

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #6

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OFFICE OF THE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE  
AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

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 RULE BEING PROPOSED: 41A

TITLE OF RULE BEING PROPOSED: Property and Casualty Actuarial Opinion

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 177

SECTION 64-7-2(f), PASSED ON March 12, 2011

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE

FOLLOWING DATE: June 10, 2011



Charles O. Lorensen  
Cabinet Secretary  
West Virginia Department of Revenue

**TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER**

**SERIES 41A  
PROPERTY AND CASUALTY ACTUARIAL OPINION**

**Section.**

- 114-41A-1. General.
- 114-41A-2. Actuarial Opinion of Reserves and Supporting Documentation.
- 114-41A-3. Confidentiality.

**TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER**

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**SERIES 41A  
PROPERTY AND CASUALTY ACTUARIAL OPINION**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§114-41A-1. General.**

1.1. Scope. -- This rule applies to all property and casualty insurance companies and fraternal benefit societies doing business in this State and to all property and casualty insurance companies and fraternal benefit societies that are authorized to reinsure property and casualty businesses in this State. This rule is based on the "Property and Casualty Actuarial Opinion Model Law (Model 745)," as adopted by the National Association of Insurance Commissioners (NAIC) in 2003 and amended in 2009.

1.2. Authority. -- W.Va. Code §33-2-10.

1.3. Filing Date. -- May 10, 2011.

1.4. Effective Date. -- June 10, 2011.

**§114-41A-2. Actuarial Opinion of Reserves and Supporting Documentation.**

2.1. This section shall become operative with respect to reporting years ending on or after December 31, 2011.

2.2. Statement of Actuarial Opinion. Every property and casualty insurance company doing business in this state, unless otherwise exempted by the Insurance Commissioner of this state or the commissioner in the state where the company is domiciled, shall annually submit the opinion of an Appointed Actuary entitled "Statement of Actuarial Opinion." This opinion shall be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions.

2.3. Actuarial Opinion Summary.

2.3.a. Every property and casualty insurance company domiciled in this state that is required to submit a Statement of Actuarial Opinion shall annually submit an Actuarial Opinion Summary, written by the company's Appointed Actuary. This Actuarial Opinion Summary shall be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and shall be considered as a document supporting the Actuarial Opinion required in subsection 2.2 of this rule.

2.3.b. A company licensed but not domiciled in this state shall provide the Actuarial Opinion Summary upon request.

## 2.4. Actuarial Report and Workpapers

2.4.a. An Actuarial Report and underlying workpapers as required by the appropriate NAIC Property and Casualty Annual Statement Instructions shall be prepared to support each Actuarial Opinion.

2.4.b. If the insurance company fails to provide a supporting Actuarial Report and/or workpapers at the request of the Commissioner or the Commissioner determines that the supporting Actuarial Report or workpapers provided by the insurance company are otherwise unacceptable to the Commissioner, the Commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting Actuarial Report or workpapers.

2.5. The Appointed Actuary shall not be liable for damages to any person (other than to the insurance company and the commissioner) for any act, error, omission, decision or conduct with respect to the actuary's opinion, except in cases of fraud or willful misconduct on the part of the Appointed Actuary.

### **§114-41A-3. Confidentiality.**

3.1. The Statement of Actuarial Opinion shall be provided with the Annual Statement in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and shall be treated as a public document.

3.2. In order to assist in the performance of the Commissioner's duties, he or she may:

3.2.a. Share documents, materials or other information, including confidential and privileged documents, materials or information, with the Actuarial Board for Counseling and Discipline (ABCD) so long as the material is required for the purpose of professional disciplinary proceedings, with other states, federal and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information and has the legal authority to maintain confidentiality;

3.2.b. Receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

3.2.c. Enter into agreements governing sharing and use of information consistent with subsection 3.2 of this rule.

3.3. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection 3.2 of this rule.