


Acting Cabinet Secretary

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: July 30, 2003

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) WV Board of Risk and Insurance Management
90 MacCorkle Avenue, S.W., Suite 203
South Charleston, WV 25303
(304) 766-2646

LEGISLATIVE RULE TITLE: Title 115, Series 2

Public Entities Insurance Program

1. Authorizing statute(s) citation WV Code §§ 29-12-1 et. seq.
WV Code §§ 29A-12A-1 et seq.

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 27, 2003

b. What other notice, including advertising, did you give of the hearing?

c. Date of Public Hearing(s) *or* Public Comment Period ended:
July 28, 2003

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Jeff VanGilder, General Counsel
WV Board of Risk and Insurance Management
90 MacCorkle Avenue, S.W., Suite 203
South Charleston, WV 25303
(304) 766-2646
(304) 766-2653 - fax

- g. **IF DIFFERENT FROM ITEM 'f',** please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

Not Applicable

b. Date of hearing or comment period:

Not Applicable

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

Not Applicable

d. Attach findings and determinations and reasons:

Attached Not Applicable

115 CSR 2

TITLE 115

BOARD OF RISK AND INSURANCE MANAGEMENT

SERIES 2

PUBLIC ENTITIES INSURANCE PROGRAM

BRIEF SUMMARY OF COMMENTS RECEIVED WITH REGARD

TO PROPOSED RULE

No comments were received. Therefore, no response is necessary.

115 CSR 2

**TITLE 115
BOARD OF RISK AND INSURANCE MANAGEMENT**

**SERIES 2
PUBLIC ENTITIES INSURANCE PROGRAM**

STATEMENT OF CIRCUMSTANCES REQUIRING THIS RULE

In 1986, the West Virginia Legislature determined that a need existed for the Board of Risk and Insurance Management to make liability and property insurance available to political subdivisions and charitable or public service organizations. The legislature has since determined a need to create and expand the entities to which coverages are available.

Senate Bill 3, (May 22, 1986) and House Bill 2122, (March 8, 2003) House Bill 4581 (March 7, 2002) modified W.Va. Code § 29-12-1, et seq., to permit the Board of Risk and Insurance Management to provide additional insurance coverage to an expanded class of entities.

The purpose of this proposed rule is to modify and clarify existing language to reflect the ability of the Board of Risk and Insurance Management to provide liability and/or property insurance coverage to political subdivisions, charitable or public service organizations and emergency medical service agencies.

115 CSR 2

TITLE 115

BOARD OF RISK AND INSURANCE MANAGEMENT

SERIES 2

PUBLIC ENTITIES INSURANCE PROGRAM

BRIEF SUMMARY OF PROPOSED RULE

The purpose of this proposed rule is to modify and clarify existing language to reflect the ability of the Board of Risk and Insurance Management to provide liability and/or property insurance coverage for political subdivisions, charitable or public service organizations or emergency medical service agencies. The ability to provide insurance coverage to political subdivisions and charitable or public service organizations was established by Senate Bill 3, (May 22, 1986); and the ability to provide insurance coverage to emergency medical service agencies was established by House Bill 2122, (March 5, 2003); House Bill 4581 (March 7, 2002).

115CSR2
Title 115
Legislative Rules
State Board of Risk and Insurance Management
Series 2
Public Entities Insurance Program

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Proposed Changes for W. Va. CSR § 115-2-1, et. seq.

TITLE 115
LEGISLATIVE RULES
BOARD OF RISK AND INSURANCE MANAGEMENT
SERIES 2
PUBLIC ENTITIES INSURANCE PROGRAM

FILED
2003 AUG -1 P 4: 52
OFFICE WEST VIRGINIA
SECRETARY OF STATE

□ 115-2-1. General.

1.1. Scope. -- These rules establish the procedures for the implementing and administering of the Public Entities Insurance Program as established by Senate Bill 3, 1986 and revised by House Bill 2122, (March 8, 2003); House Bill 4581 (March 7, 2002). The purpose of the program is to provide liability coverage and/or property coverage for governmental entities and non-profit organizations (charitable or public service organizations and emergency medical service agencies).

1.2. Authority. -- W. Va. Code §§29-12-1 et seq., 29-12A-1 et seq.,

1.3. Filing Date. -- April 5, 1990 _____

1.4. Effective Date. -- April 5, 1990 _____

□ 115-2-2. Definitions.

2.1. Board means the ~~West Virginia state~~ Board of Risk and Insurance Management.

2.2. Entity means the political subdivision, charitable or and non-profit public service organizations, and emergency medical service agencies requesting and/or obtaining liability and/or property insurance.

2.3. Agent means a resident property and casualty agent currently licensed as such by the West Virginia Insurance Commission.

2.4. Information Packet means the questionnaire, survey, or any other underwriting data that may be requested by the Board and furnished to the entity and/or agent.

2.5. Fee Agreement means the document and/or agreement provided to the entity or agent for the purpose of paying the agent a service fee.

2.6. Service Fee means the data acquisition cost and/or commission which shall be no greater than eight percent of the annual earned premium charged to the entity.

□ 115-2-3. Designation of Agent of Record.

3.1. Each entity which seeks to procure liability and/or property insurance through the Board pursuant to W. Va. Code §§ 29-12-5, 29-12A-1 et seq., and 33-12-1, shall be required to use a resident licensed property and casualty agent.

3.2. The designation of an agent of record shall be made in writing to the Board either by letter or per a Fee Agreement and signed by the insured entity.

- 3.3. Failure to comply will result in non-acceptance of an entity or non-renewal of an entity.
- 3.4. Upon designation of an agent of record an information packet shall be furnished to the agent. The entity seeking insurance and its agent of record shall be jointly responsible for submitting the information packet completed in a manner acceptable to the Board.
- 3.5. Failure of the agent of record to satisfactorily complete the information packet may result in disciplinary action by the Insurance Commissioner of West Virginia.
- 3.6. Failure of the agent to satisfactorily complete the information packet shall cause the Board to request that the entity name another agent of record.

¶ 115-2-4. Service Fee.

- 4.1. An amount designated as a Service Fee shall be included in the insurance premium charged to the entity. These moneys may be used to defray administrative expenses incurred as a result of the acquisition of underwriting data by the Board. These moneys may forfeit to the Board to defray expenses incurred by the Board as a result of the submission by the entity and/or agent of record of information and data not completed in a manner acceptable to the Board.
- 4.2. The Service Fee cost shall be an amount equal to eight percent of the annual earned premium charged the entity for insurance coverage.

¶ 115-2-5. Commission of Agent of Record.

- 5.1. The amount of commission or fee of the agent of record shall be a matter to be resolved between the entity and its agent.
- 5.2. The commission of the agent of record shall not be more than eight percent of the earned annual premium.

¶ 115-2-6. Ineligible Classes.

- 6.1. The following classes of entities have been determined by the Board to be ineligible for coverage under W. Va. Code ¶ 29-12-5.

6.1.a.

- (1) Hospitals - except those owned and operated by political subdivisions already insured with the state program-, or critical access hospitals as defined in W.Va. Code §29-12-5b.
- (2) Airports and Airport Authorities.
- (3) Churches and Religious Organizations.
- (4) Fraternal Organizations (i.e. VFW's, American Legions, Elks, Moose, Rotary, Lions Clubs, etc.)
- (5) Country Clubs.
- (6) Homeowners Associations.

(7) Lobbying Organizations.

(8) Political Organizations.

(9) Any "For Profit" organizations, except emergency medical service agencies as defined in W.Va. Code §29-12-5b.

6.2. If any of the above classes are in the Public Entity Insurance Program, the Board will renew them; however, the Board will not accept any of the above after February 1, 1988.

□ 115-2-7. Rates and Coverages.

7.1. The Board shall determine and establish rates, rate programs, deductibles, and coverages as needed.

~~□ 115-2-8. Advisory Committee.~~

~~8.1. The Board shall establish an advisory committee to assist the Board in identifying insurance problems for various types of entities.~~

□ 115-2-9. Cancellation Provisions.

9.1. The Board shall have the authority to cancel any entity that fails to pay their premium within thirty (30) days of the premium due date.

9.2. The Board shall give an entity a thirty (30) days notice of cancellation for non-payment of premium.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

TITLE 115
SERIES 2

Rule Title: Public Entities Insurance Program

Type of Rule: X Legislative Interpretive Procedural

Agency: WV Board of Risk & Insurance Management

Address: 90 MacCorkle Avenue, S.W., Suite 203

South Charleston, WV 25303

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	15,000		15,000	5,000	5,000
PERSONAL SERVICES	-----				
CURRENT EXPENSE	-----				
REPAIRS & ALTERATIONS	-----				
EQUIPMENT	-----				
OTHER	15,000		15,000	5,000	5,000

2. Explanation of Above Estimates:

The only estimated increase in expenses to BRIM would be an actuarial analysis to develop rating criteria for these entities and programming changes to our premium calculation.

3. Objectives of These Rules:

Rule Title: Public Entities Insurance Program

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

See above.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: *None*

C. Economic Impact on Citizens/Public at Large.

None

Date: 7/31/03

Signature of Agency Head or Authorized Representative:

Charles E. Jones, Jr.

Tom Susman
Tom Susman, Acting Cabinet Secretary
Department of Administration