

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

Form #2

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2006 SEP 29 P 12: 54

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Offices of the Insurance Commissioner TITLE NUMBER: 114

RULE TYPE: Procedural CITE AUTHORITY WV Code §§33-2-10 and 33-2-15d(b)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

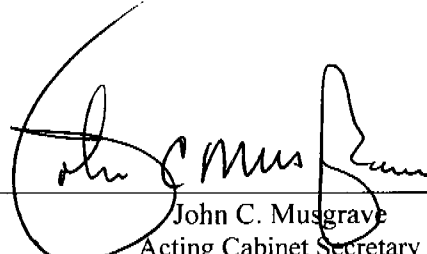
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 81

TITLE OF RULE BEING PROPOSED: Procedures For Analytical Criteria and Methodology

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 10/29/06 AT 5:00 PM. 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

Offices of the Insurance Commissioner
Procedural Rule
Title 114, Series 81

PROCEDURES FOR ANALYTICAL CRITERIA AND METHODOLOGY

TITLE 114, SERIES 81

BRIEF SUMMARY OF RULE

Senate Bill 418 (2005 RS) which became effective on July 8, 2005 added a new section (§33-2-15d) requiring that the Insurance Commissioner submit a report to the Legislature assessing the impact of legislation enacted during the 2005 regular legislative session upon rates and insurance availability in the state of West Virginia. This procedural rule is being drafted in accordance with §33-2-15d(b) to set forth the "analytical criteria and methodology of all factors" to be considered in preparing this report.

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PROCEDURES FOR ANALYTICAL CRITERIA AND METHODOLOGY

TITLE 114, SERIES 81

STATEMENT OF CIRCUMSTANCES

Senate Bill 418 (2005 RS), which added a new section to the insurance code (§33-2-15d) entitled "Report to the Legislature," provides that "the Commissioner shall submit a report to the Legislature" by January 1, 2007. This report must analyze the impact of legislation enacted during the 2005 regular legislative session upon rates and insurance availability in the State. Subsection (b) states that the "Insurance Commissioner shall by proposal of legislative or procedural rules, pursuant to article three, chapter twenty-nine-a of this code, put forth analytical criteria and methodology of all factors to be considered in the report." This procedural rule is being proposed to comply with this provision.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Procedures for Analytical Criteria and Methodology - (Title 114, Series 81)
 Type of Rule: Legislative Interpretive X Procedural
 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: 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.

Senate Bill 418 (2005 RS), added a new section to the insurance code (§33-2-15d) entitled "Report to the Legislature," which provides that "the Commissioner shall submit a report to the Legislature" by January 1, 2007. This report must analyze the impact of legislation enacted during the 2005 regular legislative session upon rates and insurance availability in the State. The Insurance Commissioner's Research Director has estimated that the total number of man-hours required to create the analytical report for the Legislature is one hundred fifty (150). In addition to the Research Director, there will be costs for clerical staff to finalize the report.

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	2006 Increase/Decrease (use "--")	2007 Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	None	\$6,650	None
Personal Services	None	\$6,650	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: Procedures for Analytical Criteria and Methodology - (Title 114, Series 81)

3. Explanation of above estimates (including long-range effect):
Please include any increase or decrease in fees in your estimated total revenues.

The above estimates are to cover the costs of creating the analytical report (as required by W. Va. Code §33-2-15d) of the impact of legislation enacted during the 2005 regular legislative session upon rates and insurance availability in the state of West Virginia. The Insurance Commissioner's Research Director has estimated that the total number of man-hours required to create the report is one hundred fifty (150). The estimate also includes additional costs for clerical staff to finalize the report.

This is a one time report and there should be no long-range effect.

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: 9-29-06

Signature of Agency Head or Authorized Representative


Jane L. Cline, Insurance Commissioner

114CSR81

**PROCEDURAL RULE
OFFICES OF THE INSURANCE COMMISSIONER**

**SERIES 81
PROCEDURES FOR ANALYTICAL CRITERIA AND METHODOLOGY**

Section

- 114-81-1. General.
- 114-81-2. Legislative Reforms To Be Studied.
- 114-81-3. Report Criteria.

114CSR81

**PROCEDURAL RULE
OFFICES OF THE INSURANCE COMMISSIONER**

**SERIES 81
PROCEDURES FOR ANALYTICAL CRITERIA AND METHODOLOGY**

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

§114-81-1. General.

1.1. Scope. -- The purpose of this rule is to set forth the analytical criteria and methodology of all factors to be considered by the Insurance Commissioner in the report to the Legislature of the impact of certain legislation upon rates and insurance availability in the state of West Virginia.

1.2. Authority. -- W. Va. Code §§33-2-10 and 33-2-15d(b).

1.3. Filing Date. --

1.4. Effective Date. --

§114-81-2. Legislative Reforms To Be Studied.

2.1. The legislation to be considered in the report is contained in Senate Bill 418 that was enacted during the 2005 regular legislative session of the West Virginia Legislature. In particular, the study will focus on W. Va. Code §§33-11-4a, 33-11-4b and 33-11-6, which eliminated the private cause of action under the Unfair Trade Practices Act (W. Va. Code §33-11-4(9)) for unfair settlement practices by third parties and established an administrative procedure for review of such allegations by the Insurance Commissioner.

§114-81-3. Report Criteria.

3.1. The report will examine four dimensions of a well-functioning insurance market in order to assess the impact of the changes to the Unfair Trade Practices Act on the personal lines market, with a focus on cost and availability of automobile liability insurance.

a. Changes in premium rates that reflect underlying costs will be examined through rate comparisons for five major companies in the states bordering West Virginia. Also, rate changes for various types of drivers in several locations of the state, as shown in auto rate evidence from the Annual Auto Survey, published every April by the Offices of the Insurance Commissioner, will be evaluated.

b. Entry of new insurance companies and exit of non-profitable ones will be examined using the National Association of Insurance Commissioners' quarterly reports. This data will be used to compare the experience of West Virginia with the border states over the last

**Offices of the Insurance Commissioner
Procedural Rule
Title 114, Series 81**

four (4) years.

c. Product development will be examined in the context of new products offered in the relevant markets.

d. Availability of product will be examined by a study of commonly-available advertising pieces over the past four (4) years.

3.2. After changes in cost and availability are assessed, the data will be analyzed to evaluate the degree to which these changes, if any, are attributable to the legislative changes. This part of the report will be performed through the use of an observational study to estimate the degree of change in market conditions that is attributable to the change in West Virginia law. The observational study will attempt to control a number of relevant variables, including legislative and other legal changes in West Virginia and the bordering states affecting the insurance business environment as well as economic factors such as general price levels, investment performance and loss statistics.