

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In this Box
FILED

2005 JUN 22 A 11: 04

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Insurance Commissioner TITLE NUMBER: 114

RULE TYPE: Legislative CITE AUTHORITY W. Va. Code §§ 33-2-10 & 33-17A-4a

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

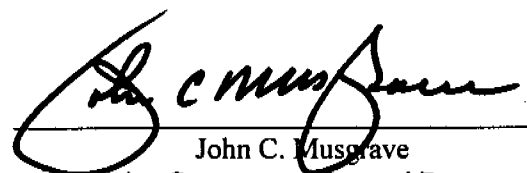
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 74

TITLE OF RULE BEING PROPOSED: Nonrenewal of Property Insurance Policies

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 22, 2005 AT 5:00 PM ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Timothy Murphy, Associate Counsel
West Virginia Insurance Commission
P.O. Box 50540
Charleston, WV 25305-0540

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


John C. Musgrave
Acting Secretary of Tax and Revenue

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$3.80

Insurance Commissioner
Legislative Rule
Title 114, Series 74

NONRENEWAL OF PROPERTY INSURANCE POLICIES

TITLE 114, SERIES 74

BRIEF SUMMARY OF RULE

This proposed rule is a new rule addressing homeowner policy nonrenewals, to be designated Series 74 and entitled "Nonrenewal of Property Insurance Policies." Senate Bill 30 (RS 2005) established an alternative method for nonrenewal of property insurance policies under which insurers could elect to nonrenew up to 1% of their policies each year on the basis of their underwriting principles rather than being limited (with respect to "mature" policies 4 years or older) to the statutory reasons set forth in W. Va. Code §33-17A-5. A policyholder who is nonrenewed under this new percentage method will have an opportunity to contest the insurer's action, but the insured's rights are limited to contesting only certain matters specifically set forth in the statute, e.g. does the nonrenewal cause this insurer to exceed the 1% limit. The proposed rule sets forth the elements of hearings to contest these nonrenewals. The rule also provides some specific guidance with regard to the new requirement that property insurers file their underwriting standards.

Insurance Commissioner
Legislative Rule
Title 114, Series 74

NONRENEWAL OF PROPERTY INSURANCE POLICIES

TITLE 114, SERIES 74

STATEMENT OF CIRCUMSTANCES

Senate Bill 30 (RS 2005), which establishes an alternative method for nonrenewal of property insurance policies, limits the grounds on which such nonrenewals can be contested. The proposed rule establishes guidelines for proceedings instituted to contest such nonrenewals; an emergency rule is necessary because hearings to contest such actions could be held as early as this year.

SB 30 also specifically authorizes the Commissioner to promulgate legislative rules to implement the provisions regarding the requirement that property insurers file their underwriting standards. See W. Va. Code §33-17A-4a(g) (2005).

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Nonrenewal of Property Insurance Policies (Title 114, Series 74)

Type of Rule: X Legislative Interpretive Procedural

Agency: Insurance Commissioner

Address: Post Office Box 50540
1124 Smith Street, Greenbrooke Building
Charleston, West Virginia 25305-0540

Phone Number: (304) 558-0401 Email: Timothy.Murphy@wvinsurance.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule will have no additional fiscal impact upon state government.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	2005 Increase/Decrease (use "-")	2006 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	None	None	None
Personal Services	None	None	None
Current Expenses	None	None	None
Repairs & Alterations	None	None	None
Assets	None	None	None
Equipment	None	None	None
Other	None	None	None
2. Estimated Total Revenues	None	None	None

Rule Title: Nonrenewal of Property Insurance Policies (Title 114, Series 74)

3. Explanation of above estimates (including long-range effect):
Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: June 21, 2005

Signature of Agency Head or Authorized Representative

Jane L. Cline
Jane L. Cline, Insurance Commissioner

114CSR3

**LEGISLATIVE RULE
INSURANCE COMMISSIONER**

**SERIES 74
NONRENEWAL OF PROPERTY
INSURANCE POLICIES**

Section

- 114-74-1. General.
- 114-74-2. Notice of Cancellation or Nonrenewal.
- 114-74-3. Hearing Regarding Nonrenewal.
- 114-74-4. Filing of Underwriting Guidelines.

114CSR3

FILED

LEGISLATIVE RULE
INSURANCE COMMISSIONER

2005 JUN 22 A 11: 04

SERIES 74
NONRENEWAL OF PROPERTY
INSURANCE POLICIES

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§114-74-1. General.

1.1. Scope. -- This rule addresses various aspects of the alternative percentage method for the nonrenewal of property insurance policies set forth in W. Va. Code §33-17A-4a (2005), including requirements for the nonrenewal notices, the establishment of the procedure for resolving complaints by persons whose property insurance policies have been nonrenewed and the filing of underwriting standards by insurers.

1.2. Authority. -- W. Va. Code §§33-2-10 and 33-17A-4a (2005).

1.3. Filing Date. --

1.4. Effective Date. --

§114-74-2. Notice of Cancellation or Nonrenewal.

2.1. All nonrenewal notices issued by insurers pursuant to W. Va. Code §33-17A-4a (2005) shall state the specific reason or reasons for refusal to renew and shall advise the insured that nonrenewal of the policy for any reason is subject to a hearing and review by the Insurance Commissioner as provided in W. Va. Code §33-17A-7 (2005). The notice shall also advise the insured of possible eligibility for coverage through the West Virginia Essential Property Insurance Association or "Fair Plan." The written reason or reasons in a notice of nonrenewal must be sufficiently clear to be understood by a reasonable person; statements such as "underwriting reasons," "claims" or "increase in risk" will not be considered sufficiently clear. Nothing in this rule will prevent the insurer from providing more information in the notice relating to the reason or reasons for nonrenewal than is required by this section.

§114-74-3. Hearing Regarding Nonrenewal.

3.1. Hearing at request of policyholder or insurer. The commissioner shall review each complaint from every insured whose property insurance policy has been nonrenewed pursuant to the percentage method set forth in W. Va. Code §33-17A-4a and shall send to both the

Insurance Commissioner
Legislative Rule
Title 114, Series 74

complainant and the insurer a notice as to whether the commissioner has found any violation of W. Va. Code §33-17A-4a(e). Within thirty (30) days of the date on which such notice was mailed, either party may demand a formal hearing before the commissioner.

3.2. Hearing called by Commissioner. If, after review of the complaint, the commissioner feels a hearing is necessary to resolve the complaint, he or she may call a hearing by virtue of the authority provided in W. Va. Code §33-2-13.

3.3. Hearing. The hearing, whether it be initiated by the complainant, the insurer or the commissioner, shall be conducted in accordance with the procedures set forth in 114 CSR 13. The subject matter of the hearing will be limited to the following issues:

- a. Whether the nonrenewal notice provided at least thirty (30) days advance notice to the named insured of the insurer's intent to nonrenew the policy;
- b. Whether the decision to refuse to renew was based on a discriminatory reason;
- c. Whether the nonrenewal notice was based upon an underwriting standard found to be in violation of chapter thirty-three of the West Virginia Code; or
- d. Whether the nonrenewal causes the insurer to exceed the percentage limitation set forth in W. Va. Code §33-17A-4a(d) for either the state or the county of the policyholder's residence.

§114-74-4. Filing of Underwriting Guidelines.

4.1. Each insurer writing property insurance policies in this state shall file with the Commissioner a copy of its underwriting standards for property insurance and any subsequent modifications to the insurer's underwriting standards within thirty (30) business days after the modifications have been implemented. The commissioner will review these standards to ensure consistency with generally accepted underwriting principles.