

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY West Virginia Code §§ 33-6C-3, 33-2-10

AMENDMENT TO AN EXISTING RULE: YES \_\_\_ NO X

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

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

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 31

TITLE OF RULE BEING PROPOSED: Guaranteed Loss Ratios as Applied to Individual Sickness and Accident Insurance Policies

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.

Hanley C. Clark  
Hanley C. Clark  
Insurance Commissioner



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON  
Governor

HANLEY C. CLARK  
Insurance Commissioner

January 13, 1992

HAND DELIVERED

Ms. Judy Cooper, Director  
Administrative Law Division  
Office of Secretary of State  
State Capitol  
Charleston, WV 25305

FILED  
JAN 13 11 3 AM '92

Dear Ms. Cooper:

Enclosed please find for filing one (1) copy of the following:

- (1) Notice of Rule Modification of Proposed Rule;
- (2) The proposed rule entitled "Guaranteed Loss Ratios as Applied to Individual Accident and Sickness Insurance Policies" (Series 31).

Please contact me if further information is required.

Very truly yours,

*B. Keith Huffman*  
B. Keith Huffman  
General Counsel

BKH/iw  
Enclosures

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

CHAPTER 33-6C  
SERIES 31

FILED  
MAY 10 1965  
INSURANCE DIVISION

GUARANTEED LOSS RATIOS AS APPLIED  
TO INDIVIDUAL SICKNESS AND ACCIDENT INSURANCE POLICIES

§ 114-31-1. General

1.1 Scope - This legislative rule implements the provisions of Article 6C, Chapter 33 of the West Virginia Code. That article permits, but does not require, an insurer offering individual sickness and accident insurance policies to operate on the basis of a guaranteed loss ratio established by the Insurance Commissioner. Any such insurer that is approved to operate on a guaranteed loss ratio basis shall be exempt from filing rate increase applications as would otherwise be required by the Commissioner.

1.2 Authority - West Virginia Code §§ 33-6C-3, 33-2-10.

1.3 Filing Date -

1.4 Effective Date -

§ 114-31-2. Application to Operate on a Guaranteed Loss Ratio Basis

2.1 In order to implement a guaranteed loss ratio as established by the Commissioner, an insurer offering individual sickness and accident insurance policies must make application to the Commissioner on the form described in Section 2.2 of this regulation. The Commissioner shall have the discretion to approve or reject any such application after reviewing the same. The application form is set forth in Appendix A to this regulation.

2.2 Each application filed with the Commissioner pursuant to this regulation must include a written loss ratio guarantee that at minimum contains the following information:

(A) policy form number;

(B) the anticipated lifetime and durational target loss ratios contained in the original actuarial memorandum filed with the policy form when it was originally approved;

(C) a designation of the first calendar year in which the loss ratio guarantee is to be effective;

(D) a guarantee that the actual West Virginia or if applicable National loss ratios for each experience period shall meet or exceed the anticipated lifetime and durational target loss ratios contained in the original actuarial memorandum described in subsection (B);

(E) the source and dates of data used by the insurer in determining lifetime and durational target loss ratios and credibility data;

(F) a guarantee that the actual West Virginia, or, if applicable, national, loss ratio results for the experience period at issue will be independently audited as described more fully in Section 4 of this regulation;

(G) the name and qualifications of the independent auditor who will perform the annual audit described in Section 4 herein;

(H) a guarantee that if the actual loss ratio during an experience period is less than the anticipated loss ratio for that period, then West Virginia policyholders shall receive proportional refunds based on premium earned, which refunds shall be calculated and paid pursuant to West Virginia Code §33-6C-5;

(I) a sample calculation and illustration of the refund methodology used to comply with this regulation;

(J) a non-discrimination guarantee as required by West Virginia Code §33-6C-4(c)(5); and

(K) the signature of an officer of the insurer.

2.3 The Commissioner shall notify an insurer of the acceptance or rejection of an application to operate on a guaranteed loss ratio basis within sixty (60) days of the date that such an application is received.

### § 114-31-3. Guaranteed Loss Ratio Filings

3.1 The initial filing of a loss ratio guarantee must include the policy form, schedule of rates and an actuarial memorandum which shall include information prescribed in the National Association of Insurance Commissioners' rate filing

guidelines, durational and lifetime target loss ratios, and a projection of the actual loss ratio which shall include interest and lapse rates.

3.2 All rate increase filings shall include information prescribed in the National Association of Insurance Commissioners' rate filing guidelines, as well as the following:

- (A) an outline of coverage;
- (B) any change in rate relationships;
- ~~(C) the experience by duration of the most recent calendar year;~~
- (B) (C) the cumulative, to-date loss ratios; and
- (E) (D) the projected lifetime loss ratios.

#### § 114-31-4. Annual Audit

4.1 An independent audit of the actual West Virginia, or, if applicable, national, loss ratio results for the experience period at issue shall be conducted and filed with the Commissioner on an annual basis. The audit must be conducted during the second quarter of the year following the end of the experience period and be filed with the Commissioner no later than June 30 of that year.

4.2 The audit must include at minimum:

- (A) a statement of the durational and lifetime loss ratio guarantees;
- (B) a statement of the earned premium and incurred claims for the audited experience period;
- (C) a statement of the experience by duration of the most recent calendar year;
- ~~(C)~~ (D) a statement of claim reserves included in incurred claims;
- ~~(D)~~ (E) a statement that no active life reserves are included in the calculation of the actual loss ratio;
- ~~(E)~~ (F) a statement that no reinsurance premiums are included in the calculation of the actual loss ratio;

~~(F)~~ (G) a statement of refunds paid during any previous years; and

~~(G)~~ (H) a statement of any refunds due for the current experience period and the calculation of the refunds due.

§ 114-31-5. Rejection or Cancellation of Loss Ratio Guarantee

5.1 The commissioner may reject a loss ratio guarantee or cancel an existing loss ratio guarantee for any of the following reasons which shall be a non-exclusive list:

(A) The insurer has demonstrated an inability to adequately monitor its loss ratios;

(B) The insurer has failed to take timely rate increases in accordance with sound actuarial principles during the three-year period prior to filing the loss ratio guarantee;

(C) The insurer has not complied with the terms of a previously filed loss ratio guarantee;

(D) The insurer has submitted false, misleading or fraudulent material or information to the commissioner;

(E) The insurer is impaired, insolvent, in hazardous financial condition or such other similar financial condition as defined in West Virginia Code Chapter Thirty-Three, Article Ten, Article Twenty-Four or Article Thirty-Four A [ §§ 33-10-1 et seq., 33-24-1 et seq., 33-34A-1, et seq. ], or any other article of this chapter;

(F) The commissioner determines that the insurer has not complied with the provisions of the guarantee or this article.

(G) The insurer's data reflects a guaranteed loss ratio of less than fifty-five percent;

(H) The insurer has failed to comply with § 33-6-34, form and rate filing fee requirement or other department filing procedure;

(I) The insurer fails to provide information, data, or documentation reasonably requested by the commissioner;

(J) The insurer violates any provision of West Virginia Code Chapter Thirty-Three (§ 33-1-1 et seq.) or the rules and regulations promulgated thereunder;

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Series 31, Sec. 5

(K) The insurer refuses to permit the commissioner to examine and copy such records as the commissioner deems necessary to determine compliance with West Virginia Code Chapter Thirty-Three, Article Six C (§ 33-6C-1 et seq.)

(L) The insurer fails or refuses to pay the reasonable costs of the commissioner arising out of the commissioner's examination of the insurer's records to determine compliance with Chapter Thirty-Three, Article Six C (§ 33-6C-1 et seq.)

~~§-114-31-5.~~ § 114-31-6. Separability

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

INSURANCE COMMISSIONER

STATE OF WEST VIRGINIA

GUARANTEED LOSS RATIOS  
INDIVIDUAL SICKNESS AND ACCIDENT INSURANCE POLICIES

INSTRUCTIONS: All questions must be answered; if no answer is applicable, enter the reason for such determination.

- I. Policy form number: \_\_\_\_\_
- II. Anticipated lifetime and durational target loss ratios contained in the original actuarial memorandum filed with the policy form when it was originally approved: \_\_\_\_\_  
\_\_\_\_\_
- III. First calendar year in which the loss ratio guarantee is to be effective: \_\_\_\_\_  
\_\_\_\_\_
- IV. Source and dates of data used in determining lifetime and durational target loss ratios and credibility data: \_\_\_\_\_  
\_\_\_\_\_
- V. Name and qualifications of the independent auditor who will perform the annual audit: \_\_\_\_\_  
\_\_\_\_\_
- VI. Attach a sample calculation and illustration of the refund methodology used to comply with the Insurance Commissioner's regulation (Title 114, Series 31) entitled "Guaranteed Loss Ratios as Applied to Individual Accident and Sickness Insurance Policies."
- VII. Guarantees:
  - (A) The actual West Virginia loss ratios for the experience period in which the new rates take effect, and for each experience period thereafter until new rates are filed, will meet or exceed the anticipated lifetime and durational target loss ratios contained in the original actuarial memorandum noted above.

- (B) The actual West Virginia, or, if applicable, national, loss ratio results for the experience period at issue will be independently audited, at this company's expense, as described more fully in Section 4 of the Insurance Commissioner's regulation in Title 114, Series 31.
- (C) If the actual loss ratio during an experience period is less than the anticipated loss ratio for that period, West Virginia policyholders shall receive proportional refunds based on premium earned, which refunds shall be calculated and paid pursuant to West Virginia Code §33-6C-5.
- (D) This company does not engage in any discriminatory practices prohibited by West Virginia Code §33-11-4 [part of the West Virginia Unfair Trade Practices Act], or any such practice which discriminates against any individual on the basis of his or her legal occupation, race, religion or residence.

I hereby certify that the information and guarantees contained in this application are true and correct to the best of my knowledge and belief.

Company Officer's Signature: \_\_\_\_\_

(TITLE): \_\_\_\_\_

(DATE): \_\_\_\_\_



WEST VIRGINIA LEGISLATURE  
 LEGISLATIVE RULE-MAKING REVIEW COMMITTEE  
 Room M-152, State Capitol  
 Charleston, West Virginia 25305  
 (304) 340-3286

Senator William R. Wooton, Co-Chair  
 Delegate David Grubb, Co-Chair

Debra A. Graham, Counsel  
 Michael McThomas, Associate Counsel  
 Marie Nickerson, Admr. Assistant

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

January 7, 1992

TO: Ken Hechler, Secretary of State, State Register

TO: Mr. Hanley C. Clark  
 Insurance Commissioner  
 2019 Washington Street, East  
 Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Guaranteed Loss Ratios as Applied to Individual  
 Accident and Sickness Insurance Policies

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed \_\_\_\_\_
  - (b) as modified by the agency     X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. \_\_\_\_\_
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. \_\_\_\_\_

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: B. Keith Huffman, General Counsel