out of a West Virginia office.

"3.1 On and after July 1, 1989, no person shall in West Virginia act as or hold himself to be an adjuster of West Virginia claims unless then so licensed by the commissioner."

2) Amend Section 6.1 to waive the examination requirement for all adjusters who have been handling West Virginia claims without limiting this exemption to West Virginia residents.

"6.1 Any individual who is a resident of West Virginia and is employed as an adjuster in West Virginia or who handles West Virginia claims prior to July 1, 1989, . . .

The use of adjusters from Pennsylvania, Maryland and Ohio helps State Farm assure its policyholders of the prompt and accurate claims handling service they have come to expect. All of our claims representatives are fully trained and tested at concentrated claims schools before they are allowed to handle claims in West Virginia. The continuing education is also extensive. We urge you to adopt the suggested amendments to the proposed regulation before promulgation.

#### Supervisory Employees

Supervisory employees are not clearly excluded from the licensing requirements in the proposed regulation, and we strongly believe that they should be exempted. Supervisors of claim handling include local, regional office and home office management. Many of these individuals would be out-of-state and would have additional difficulties in complying with the requirements of the regulation if not excluded.

In Section 3.2(D) salaried employees are excluded in certain circumstances, but State Farm suggests an amendment to this exemption as follows:

"(D) Salaried employee of an insurer whose primary duties are not adjusting or investigating claims. This includes an employee who supervises claim adjusters."

#### Catastrophe Claim Adjusters

In the proposed regulations adjusters from other states that come to West Virginia to assist in the event of a catastrophe are excluded from the licensing requirements if they are registered and supervised by a licensed adjuster or insurance company. However, they are only allowed to work in this capacity for 90 days with the potential for a 90 day extension.

We are unclear as to the requirements for registration, and suggest that the forms and any specific requirements of registration be included in the regulation. When a catastrophe arises a registration process that is unclear will only delay the claim handling process to the detriment of the policyholders of West Virginia.

In addition, the maximum six month time period for these catastrophe adjusters to operate is not adequate to complete the work a catastrophe requires. Very serious catastrophes may take a year or more to conclude. State Farm urges you to remove the time limitation on the authority of catastrophe adjusters. Please consider allowing the Commissioner the flexibility to extend registration on an as needed basis instead of limiting it to six months.

#### Examination Requirements

The examinations required by the regulation are not discussed in detail, and we have a few questions about examination content. First, will questions on the exams be multi-line in nature? Second, has the Department considered waiving the exams for a company adjuster who completes a qualifying company training program?

Many adjusters at State Farm and at other companies are involved in handling a single type of insurance claim. For example, many handle only auto claims. They have been specifically trained in the auto claim area, understand the auto estimation process, and are familiar with common auto accident injuries. These adjusters have very little knowledge of the homeowners and commercial insurance claim process. Testing these adjusters on the specifics of handling a roof claim or a water damage claim would require specific study in other areas of claims handling. If this is the intent of the Department we would like to know so we can prepare our claims people adequately.

State Farm has an in-depth claims school that all adjusters must attend. It is geared to teaching adjusters about the specific provisions of the State Farm insurance policy, teaching them the

specifics of the Unfair Claim Practices Regulations applied in most states, explaining the legal doctrines they will need to understand in handling claims and teaching them the procedures for maintaining claim logs and other company records. This school includes 2-3 weeks of intensive study, daily and comprehensive examinations. Many other companies have similar schools for their claim adjusters, and State Farm urges the Department to amend Section 6 to include a waiver of the exam requirement for adjusters successfully completing qualified company claim school programs.

"6.2 Any individual successfully completing a qualified insurance company claims training program shall be licensed as an adjuster without being required to take and pass an examination. The Commissioner shall review company claims training programs upon submission to determine whether they qualify for the waiver."

#### Records Requirements

The records required by Section 7 are troublesome to State Farm for many reasons. First many of the records required are not pertinent to our company procedures. Second, State Farm adjusters do not maintain their own records for three years. Third, records similar in some respects are already kept by company adjusters and duplication would be unwieldy and unnecessary.

In Section 7.1(C) and (G) the proposed regulations require records of the contract between the adjuster and the company and the compensation received by the adjuster. State Farm does not have a contract with its adjusters. They are company employees employed at will and paid an annual salary that does not vary based upon the claims they settle. These record requirements are geared to public adjusters and not company adjusters.

In both Section 7.1 and 7.2 the regulation would require the adjusters themselves to maintain the records listed. At State Farm the claim files are maintained by the adjuster until the claim is settled, and then they would be kept among the company records for a period of two years in most instances.

In general, this Section requires the maintenance of records that are already part of the claim file. If the regulation intends to require the duplication of these files and maintenance at the adjuster's office, this is an unnecessary duplication of records. The records listed can be retrieved at any time for the Commissioner's review even if they are kept by the company and they are the originals instead of the duplicates required by the regulation. The duplication requirement also seems to be most relevant to public adjusters.

In accordance with the above, State Farm suggests amendment of this section as follows:

7.1 All public adjusters shall maintain for three years after the termination of transactions with insureds a complete record of each of their transactions as an adjuster. The records required by this Section shall include:

- (A) name of the insured;
- (B) date, location and amount of loss;
- (C) copy of the contract between the public adjuster and insured ~~or between the company adjuster and insurer;~~
- (D) name of the insured, amount, expiration date and number of each policy carried with respect to the loss;
- (E) itemized statement of the insured's and/or third party claimant's recoveries;
- (F) copy of any settlement documents and/or releases executed in relation to the claim;
- (G) statement of any fee, commission of other compensation received or to be received by the public adjuster on account of the adjustment.

7.2 All company adjusters shall maintain in their claim files the information required in Section 7.1(A), (B), (D), (E), and (F). These files must be maintained by the company for three years after the termination of transactions with insureds and shall be open to examination by the commissioner at any time."

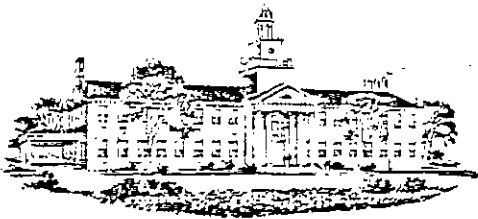
Many of the problems we have noted in these comments are created by the language of the law. We certainly appreciate the difficult task the Department undertook in preparing a regulation that satisfied the practical needs of the claim adjusters in the state and that complied with the law at the same time. Hopefully in 1989 we can join together to amend the law to alleviate many of these problems.

Thank you for your efforts. I hope these comments are of assistance, and if you would like to discuss any of these issues further don't hesitate to call me at (309)766-2874.

Respectfully Submitted,

*Michelle Redden*

Michelle Redden  
Assistant Counsel



# ERIE INSURANCE GROUP

F. WILLIAM HIRT, Chairman

HOME OFFICE 100 ERIE INSURANCE PLACE PO BOX 1699 ERIE PA 16500 (814) 870-2000

March 16, 1989

RECEIVED

MAR 20 1989

LEGAL DIVISION  
W. VA. INS. DEPT.

Ms. Cheryl L. Davis  
Office of the Insurance Commissioner  
2019 Washington Street East  
Charleston, WV 25305

Re: Proposed Regulation for Insurance Adjusters

Dear Ms. Davis:

This letter is to submit comments on behalf of the Erie Insurance Group concerning the proposed regulation referred to above. Set forth below are the comments of the Erie Insurance Group concerning the proposed regulation.

There is an inconsistency between Section 3.1 and Section 6.1. Section 3.1 provides that no person shall act as an adjuster on and after July 1, 1989 unless licensed by the Insurance Commissioner. Section 6.1 waives the examination requirement for any individual who is employed as an adjuster prior to July 1, 1989 and who files an application with the Insurance Commissioner on or before November 1, 1989. It is possible that an adjuster who can waive the examination requirement may be acting as an insurance adjuster after July 1, 1989 and not be licensed because his/her application for the examination waiver is pending before the Insurance Commissioner. Technically, this adjuster is in violation of Section 3.1. Section 3.1 should be amended to allow a person to act as an adjuster, even if not licensed by the Insurance Commissioner, so long as the individual is acting in good faith and has taken reasonable steps to obtain a waiver of the examination under Section 6.1.

ERIE also recommends that the "exemptions" from the licensing requirements, as stated in Section 3.2, should be amended as set forth below. Section 3.2(B) should be amended to allow agents of licensed insurers who write first party checks and who receive de minimis compensation from the company for writing checks to be exempt from the licensing requirement.

Section 3.2(D) provides that salaried employees of an insurer whose primary duties are not adjusting, investigating or supervising claims are not required to be licensed. Many insurers employ special investigative units for the purpose of determining whether fraud may be involved in a claim. The special investigative units do not investigate the claim for the purpose of determining liability. Rather, these units assist insurers (and the public) by ensuring that only legitimate claims are paid. A question arises as to whether these individuals are required to be licensed under this regulation. We believe these individuals should be exempt from licensing and the regulation should be amended to clarify this point.

Under Section 3.2(H) individuals engaged in appraising motor vehicle physical damage are not required to be licensed. The following language should be deleted from Section 3.2(H): ". . . or negotiate the settlement of claims arising under automobile insurance contracts." By deleting this language, the regulation will be clear that appraisers who negotiate a total loss settlement for motor vehicle physical damage will not be required to be licensed under the regulation.

Section 3.3 should be amended so that the registration of nonlicensed adjusters, who are adjusting claims in West Virginia because of the occurrence of a catastrophe or similar disaster, could be accomplished by letter from the insurance company to the Insurance Commissioner. The letter would provide the Insurance Commissioner with a list of all nonlicensed adjusters. The registration with the Commissioner should be allowed within 20 days of sending the nonlicensed adjuster into West Virginia since, in many instances, the company will not be able to immediately determine who will be sent in to assist in a catastrophe or disaster situation.

Section 4.1 should be amended so that a third type of license would be issued by the Insurance Commissioner. The Commissioner, in addition to issuing company adjuster and public adjuster licenses, should issue a trainee adjuster license. The trainee adjuster license would cover those individuals who are new to the insurance industry and are being trained to be adjusters. In addition, a definition of trainee adjuster should be added to Section 2, Definitions.

In Section 6, Waiver of Examination Requirement, a new subsection should be added so that an individual who is a nonresident of West Virginia, employed as an adjuster by a company licensed to do business in West Virginia, and who handles West Virginia claims in the normal course of his/her duties as an adjuster is allowed to waive the examination requirement. This amendment would exempt personnel in branch offices located in territories adjacent to West Virginia and who occasionally handle West Virginia claims in the normal course of their duties from taking the examination.

Ms. Cheryl L. Davis  
March 16, 1989  
Page 3

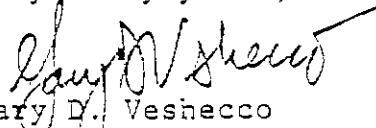
The first sentence in Section 7.1 should be amended to read: "All adjusters and/or insurers authorized to do business in this state shall maintain a complete record of each of their transactions." This amendment would assist company adjusters since company adjusters do not have the information available to them to keep all of the records required in the regulation. In addition, Section 7.1 requires the maintenance of "a complete record" but this section does not indicate or provide any type of guidance on the format of the "complete record." In the alternative, a section could be added after Section 7.2 which would provide that filing systems maintained by licensed insurers or adjusters in the normal course of business operations would be sufficient to satisfy the requirement of Section 7.

Section 8, Prohibited Practices; Voidable Contracts, lists the prohibited practices of public adjusters. However, this section does not list or indicate what, if any, practices are prohibited for company adjusters. A question arises as to what criteria or standards will apply to company adjusters.

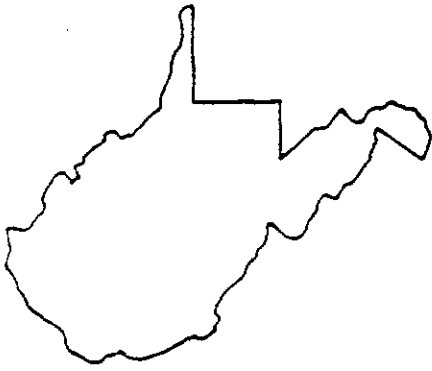
Lastly, Section 11 deals with the licensing of nonresident adjusters. This section creates problems for insurance companies who transfer adjusters with experience from another state into West Virginia. The transferred adjuster would have to be licensed before beginning his job in West Virginia. This requirement means that there could be a substantial delay before a company is able to have an experienced adjuster working in West Virginia. This requirement also inhibits promoting individuals from within the company to an adjusting position in West Virginia. ERIE recommends that an apprentice adjuster's license also be issued by the Insurance Commissioner. The apprentice adjuster's license would be good for one year and would enable the adjuster to begin work under the supervision of a licensed adjuster while the apprentice adjuster is studying for the examination. Please note that the apprentice adjuster license would be in addition to the trainee adjuster license since the apprentice adjuster license would only apply to people who are experienced in the insurance industry but are merely relocating or transferring to West Virginia from another state. A similar provision for the apprentice adjuster license exists in Kentucky.

If you should have any questions concerning ERIE's proposed amendments to the regulation, please do not hesitate to call me at (814) 870-2159. Thank you for the opportunity to bring these issues to your attention.

Very truly yours,

  
Gary D. Veshecco  
Associate Counsel  
Law Division

GDV:skl



## WEST VIRGINIA CLAIMS ASSOCIATION

P. O. Box 598  
Parkersburg, WV 26102-0598  
March 7, 1989

Ms. Cheryl L. Davis  
Office of the Insurance Commissioner  
State of West Virginia  
2019 Washington Street, East  
Charleston, West Virginia 25305

**RECEIVED**

MAR 8 1989

LEGAL DIVISION  
W. VA. INS. DEPT.

Dear Ms. Davis:

A committee, representing a cross section of the insurance adjusters, met recently to review the proposed Rule 25, Chapter 33-12B, Insurance Adjusters. With the exception of a few items we found the proposed Rule very acceptable to those of us in the industry.

We would, however, propose the following changes prior to implementation of the Rule.


1. Section 3.2(d): Change the word "supervise" to "settle" (to match definition of "adjuster") or, in the alternative, delete the phrase "or supervision". This would alleviate the question of whether supervisory or management people require licensing or examination.
2. Section 3.2(h): Delete after word "liability". This will serve to exempt estimators/appraisers from both licensing and examination requirements, if there is any question.
3. Section 3.3: Registration to be by means of a letter to the Commissioner listing all adjusters to serve on CAT duty.
4. Add new Section 4.1: Add (c) for "trainee license".
5. Add new Section 4.3: "A newly hired adjuster, for up to a 180 day period, may be employed under a trainee license, under the supervision of a licensed adjuster." This would give the employee a training period prior to examination and final licensing.

Ms. Cheryl L. Davis  
March 7, 1989  
Page 2

6. Add new Section 5.4: Add provision 6.1-B of the NAIC model regarding re-examination. "Section 6.1-B The Commissioner shall, within a reasonable period of time, not to exceed thirty (30) days from the date of examination, transmit the results of the examination and action taken on the application to the applicant. In the event an applicant, who is otherwise qualified, fails the examination, said applicant shall be permitted to be re-examined after a waiting period not to exceed six (6) months from the date of failing the examination, and upon the payment of an additional examination fee."
7. Add Section 6.2: "Any individual who is a nonresident of West Virginia and is employed by a company licensed to do business in West Virginia prior to July 1, 1989, and who handles West Virginia claims in his normal course of duties as an adjuster, may file with the Commissioner on or before November 1, 1989, an application in such form as the Commissioner prescribes, and upon payment of the requisite license fee, shall be licensed as a company adjuster and/or public adjuster without being required to take and pass an examination."
8. Add new Section 7.3: "Electronic or paper filing systems maintained in the regular course of business by an insurer or adjuster licensed in West Virginia shall be adequate to meet the requirements of this section."

If you have any questions regarding the recommended changes or would like to discuss them, please feel free to give me a call at 1-800-642-1948.

Very truly yours,

  
Bob Hildreth  
President

BH/rfc

cc: Patricia Bradley, House Banking & Insurance Committee, State Capitol, Charleston, WV  
cc: Joe Manchin III, Senate Banking & Insurance Committee, State Capitol, Charleston, WV

March 23, 1989



Ms. Cheryl Davis  
Office of the Insurance Commissioner  
2019 Washington Street East  
Charleston, W.VA 25305

RECEIVED

MAR 28 1989

CRAWFORD & COMPANY

BRUCE SHANE  
BRANCH MANAGER

RE: - ADJUSTER LICENSING

LEGAL DIVISION  
W. VA. INS. DEPT.

Dear Ms. Davis:

The undersigned has received a notice of Comment Period on Proposed Rule for adjusters license.

This information was just received by the undersigned on 3/22/89 from one of our other Crawford & Company offices.

The undersigned has been a practicing claims adjuster and am at present the Manager of Crawford & Company Insurance Adjuster with office located in Wheeling, W.VA. The undersigned resides directly across the river in Eastern Ohio.

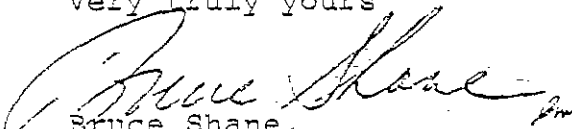
From our office in Wheeling we handle claims not only in West Virginia but also in Ohio and as we are sure you are aware Ohio does not have a license requirement.

It is my understanding that anyone practicing as an adjuster within West Virginia will be grandfathered and will not require a license. The purpose of this correspondence is to clarify the fact that my residence is in Ohio and I desire to be certain that I also will be grandfathered in this regards.

Your comments on this would be appreciated.

Thank you very much

Very truly yours

  
Bruce Shane,  
Branch Manager

BS:lm

Audrey J. Witkowski  
Senior Attorney

VEREX

VIA EMERY

April 10, 1989

RECEIVED

APR 11 1989

LEGAL DIVISION  
W. VA. INS. DEPT.

Mr. Hanley C. Clark  
Insurance Commissioner  
West Virginia Insurance Commission  
2019 Washington St., East  
Charleston, WV 25305

Re: Proposed Regulations: Insurance Adjusters  
Chapter 33-12B, Series 25 - Comments

Dear Commissioner Clark:

Verex Assurance, Inc. submits these comments on the proposed regulations regarding Insurance Adjusters. Verex Assurance is a mortgage guaranty insurer, domiciled in Wisconsin and has been licensed and doing business in West Virginia since 1966.

Section 11, Licensing of Nonresident Adjusters, requires all non-resident adjusters to pass an examination prior to being licensed unless the non-resident is licensed by his or her domiciliary state which has similar laws and licensing requirements. The state of Wisconsin does not specifically license insurance adjusters and has no similar licensing law. Wisconsin does, however, specifically regulate insurance companies under its Unfair Claims Practices law.

Verex requests that mortgage guaranty insurers be exempt from the examination requirements for its insurance claims adjusters, for the following reasons:

1. Mortgage guaranty insurance is a unique coverage and a small industry; its insurance policies and claims handling are different from other casualty coverages. Tests designed for "casualty" insurance do not include material related to mortgage guaranty insurance, and, therefore, neither educate the mortgage insurance adjuster, nor measure the ability to adjust mortgage insurance claims.
2. Its insureds are financial institutions, not individual consumers.
3. Its claims settlements are based on documentary proof regarding the mortgage foreclosure procedures, loan payment history and specified expenses. Claims do not involve physical damage or any non-liquidated loss items.

150 East Gilman Street  
P.O. Box 7066  
Madison, WI 53707  
608-257-2827

Mr. Hanley C. Clark  
Page 2  
April 10, 1989

4. Its claims are adjusted only by employees - because mortgage guaranty coverages are unique, no public adjusters are used. Each mortgage insurer provides its own training for its claims adjusters, who must have or gain specialized knowledge in mortgage lending and real estate. General casualty training provided for the casualty insurance industry will not relieve the company from its own specialized training, and will not ensure the Commission that the adjuster has gained the necessary expertise for mortgage guaranty insurance adjusting.

We do not request exemption from the licensing requirement; however, we do request that mortgage guaranty adjusters be exempt from examination requirements.

I would be happy to answer any questions you may have. Our toll-free number is 800-356-8080.

Sincerely,

VEREX ASSURANCE, INC.



Audrey J. Witkowski  
Senior Attorney

AJW/cl

cc: Thomas E. Anderson



**BROTHERHOOD MUTUAL  
INSURANCE COMPANY**

6400 BROTHERHOOD WAY  
P.O. BOX 2227  
FORT WAYNE, IN 46801-2227  
219/482-8666

April 3, 1989

**RECEIVED**

APR 6 1989

LEGAL DIVISION  
W. VA. INS. DEPT.

Cheryl L. Davis  
General Council  
West Virginia Insurance Department  
2100 Washington Street E.  
Charleston, WV 25305

Re: West Virginia Legislative Rule, Chapter 33-12B Series 25  
Insurance Adjusters' Licensing

Dear Ms. Davis:

As I understand it, the commentary period applicable to this legislative rule has been extended at the request of the National Association of Independent Insurers. The purpose of this letter is to register our comments with the West Virginia Insurance Department with regards to this rule.

Brotherhood Mutual is not a large insurance company, and our total premium in the State of West Virginia for 1988 was approximately \$86,000. We are headquartered in Fort Wayne, Indiana, and employ 10 in-house company adjusters to handle claims in 19 states, including the State of West Virginia. Out of those 19 states, West Virginia is now the third state to require some type of adjuster licensing.

However, West Virginia has instituted, I believe, the strictest regulation we have yet encountered. Generally, for out-of-state adjusters, some consideration is given to the waiver of the examination. This has especially been the case of adjusters who have been handling claims as of the effective date of the regulation. I note in the West Virginia regulation, however, that the only persons entitled to a waiver of the examination requirement are those adjusters who are residents of the State of West Virginia. Out-of-state residents are given no such similar treatment, even though they may have been adjusting claims prior to July 1, 1989, or for several years prior to that date. Indeed, in the case of Brotherhood Mutual, we have 9 of our 10 adjusters who have been handling claims for two years or more. I myself have handled claims for five years, and our property claims manager has been in the adjusting business for ten years. Yet none of us are entitled to a waiver of the examination simply because we are not residents of the State of West Virginia.

For a company the size of Brotherhood Mutual, this represents an undue burden on our ability to write insurance in the State of West Virginia and to handle claims arising from our policies. Furthermore, it is not clear to me at this point whether the examination that we will be required to take will involve both property and casualty adjusting principles.


Cheryl L. Davis  
General Council  
West Virginia Insurance Department  
April 3, 1989  
Page 2

I believe that the regulation concerning licensing of adjusters will work an undue hardship on companies the size of Brotherhood Mutual. It does not appear to me that we will even be able to hire independent adjusters in the State of West Virginia to handle claims for us, as long as whoever was handling the files here in the Home Office was not a licensed adjuster.

I hope you will take these comments into consideration when the legislature decides to promulgate this rule in the 1990 legislative session.

Sincerely yours,

BROTHERHOOD MUTUAL INSURANCE COMPANY



Gregg Dykstra, JD, AIC  
Casualty Claims Manager

GAD:cb/1-1



RECEIVED

March 10, 1989

MAR 14 1989

Ms. Cheryl L. Davis  
Office of the Insurance Commissioner  
2019 Washington Street East  
Charleston, WV. 25305

LEGAL DIVISION  
W. VA. INS. DEPT.

RE: Comment on Proposed Rule for  
Insurance Adjusters Relative to  
West Virginia Code Section  
33-12B-12

Dear Ms. Davis:

We have reviewed the proposed rules concerning the licensing of insurance adjusters in West Virginia. There is one area on which we would like to see some further clarification and that pertains to what might be termed incidental West Virginia contacts by adjusters from neighboring states. For example if a Parkersburg resident is involved in an accident with a Marietta, Ohio resident who is insured with State Auto the matter would ordinarily go to an Ohio claim adjuster. Particularly in cases of relatively minor damages it is inconvenient to "split" the file and it would not be conducive to fast service for the West Virginia resident to do so. We would like to see the rule clarified to clearly permit adjusters (who are employed by companies licensed to do business in West Virginia) to make such incidental contacts without the adjusters themselves being licensed. It would be helpful if they were also specifically permitted to enter West Virginia for limited purposes such as appraisal or evaluation of physical damage to an automobile.

Along the same lines we may occasionally have supervisory personnel in West Virginia from out of state. It would be nice if the regulations would specifically allow such personnel to get involved with claim file handling so long as such handling was an incidental part of their reason for being in West Virginia.

We look forward to receiving further information about licensing and examination requirements.

Yours truly,

A handwritten signature in cursive script, appearing to read 'Booth Muller'.

Booth Muller  
Claims Technical Services Administrator

BM/ktb

cc: Roni Simon  
Robert J. Prah  
Brent Mackey  
John Melvin



March 23, 1989

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MAR 27 1989

Ms. Cheryl L. Davis  
Office of the Insurance Commissioner  
2019 Washington Street East  
Charleston, West Virginia 25305

LEGAL DIVISION  
W. VA. INS. DEPT.

RE: Comment on Proposed Rule for  
Insurance Adjusters Relative to  
West Virginia Code Section  
33-128-12

Dear Ms. Davis:

We wrote to you previously regarding some suggested clarifications concerning the proposed adjuster licensing rules. Today we're writing to request **reconsideration** of an area of the rule which seems fairly clear and therefore, does not require clarification.

We have a number of adjusters who are currently handling claims near the West Virginia line in bordering states which do not have licensing agreements. It would be helpful if these adjusters (like current West Virginia adjusters) could be "grandfathered" out of the requirement for taking a written exam. We recognize that they would have to be licensed if they do adjusting work in West Virginia, but it would certainly be convenient if they could be excused from having to take the exam when the law takes effect on July 1, 1989. (Failing that we would at least appreciate a grace period to allow these people some time to take that exam.) If you decided to allow such a waiver of the exam requirement, we would expect the waiver to be limited to employees of companies who are currently licensed to do business in West Virginia.

Yours truly,

A handwritten signature in cursive script, appearing to read 'Booth Muller'.

Booth Muller  
Claims Technical Services Administrator

BM/ktb

cc: Robert J. Prah1  
John Melvin  
Brent Mackey  
Fred Miller  
Roni Simon



# Westfield Companies

INSURANCE SINCE 1848

April 13, 1989

Sent Fax and Overnight Mail

Honorable Hanley Clark  
Commissioner of Insurance  
2019 Washington Street East  
Charleston, West Virginia 25305

Re: West Virginia Department of Insurance Notice Regarding  
Licensing and Regulation of Insurance Adjusters

Dear Hanley:

An important concern is Section 3.3 dealing with catastrophes. In order to best serve the insurance consumer, we must be able to utilize adjusters who are not licensed in West Virginia to handle claims in West Virginia during a catastrophe. Prior approval by the Commissioner or even registration with the Commissioner prior to handling claims could cause unnecessary delays in providing service to our customers.

I also feel that the Waiver of Examination requirement should be extended to all salaried employees of a licensed insurance agent. Many of our agents have personnel in their agencies other than licensed agents settling claims. I feel this section of the Rules should be amended in order not to place a hardship on West Virginia agents in serving the needs of their clients.

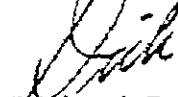
The third item of concern is Section 8 which deals with public adjusters. I would suggest that we add to this section that public adjusters disclose in writing to their clients the exact amounts of the fees to be charged and the fact that clients might be able to make the same recovery without the services of public adjusters.

- Page 2 -  
April 13, 1989

My fourth concern is for requiring a non-resident to secure a license through testing. Most states require a non-resident to have a license but not be tested. We maintain a staff which is licensed in various states. However, it would be a problem to have all of these people tested. We often use a licensed non-resident to handle vacations, work overloads, etc. which is now also severely restricted by Section 3.4. The West Virginia consumer is going to suffer if we do not have flexibility in providing assistance to handle unusual claim situations. The limitations of three claims per twelve-month period needs to be reconsidered.

We do support the fair testing and licensing of claim representatives in West Virginia. The licensing requirements should not serve as a detriment to providing prompt, adequate and fair claim service to the consumers in West Virginia.

Very truly yours,



Richard D. Welsh  
General Counsel

RDW:gh

cc: Larry Broich

cc: Edward Schaefer

# Maryland Casualty Company

Chamber of Commerce Building, Pittsburgh Pennsylvania 15219 • 412-263-3300

A Subsidiary of  
American General Corporation

John J. Shurer  
Resident Manager

Thomas G. Bloss  
Claim Manager

March 14, 1989

RECEIVED

MAR 16 1989

LEGAL DIVISION  
W. VA. INS. DEPT.

Ms. Cheryl L. Davis  
Office on the Insurance Commissioner  
2019 Washington Street, East  
Charleston, West Virginia, 25305

Re: Proposed Licensure of Insurance Adjusters

Dear Ms. Davis:

Thank you for allowing me the opportunity to comment on this proposed rule.

Our Office in Pittsburgh handles the entire state of West Virginia.

We utilize auto damage appraisers and independent adjusters in the state when any on-the-scene work is required. The balance of the work is handled from our office.

Please refer to Section 11 on Page 6 of the Proposed Rule. I would like to recommend for your consideration the following relative to licensure of out of state Adjusters:

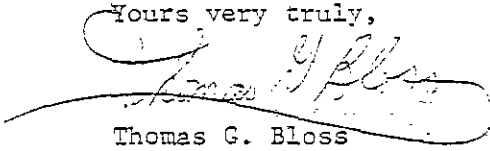
1. A license would be granted to an individual who is or will be employed in the capacity of an adjuster if they have Passed the Courses offered by the Insurance Institute of America and have received the "Associate in Claims" designation.
2. It is my understanding that number one above is used as a standard for licensure in at least one other state. It is an excellent and quite comprehensive course of study.
3. Pennsylvania does not currently require licensing of Insurance Adjusters and therefore the reciprocity portion of 11.1 would not apply to Pennsylvania Adjusters handling claims in West Virginia.



Please also refer to Section 6, the waiver section. Would it be possible to have this apply to Non-Resident Adjusters, if the employer could present documentation or even an affidavit to confirm the capability of its adjusters, i.e. education, background, experience, etc.?

My thoughts and observations are geared to facilitate the licensure of capable, qualified non-resident adjusters in the State of West Virginia and are respectfully submitted for your review, evaluation and consideration.

Yours very truly,



Thomas G. Bloss  
Claim Manager

TGB:dcf

cc: Mr. E.B. Dean, Jr., Director of Claims  
Mid Atlantic Region  
Mr. John J. Shurer, Resident Manager  
Pittsburgh

**GEICO**

Washington, DC



GEICO Plaza ■ Washington, D.C. 20076-0001

March 15, 1989

EXPRESS MAIL

**RECEIVED**

Ms. Cheryl L. Davis  
Office of the Insurance Commissioner  
2019 Washington Street East  
Charleston, West Virginia 25305

MAR 17 1989  
LEGAL DIVISION  
W. VA. INS. DEPT.

Re: Proposed Rule 33-12B: Insurance Adjusters

Dear Ms. Davis:

We have several questions with respect to the referenced proposed rule. Does the definition of "company adjuster" include non-resident telephone adjusters? If the domiciliary state of a non-resident adjuster does not have a like law or regulation on adjuster licensing, what provisions are being made for such non-residents to become licensed through examination per §11.2 before the July 1, 1989 effective date so that substantial interruptions to claims handling do not occur?

Thank you for considering our comments before promulgating this rule.

Very truly yours,

John G. Lewis  
Senior Counsel

JGL:dn  
1-wv-628

- Government Employees Insurance Company
- GEICO General Insurance Company
- GEICO Indemnity Company

Shareholder Owned Companies Not Affiliated with the U.S. Government