

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

Form #2

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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 & 33-20-4a

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

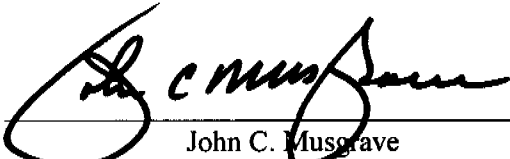
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 75

TITLE OF RULE BEING PROPOSED: Private Passenger Automobile and Property Insurance -
Biannual Rate Filing Requirements

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

\$3.60

Insurance Commissioner
Legislative Rule
Title 114, Series 75

**PRIVATE PASSENGER AUTOMOBILE AND PROPERTY
INSURANCE - BIENNIAL RATE FILINGS**

TITLE 114, SERIES 75

BRIEF SUMMARY OF RULE

The proposed rule will establish procedures by which certain insurers providing non-commercial automobile and property insurance are required to make biennial rate filings. See W. Va. Code §33-20-4a. Under present law, these insurers only make rate filings when an initial or new rate is being proposed. This rule will set forth which insurers must make the filings, when the filings must be made and what the filings must include.

Insurance Commissioner
Legislative Rule
Title 114, Series 75

**PRIVATE PASSENGER AUTOMOBILE AND PROPERTY
INSURANCE - BIENNIAL RATE FILINGS**

TITLE 114, SERIES 75

STATEMENT OF CIRCUMSTANCES

The proposed rule will implement Senate Bill 418 (RS 2005), which provides that "the [Insurance] Commissioner shall promulgate legislative rules" on or before July 1, 2005, to establish procedures by which certain insurers providing non-commercial automobile and property insurance are required to make biennial rate filings. See W. Va. Code §33-20-4a (2005).

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Private Passenger Automobile and Property Insurance - Biannual Rate Filings
(Title 114, Series 75)

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: Biannual Rate Filings for Non-Commercial Automobile and Property Insurers
(Title 114, Series 75)

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

114CSR75

**LEGISLATIVE RULE
INSURANCE COMMISSIONER**

**SERIES 75
PRIVATE PASSENGER AUTOMOBILE AND PROPERTY INSURANCE -
BIANNUAL RATE FILING REQUIREMENTS**

Section

- 114-75-1. General.
- 114-75-2. Applicability.
- 114-75-3. Biannual Rate Filing Periods; Information Required To Be Reported.
- 114-75-4. Penalties.
- 114-75-5. Severability.

114CSR75

FILED

LEGISLATIVE RULE
INSURANCE COMMISSIONER

2005 JUN 22 A 11: 04

SERIES 75
PRIVATE PASSENGER AUTOMOBILE AND PROPERTY INSURANCE -
BIANNUAL RATE FILING REQUIREMENTS

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§114-75-1. General.

1.1. Scope -- This rule establishes guidelines and procedures under which every insurer providing five percent (5%) or more of the insurance in West Virginia for private passenger automobiles or property used for personal or family needs shall submit rate filings on a biannual basis.

1.2. Authority -- W. Va. Code §§33-2-10 and 33-20-4a (2005).

1.3. Filing Date --

1.4. Effective Date --

§114-75-2. Applicability.

2.1. Insurers subject to biannual rate filing requirements. This rule applies to each insurer that provided five percent (5%) or more of the total insurance in West Virginia on either private passenger automobiles or on property used for personal or family needs.

a. "Insurance on private passenger automobiles" means a policy providing automobile liability insurance for a private passenger automobile.

b. "Property used for personal or family needs" means a policy providing property insurance which insures against loss of or damage to real property which is used predominantly for the residential purposes of the named insured, loss of or damage to personal property in which the named insured has an insurable interest where the personal property is used for personal, family or household purposes, and the personal property which is within a residential dwelling.

2.2. Notification by the commissioner. The commissioner shall, on or before August 1, 2005, and annually thereafter, notify in writing those insurers that he or she has determined are subject to biannual rate filing requirements under subsection 2.1 of this section of their obligation to make a rate filing in accordance with section 3 of this rule.

**Insurance Commissioner
Legislative Rule
Title 114, Series 75**

2.3. Method of determination. The commissioner shall determine which insurers are subject to the filing requirement by comparing every insurer's gross direct written premiums in West Virginia during the preceding calendar year for each of the two types of insurance described in subdivisions a and b, subsection 2.1 of this section with the total of all such premiums for that year reported by all companies for that type in West Virginia. Each insurer that is determined to have provided five percent (5%) or more of the total insurance for either type of insurance will be subject to the filing requirements of subsections 3.1 and 3.2 of this rule.

§114-75-3. Biannual Rate Filing Periods; Information Required To Be Reported.

3.1. Rate filing deadlines. Each insurer subject to the filing requirement shall submit a rate filing to the commissioner both on or before September 30 and on or before March 31 in the year subsequent to receipt of the notice issued in accordance to subsection 2.2 of this rule.

3.2. Rate filing requirements. Insurers shall submit rate filings in accordance with the provisions of W. Va. Code §33-20-4 and WV 114CSR67 and shall include any other relevant information required by the commissioner.

§114-75-4. Penalties.

4.1. Failure to submit rate filing. Any insurer that fails to timely submit the rate filing specified in subsection 3.2 of this rule shall be fined one hundred dollars (\$100.00) for each day the rate filing is late. The commissioner may waive or reduce this penalty if he or she determines that the failure to timely file was caused by excusable neglect; however, the assessment of a penalty under this section is automatic unless a waiver or reduction of the penalty is agreed to by the commissioner in writing.

§114-75-5. Severability.

5.1. If any provision of this rule is held invalid, the remainder of the rule shall not be affected thereby.