

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #3

RECEIVED  
1992 SEP 18 PM 4:07  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**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 West Virginia Code §§ 33-2-10, 33-3-13(b), 33-3-16(a),  
33-32-4(e) and (f), and 33-32-17(e)  
AMENDMENT TO AN EXISTING RULE: YES  NO

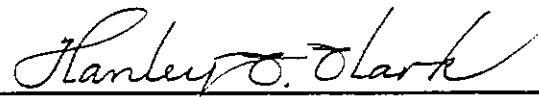
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

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

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 34

TITLE OF RULE BEING PROPOSED: Filing Fees for Purchasing Groups,  
and for Risk Retention Groups Not Chartered in this State.

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

4140



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON  
Governor

HANLEY C. CLARK  
Insurance Commissioner

September 18, 1992

RECEIVED  
1992 SEP 18 PM 4:07  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

HAND DELIVERED

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

Dear Ms. Cooper:

Enclosed please find for filing: the "Notice of Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee," "Description of Rule," "Legislative Rule-Making Review Committee Questionnaire" and a copy of the agency-approved rule entitled "Filing Fees for Purchasing Groups, and for Risk Retention Groups Not Chartered in this State" for Series 34, Title 114.

Very truly yours,

*Linda Gay*  
Linda Gay  
Associate Counsel

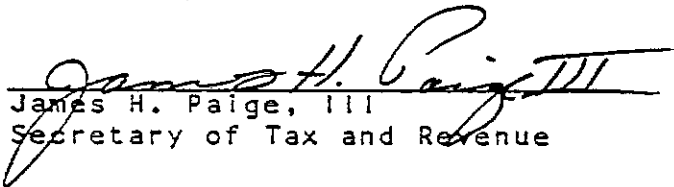
LG/fs  
Enclosures

CONSENT TO PROPOSAL OF RULE

To Whom It May Concern:

Pursuant to West Virginia Code § 5F-2-2(a)(12), the undersigned hereby grants consent to the proposal of the following rule proposed by the Insurance Commissioner of the State of West Virginia: Title 114, Series 34, Filing Fees for Purchasing Groups, and for Risk Retention Groups Not Chartered in West Virginia.

Dated this 30 day of July, 1992.

  
James H. Paige, III  
Secretary of Tax and Revenue

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE  
FROM: OFFICE OF THE INSURANCE COMMISSIONER  
DATE: September 18, 1992

LEGISLATIVE RULE TITLE: Filing Fees for Purchasing Groups, and  
for Risk Retention Groups Not Chartered  
in this State (Title 114, Series 34)

DESCRIPTION OF RULE

This proposed rule implements the provisions of West Virginia Code §§ 33-32-4 and 33-32-17, which require the registration of all purchasing groups, and risk retention groups not chartered in West Virginia. The Insurance Commissioner is statutorily required to assess such registration and filing fees which are designated for use in the operation of the Insurance Department. This rule imposes a \$200 registration processing fee for such purchasing groups and risk retention groups, and a \$100 annual financial statement filing fee for such risk retention groups. It also requires submission of a \$50 fee upon the filing of any registration materials modification by either type of the aforementioned entities.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Filing Fees for Purchasing Groups, and for  
Risk Retention Groups Not Chartered in this State  
(Title 114, Series 34)

Type of Rule: XX Legislative \_\_\_\_\_ Interpretive \_\_\_\_\_ Procedural

Agency: Insurance Commissioner Address: Post Office Box 50540  
2019 Washington Street, East,  
Charleston, WV 25305-0540

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	ANNUAL	FISCAL YEAR			
1. Effect of Proposed Rule	Increase	Decrease	Current	Next	Thereafter

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Estimated Total Cost	NONE
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Personal Services

Current Expense

Repairs & Alterations NONE

Equipment

Other

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2. Explanation of above estimates:

The proposed rule will have no cost impact on state, local, or federal government.

3. Objectives of these rules:

The objective of this rule is to implement filing fee requirements for purchasing groups and risk retention groups not chartered in this State, as required by Article 32, Chapter 33 of the West Virginia Code as amended by the 1992 Legislature.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic impact on State Government.

Implementation of this rule should allow the Commissioner to collect approximately \$60,000.00 in filing fees annually.

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

NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date: Aug. 7, 1992

Signature of Agency Head or Authorized Representative

Hanley C. Clark  
Hanley C. Clark  
Insurance Commissioner

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE  
FROM: OFFICE OF THE INSURANCE COMMISSIONER  
DATE: SEPTEMBER 18, 1992

LEGISLATIVE RULE TITLE: Filing Fees for Purchasing Groups, and for Risk Retention Groups Not Chartered in this State (Title 114, Series 34)

1. Authorizing statute(s) citation West Virginia Code  
§§ 33-2-10, 33-3-13(b), 33-3-16(a), 33-32-4(e) and (f)  
and 33-32-17(e)
  
2. a. Date filed in State Register with Notice of Hearing:  
August 10, 1992
  
- b. What other notice, including advertising, did you give of the hearing?  
None
  
- c. Date of hearing(s): The public comment period ended  
on September 11, 1992 at 4:30 p.m.
  
- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.  
Attached \_\_\_\_\_ No comments received XX
  
- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)  
September 18, 1992
  
- f. Name and phone number of agency person to contact for additional information:  
Linda Gay  
Associate Counsel  
(304) 558-0401

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

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

d. Attach findings and determinations and reasons:

Attached Not applicable



114CSR34

TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 34  
FILING FEES FOR PURCHASING GROUPS, AND FOR  
RISK RETENTION GROUPS NOT CHARTERED IN THIS STATE

Section

- 114-34-1. General
- 114-34-2. Registration Fees for Purchasing Groups, and for Risk Retention Groups Not Chartered in this State
- 114-34-3. Annual Financial Statement Filing Fees for Risk Retention Groups Not Chartered in this State
- 114-34-4. Retaliatory Fee Increases for Risk Retention Groups Not Chartered in this State
- 114-34-5. Fees Designated for Insurance Department Operation
- 114-34-6. Separability

TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 34  
FILING FEES FOR PURCHASING GROUPS, AND FOR  
RISK RETENTION GROUPS NOT CHARTERED IN THIS STATE

§ 114-34-1. General

1.1. Scope. -- This legislative rule implements the provisions of West Virginia Code §§ 33-32-17 and 33-32-4 relating to all purchasing groups, and to risk retention groups not chartered in this State. The rule establishes the amounts of registration fees to be paid by both types of entities, as well as the amounts of annual financial statement filing fees to be paid by such risk retention groups. It also provides for increases in the aforementioned fees for risk retention groups chartered in other jurisdictions that impose higher analogous fees on risk retention groups domiciled in West Virginia.

1.2. Authority. -- West Virginia Code §§ 33-2-10, 33-3-13(b), 33-3-16(a), 33-32-4(e) and (f), and 33-32-17(e)

1.3. Filing Date. --

1.4. Effective Date. --

§ 114-34-2. Registration Fees for Purchasing Groups, and for Risk Retention Groups Not Chartered in this State

2.1. Each purchasing group seeking to do business in this State, and each risk retention group not chartered in this State but seeking to do business in West Virginia, shall remit a two hundred dollar (\$200) processing fee upon the initial filing of registration materials with the Insurance Commissioner.

2.2. Each insuring entity described in Section 2.1 above shall remit a fifty dollar (\$50) processing fee upon the filing of any registration materials modification with the Insurance Commissioner.

§ 114-34-3. Annual Financial Statement Filing Fees for Risk Retention Groups Not Chartered in this State

Each risk retention group not chartered in this State, but registered or seeking to register with the Insurance Commissioner to do business as a risk retention group in West Virginia, shall remit a one hundred dollar (\$100) fee upon filing with the Commissioner its annual financial statement required by West Virginia Code § 33-32-4(e)(1).

Insurance Commission  
Legislative Rule  
Title 114, Series 34

**§ 114-34-4. Retaliatory Fee Increases for Risk Retention Groups Not Chartered in this State**

The retaliatory provisions of West Virginia Code § 33-3-16(a) apply to risk retention groups chartered in other jurisdictions that impose registration fees and annual financial statement filing fees upon West Virginia-domiciled risk retention groups that are higher than the analogous fees imposed by this rule upon foreign risk retention groups doing business or seeking to do business in West Virginia. Therefore, a risk retention group chartered in a jurisdiction imposing such higher fees upon West Virginia-domiciled risk retention groups shall remit to the Insurance Commissioner fees equivalent to the registration fees and annual statement filing fees, or their counterparts, imposed by its domiciliary jurisdiction upon a risk retention group chartered in West Virginia and doing business or seeking to do business in its domiciliary jurisdiction.

**§ 114-34-5. Fees Designated for Insurance Department Operation**

All fees remitted by purchasing groups, and by risk retention groups not chartered in this State, pursuant to this rule are designated by West Virginia Code § 33-3-13(b) for use by the Insurance Commissioner in operating the Insurance Department of this State.

**§ 114-34-6. 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 provision to other persons or circumstances shall not be affected thereby.



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON  
Governor

HANLEY C. CLARK  
Insurance Commissioner

October 13, 1992

Debra A. Graham, Esquire  
Counsel  
West Virginia Legislative  
Rule-Making Review Committee  
Building 1, Room 152  
1900 Kanawha Boulevard, East  
Charleston, WV 25305

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

OCT 14 1 43 PM '92

FILED

Re: Agency-Approved Rule Entitled "Filing Fees for Purchasing  
Groups, and for Risk Retention Groups Not Chartered in  
this State" (Title 114, Series 34)

Dear Ms. Graham:

Pursuant to our October 7, 1992 telephone conversation, enclosed please find corrected second pages of the letter dated September 18, 1992 that I sent to you and your former associate counsel, Michael McThomas, regarding the above-captioned rule. Please have the enclosed pages substituted in your files for page 2 of the aforementioned letter, which contains a clerical error in the first line. By copies of this letter to Deputy A. Renee Coe and Ms. Judy Cooper of the Secretary of State's Office, I am forwarding to them corrected copies of the same page for substitution in their files.

As we discussed in our October 7, 1992 telephone conversation, no meeting of the Legislative Rule-Making Review Committee (LRMRC) is being scheduled during October. You stated that you will place the Insurance Commissioner's above-styled legislative rule on the tentative agenda for the LRMRC's November meeting, under the category of "Other Business." The Commissioner would greatly appreciate the LRMRC reviewing this fee-setting rule at its November meeting, after which he hopes the LRMRC will recommend to the Secretary of State that the rule take effect on an emergency basis.

I also understand from our discussion that Marjorie Martorella, an attorney for the House of Delegates, has been assigned to abstract and present the Insurance Commissioner's current agency-approved rules to the LRMRC at its upcoming meetings. If you or Ms. Martorella have any questions or desire additional information about any of those rules, please do not hesitate to call me. I look forward to working with both of you.

Very truly yours,  
*Linda Gay/gj*  
Linda Gay  
Associate Counsel

Enclosures

cc: A. Renee Coe, Deputy Secretary of State (with enclosures)  
Ms. Judy Cooper, Secretary of State's Office (with enclosures)  
Marjorie Martorella, Esquire (without enclosure)

Debra A. Graham, Esquire  
Michael P. McThomas, Esquire  
September 18, 1992  
Page 2

it should be given emergency status, the LRMRC would make a recommendation to that effect to the Secretary of State.

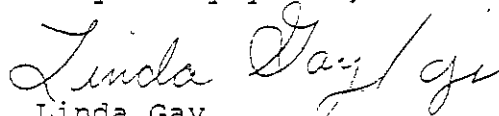
The Insurance Commissioner received no comments on the rule during the public comment period which ended September 11, 1992. We did not anticipate that the rule would create any controversy, as many other states require purchasing groups and risk retention groups to pay similar fees.

Pursuant to the aforesaid agreement among the above-named staff members from the Insurance Commission, the Secretary of State's Office, and the LRMRC, the Insurance Commissioner respectfully requests that the LRMRC consider this fee-setting rule at its October 1992 meeting. The Commissioner also requests that after it has considered this agency-approved rule, the LRMRC send a letter to the Secretary of State recommending that this rule take effect immediately on an emergency basis.

The Commissioner will be unable to collect any registration or annual statement filing fees pursuant to the 1992 amendments to West Virginia Code §§ 33-32-4(f) and 33-32-17(e) (which became effective July 1, 1992) until this fee-setting rule takes effect. These fees will be paid by out-of-state risk retention groups, and by purchasing groups that are also headquartered almost exclusively outside West Virginia.

Thank you for your assistance and cooperation regarding this matter. If you or the LRMRC members desire any further information regarding this agency-approved rule or the Insurance Commissioner's request that the rule be given expedited consideration, please do not hesitate to call me.

Very truly yours,

  
Linda Gay  
Associate Counsel

LG/cjs

Enclosure

cc: A. Renee Coe, Esquire,  
Deputy Secretary of State (without enclosure)

Ms. Judy Cooper, Office  
of the Secretary of State (without enclosure)