

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

Form #2

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2006 MAY 31 P 1:40

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 WV Code §§33-2-10 & 33-20-3(e)(2)(B)

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: 77

TITLE OF RULE BEING PROPOSED: Rate Filing Requirements For Title Insurance Companies

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 6/30/06 AT noon. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

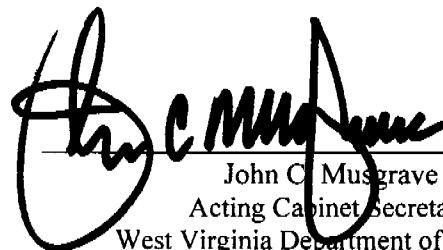
Timothy R. Murphy, Associate Counsel

Offices of the Insurance Commissioner

P.O. Box 50540

Charleston, WV 25305-0540

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



John C. Musgrave
Acting Cabinet Secretary
West Virginia Department of Revenue

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

#3.60

114CSR77

**LEGISLATIVE RULE
INSURANCE COMMISSIONER**

**SERIES 77
RATE FILING REQUIREMENTS FOR TITLE INSURANCE COMPANIES**

Section

- 114-77-1. General.
- 114-77-2. Applicability.
- 114-77-3. Definitions.
- 114-77-4. Information Required To Be Reported.
- 114-77-5. Severability.

114CSR77

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LEGISLATIVE RULE
INSURANCE COMMISSIONER

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SERIES 77
RATE FILING REQUIREMENTS FOR TITLE INSURANCE COMPANIES

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§114-77-1. General.

1.1. Scope -- This rule establishes guidelines and procedures under which title insurance companies shall submit rate filings.

1.2. Authority -- W. Va. Code §§33-2-10 and 33-20-3(e)(2)(B) (2006).

1.3. Filing Date --

1.4. Effective Date --

§114-77-2. Applicability.

2.1. This rule sets forth the requirements for the filing of rates for title insurance covering property in this State. The rules set forth in W. Va. Code §§33-20-1 et seq. are applicable to title rate filings.

§114-77-3. Definitions.

As used in this rule:

3.1. "Commercial title insurance" means title insurance for property of a business or professional nature.

3.2. "Commissioner" means the West Virginia Insurance Commissioner.

3.3. "Noncommercial title insurance" means title insurance on other than property of a business or professional nature and includes, but is not limited to, title insurance on residential properties when purchased by an individual buyer.

3.4. "Title insurance" means insurance of owners of property or others having an interest therein, or liens or encumbrances thereon, against loss by encumbrance, defective title, invalidity or adverse claim to title.

§114-77-4. Information Required To Be Reported.

4.1. Except as such procedures are inconsistent with the procedures set forth herein, rate filings for title insurance shall follow the same procedures applicable to other rate filings as set

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forth in 114CSR67.

4.2. Every insurer licensed to write title insurance in this state shall make an initial rate filing on or before July 1, 2006, in accordance with the statutes and rules generally applicable to rate filings and with this rule.

4.3. Every rate filing by a title insurer shall differentiate between the rates proposed for commercial and non-commercial properties.

4.4. No title insurer may charge any rates after September 1, 2006 except in accordance with the premium rate schedule and manual filed with and approved by the Commissioner in accordance with applicable statutes and regulations governing rate filings. Pending initial approval by the Commissioner, title insurance companies may continue to use the premium rate schedules in effect prior to June 9, 2006.

4.5. A title insurer or title insurance agent may satisfy its obligation to file premium rates, rating manuals and forms by becoming a member of, or a subscriber to, a rating organization licensed under the provisions of the code, where the organization makes the filings, and by authorizing the Commissioner in writing to accept the filings on the insurer's behalf: Provided, That nothing in this rule shall be construed as requiring any title insurer or title insurance agent to become a member of, or a subscriber to, any rate service organization. Nothing in this rule shall be construed as prohibiting the filing of deviations from rate service organization filings by any member or subscriber.

4.6. Rate schedules for non-commercial title insurance must be filed with the Commissioner and shall be on file for a waiting period of sixty days before it becomes effective. Upon written application by an insurer or rating organization, the Commissioner may authorize a filing which he or she has reviewed to become effective before the expiration of the waiting period. A filing shall be deemed to meet the requirements of article twenty, chapter thirty-three of the West Virginia Code unless disapproved by the Commissioner within the waiting period.

4.7. Rate schedules for commercial title insurance must be filed with the Commissioner and the filings need not be approved by the Commissioner. The Commissioner may request additional information to ensure compliance with applicable statutory standards, but if the Commissioner does not disapprove the filing within the initial thirty-day period after receipt, the rate filing will become effective upon first usage after filing: Provided, That the Commissioner may at any time thereafter, after notice and for cause shown, disapprove any rate filing.

§114-77-5. Severability.

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

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affected thereby.

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TITLE INSURANCE

TITLE 114, SERIES 77

BRIEF SUMMARY OF RULE

Until this year, title insurance companies have been exempted from the general statutory requirement that their insurance rates be filed with and approved by the Insurance Commissioner. See W. Va. Code §33-20-2 (Michie 2003 repl. vol.). Senate Bill 438 (RS 2006)) changed this and made the rate provisions of article 20 of the Insurance Code applicable to title companies. The bill also mandated that the Insurance Commissioner promulgate rules to implement the amendments to the statute. See W. Va. Code §33-20-3.

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TITLE INSURANCE

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STATEMENT OF CIRCUMSTANCES

By statute, title companies have been exempt from the requirements of article 20, chapter 33 relating to the filing of title insurance rates with the Insurance Commissioner. In the 2006 regular legislative session, S.B. 438 was enacted to require that such rates be filed with and approved by the Commissioner. The bill also detailed requirements particular to title insurance, such as prohibiting the inclusion in rates of charges for abstracting, escrow services, etc. W. Va. Code §33-20-3(e). This rule is intended to set forth some guidelines specific to title insurance that will be used in conjunction with those statutes and rules generally applicable to other insurance filings.

Department of Revenue
Agency Questionnaire

Re: Legislative Rule to be Filed

TITLE INSURANCE

TITLE 114, SERIES 77

Question 1: Are regulations required?

Yes, see S.B. 438 (RS2006) (amending W. Va. Code §33-20-3(e)(2)(B) (effective 6/9/06))

Question 2: Is the rule you are proposing controversial? If yes, what are the pros and the cons?

No

Question 3: Is the rule you are proposing a copy of another state's rule? A model rule? Custom-drafted?

The rule is custom drafted and simply recites the statutory language and makes references to general rate statutes applicable to other insurance lines.

Question 4: What are the really important things you think the Secretary of the Dept. of Revenue should know about this rule and the issues that surround it?

The statutory change was not opposed by any of the parties in interest (banks or title companies), although the addition of the distinction of commercial and non-commercial (in §33-20-3(e)(2)(B)) was added at the very end of the legislative session at the request of a delegate who felt that buyers of commercial title insurance needed less protection than the usual situation involving a home buyer.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title Insurance (Title 114 - Series 77)

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: _____

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	Current Increase/Decrease (use "--")	Next 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
Other	None	None	None
2. Estimated Total Revenues	None	None	None

Rule Title: Title Insurance (Title 114 - Series 77)

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: May 31, 2006

Signature of Agency Head or Authorized Representative



Jane L. Cline, Insurance Commissioner