

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

Form #3

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2005 JUL 29 P 1:49

OFFICE 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: W. Va. Code §§33-2-10 and 33-17A-4a

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 RULE BEING PROPOSED: 74

TITLE OF RULE BEING PROPOSED: Nonrenewal of Property Insurance Policies

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.

  
Authorized Signature

## QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

**DATE:** July 29, 2005

**TO:** LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

**FROM:** OFFICE OF THE INSURANCE COMMISSIONER  
ATTN: Legal Division  
1124 Smith Street  
Post Office Box 50540  
Charleston, West Virginia 25305-0540

**LEGISLATIVE RULE TITLE:** NONRENEWAL OF PROPERTY INSURANCE POLICIES  
(TITLE 114, SERIES 74)

**1. Authorizing statute(s) citation:**

W. Va. Code §§33-2-10 and 33-17A-4a.

**2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:**

June 22, 2005 - Comment Period.

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

None

**c. Date of Public Hearing(s) or Public Comment Period ended:**

Comment period ended July 22, 2005.

**d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.**

Attached \_\_\_\_\_ No comments received  X

**e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)**

July 29, 2005

Insurance Commissioner  
Title 114, Series 74

- f. **Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)**

Timothy Murphy, Associate Counsel  
West Virginia Insurance Commission  
Legal Division  
P.O. Box 50540  
Charleston, WV 25305-0540  
Phone: (304) 558-0401  
Fax: (304) 558-1362  
E-mail: Timothy.Murphy@wvinsurance.gov

- g. **IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)**

Same

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 or comment period:**

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:**

Not applicable

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.

<b>FISCAL YEAR</b>			
Effect of Proposal	2006 Increase/Decrease (use "-")	2007 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	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
<b>2. Estimated Total Revenues</b>	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: July 29, 2005

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_  
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.

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SECRETARY OF STATE

114CSR3

LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 74  
NONRENEWAL OF PROPERTY  
INSURANCE POLICIES

**§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.