

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

Form #7

Do not mark in this box
Filing Date

FILED

2005 JUN 22 A 11:01

OFFICE WEST VIRGINIA
SECRETARY OF STATE
Effective Date

NOTICE OF AN EMERGENCY RULE

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY W. Va. Code §§ 33-2-10 and 33-20-4a

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

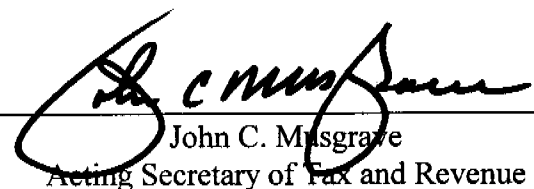
IF NO, SERIES NUMBER OF RULE BEING FILED AS AN EMERGENCY: 75

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

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

PLEASE SEE ATTACHED


John C. Misgrave
Acting Secretary of Tax and Revenue

Use additional sheets if necessary

#4.20

**TITLE 14, SERIES 75
EMERGENCY RULE**

FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY:

Senate Bill 418 (adding W. Va. Code §33-20-4a) 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 biannual rate filings. Inasmuch as a legislative rule could not be promulgated until the Legislature meets in 2006, an emergency rule is necessarily the only means by which a rule can be promulgated within the next month. This rule is a component of the overall insurance and civil justice reforms enacted by the 2005 Legislature that were aimed at reducing the costs of insurance to consumers. By requiring certain large insurers to submit periodic rate filings, these companies will be forced to continually justify their rates. Any rate that cannot be justified will be reduced, resulting in immediate savings to the policyholders and creating pressure on other companies to reduce their rates.

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:

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

EMERGENCY RULE TITLE: 114 CSR Series 75, "Private Passenger Automobile and Property Insurance - Biannual Rate Filings"

1. Date of Filing:

June 22, 2005.

2. Statutory authority for promulgating emergency rule:

W. Va. Code §33-20-4a (a new section added by Senate Bill 418, which was enacted during the 2006 regular session of the West Virginia Legislature).

3. Date of filing of proposed legislative rule:

June 22, 2005.

4. Does the emergency rule adopt new language or does it amend or repeal a current legislative rule?

New rule

5. Has the same or similar emergency rule previously been filed and expired?

No

6. **State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety and welfare.**

N/A

7. **If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.**

W. Va. Code §33-20-4a 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 biannual rate filings.

8. **State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to public interest.**

This rule is a component of the overall insurance and civil justice reforms enacted by the 2005 Legislature that were aimed at reducing the costs of insurance to consumers. By requiring certain large insurers to submit periodic rate filings, these companies will be forced to continually justify their rates. Any rate that cannot be justified will be reduced, resulting in immediate savings to the policyholders and creating pressure on other companies to reduce their rates.

Insurance Commissioner
Emergency Rule
Title 114, Series 75

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

TITLE 114, SERIES 75

BRIEF SUMMARY OF RULE

The proposed emergency rule will establish procedures by which certain insurers providing non-commercial automobile and property insurance are required to make biannual 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
Emergency Rule
Title 114, Series 75

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

TITLE 114, SERIES 75

STATEMENT OF CIRCUMSTANCES

The proposed emergency 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 biannual 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: Legislative Interpretive Procedural Emergency

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 emergency 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

**EMERGENCY 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

**EMERGENCY RULE
INSURANCE COMMISSIONER**

FILED

2005 JUN 22 A 11: 01

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

OFFICE WEST VIRGINIA
INSURANCE 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
Emergency 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 emergency rule is held invalid, the remainder of the rule shall not be affected thereby.