

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

Form #7

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Filing Date

**FILED**

2006 AUG 10 A 11:02

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AN EMERGENCY RULE**

AGENCY: Offices of the Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY W. Va. Code §33-2-10 & 33-20-3(e)(2)(B)

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: 77

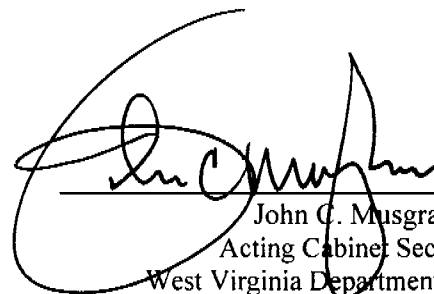
TITLE OF RULE BEING AMENDED: Rate Filing Requirements for Title Insurance

Companies

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. Musgrave  
Acting Cabinet Secretary  
West Virginia Department of Revenue

Use additional sheets if necessary

**Title 114, Series 77 - Emergency Rule  
Rate Filing Requirements for Title  
Insurance Companies**

**FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY:**

By statute, title companies have been exempt from the requirements of article 20, chapter 33 relating to the filing of insurance rates with the Insurance Commissioner. In the 2006 regular legislative session, S.B. 438 was enacted to remove this exemption and 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). Inasmuch as the duty to file title rates commenced on June 9, 2006, and that there are statutorily-created distinctions between title insurance rates and rates for other forms of casualty insurance governed by W. Va. Code §33-20-3, this proposed emergency rule is necessary in order to set forth guidelines specific to title insurance that will be used in conjunction with those statutes and rules generally applicable to other insurance filings.

## 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:** August 10, 2006

**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:** TITLE INSURANCE - Title 114, Series 77

**1. Date of Filing:**

August 10, 2006

**2. Statutory authority for promulgating emergency rule:**

W. Va. Code §33-20-3(e)(2)(B) - "The Insurance Commissioner shall promulgate rules regarding the requirements of this subsection ..."

**3. Date of filing of proposed legislative rule:**

May 31, 2006

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

Proposed emergency rule mirrors the final agency-approved legislative rule filed with the Secretary of State and Legislative Rule-making Review Committee on July 27, 2006.

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

No

**TITLE 114, SERIES 77**

- 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.**

S.B. 438 (RS 2006) amended the general rate-filing section of the code, W. Va. Code §33-20-2, to remove the exemption of title insurance rates from the generally applicable requirement that insurance rates be filed and approved by the Insurance Commissioner. This change, which became effective on June 9, 2006, also required the Commissioner to promulgate rules "regarding the requirements of [Code §33-20-3(e)]...", a subsection added by S.B. 438. Inasmuch as the duty to file title rates commenced on June 9, 2006 and that there are statutorily-created distinctions between title insurance rates and rates for other forms of casualty insurance governed by Code §33-20-3, a rule is deemed necessary to adequately guide title companies. The filing of this emergency rule was delayed until the Commissioner was able to act on comments received in response to the legislative version of this rule.

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

N/A

Offices of the Insurance Commissioner  
Emergency Rule  
Title 114, Series 77

**TITLE INSURANCE**

**TITLE 114, SERIES 77**

**BRIEF SUMMARY OF EMERGENCY RULE**

Until this year, title insurance companies have been exempt 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.). S.B. 438 (RS 2006) changed this and made the rate-filing 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. On July 27, 2006, an agency-approved legislative rule detailing the rate-filing procedure was filed with the Secretary of State and the Legislative Rule-making Review Committee. This proposed emergency rule mirrors the legislative rule.

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Emergency Rule  
Title 114, Series 77

**TITLE INSURANCE**

**TITLE 114, SERIES 77**

**STATEMENT OF CIRCUMSTANCES**

By statute, title companies have been exempt from the requirements of article 20, chapter 33 relating to the filing of insurance rates with the Insurance Commissioner. In the 2006 regular legislative session, S.B. 438 was enacted to remove this exemption and 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 proposed emergency rule (and the legislative rule recently filed for approval) is intended to set forth guidelines specific to title insurance that will be used in conjunction with those statutes and rules generally applicable to other insurance filings.

**FISCAL NOTE FOR PROPOSED RULES**

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

Type of Rule:  Legislative  Interpretive  Procedural  Emergency

Agency: Offices of the 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.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "--")	Next 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
Other	None	None	None
<b>2. Estimated Total Revenues</b>	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.

N/A

Date: August 9, 2006

Signature of Agency Head or Authorized Representative

  
Jane L. Cline, Insurance Commissioner

**114CSR77**

**EMERGENCY RULE  
OFFICES OF THE 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.

EMERGENCY RULE  
OFFICES OF THE INSURANCE COMMISSIONER 2006 AUG 10 A 11: 02

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" means any title insurance not meeting the definition of "non-commercial."

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

3.3. "Noncommercial" means title insurance that insures title to (a) property, other than property of a business or professional nature, which is used predominantly for residential, personal, family or household purposes; and which affords coverage in whole or in part to the person occupying the property, and (b) unimproved property that is intended for such purposes.

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

**Offices of the Insurance Commissioner  
Emergency Rule  
Title 114, Series 77**

filings for title insurance shall follow the same procedures applicable to other rate filings as set 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.**

**Offices of the Insurance Commissioner**  
**Emergency Rule**  
**Title 114, Series 77**

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