WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #3

FILED
1989 JUL 28 PM 4: 11
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: Board of Risk & Insurance Management TITLE NUMBER: 115

CITE AUTHORITY 29-12-1 et seg.

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 NEW RULE BEING PROPOSED: 2

TITLE OF RULE BEING PROPOSED: Rules of WV Board of Risk & Insurance Management - Public Entities Insurance Program

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Harry T. Morris III

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: WV Board of Risk & Insurance Mgt. Public Entities Insurance Program

Type of Rule: X Legislative ____ Interpretive ____ Procedural

Agency Board of Risk & Insurance Mgt. Address Bldg. 5 Room 1017

Capitol Complex Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL Increase	Decrease	FISCAL YEAR Current	Next	Thereafter
Estimated Total Cost	$	$	$	$	$
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

The proposed rules do not add any cost to the Board of Risk and Ins. Mgt.

3. Objectives of these rules:

To compensate local Insurance Agents for the service they provide to insured entities covered under the Public Entities Program.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There is no cost to State government. All cost paid through Public Entities Insurance Pool.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

The entities insured in the program can save money by negotiating fees for services rendered by Insurance Agents.

C. Economic Impact on Citizens/Public at Large.

Local Insurance Agents can be compensated for service up to a maximum of 8%. This can result in approximately $800,000 being paid to the Insurance Agency System in WV.

Date: March 14, 1989

Signature of Agency Head or Authorized Representative

STATE OF WEST VIRGINIA
BOARD OF RISK AND INSURANCE MANAGEMENT
BUILDING 5, ROOM 1017, CAPITOL COMPLEX, CHARLESTON, WEST VIRGINIA 25305 (304) 348-2291

To: Legislative Rule Making Review Committee

From: Harry "Skip" Morris, Underwriting Manager
Board of Risk and Insurance Management

Date: July 14, 1989

Subject: Rules and Regulations
Public Entities Insurance Program

The attached Rules and Regulations have been developed in order to establish a more efficient and effective administration of the Public Entities Insurance Program.

The rules require the use of a West Virginia licensed property/casualty insurance agent. Each insured entity is required to name an agent of record so that the Board of Risk can utilize the professional services of the insurance agents. The agent in his/her capacity as the agent of record is required by the Board of Risk to provide the necessary underwriting data so that a risk can be properly evaluated and priced.

The rules also established a mechanism for compensation to the agent for his/her services. The maximum any agent can be paid is 8% of the annual earned premium. The 8% fee is negotiable and can also create a reduce premium for the insured entity.

The rules also establish eligible classes of risk that can participate in the Public Entities Program. The ineligible classes are those that have their own programs, those who are not faced with an insurance problem or those that are ineligible by statute.

The rules also give authority to the Board of Risk on all rates and coverages, provides for an Advisory Committee, and establish cancellation provisions.

The Rules and Regulations were filed as Emergency Rules on January 12, 1989 with the Secretary of State's Office. Notices of Public Hearings to be held at Morgantown, WV on May 3, 1989 and at South Charleston on May 8, 1989 were mailed to all participants and insurance agents of record on February 15, 1989 (see attached). Written comments were also requested with the notice.

Attendance at the Morgantown meeting included 16 insured entities and 14 agents (see attached). Attendance at South Charleston included 11 insured entities and 28 agents (see attached).

As indicated by the transcripts of the hearing, there are no changes to be made.

HSM/ebf

Attached

TITLE
LEGISLATIVE RULES
WEST VIRGINIA BOARD OF RISK AND INSURANCE MANAGEMENT

SERIES
RULES OF THE WEST VIRGINIA BOARD OF RISK
AND INSURANCE MANAGEMENT

Section 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. Purpose of the program is to provide liability coverage and/or property coverage for governmental entities and non-profit organizations.

1.2. Authority. -- W.V. Code 2 29-12-1 et seq., and Code 29-12A-1 et seq.

1.3. Filing Date. -- January 12, 1989.

1.4. Effective Date. -- January 12, 1989.

Section 2. Definitions.

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

2.2. Entity - means the political subdivision or other organization 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 that document and/or agreement provided to the entity or agent for the purpose of paying agent a service fee.

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

Section 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.V. Code S 29-12-1 and Code 29 -12A-1 et seq. and WV Insurance Code 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 Fee Agreement and signed by the insured entity.

3.3. Failure to comply will result in non-acceptance or non-renewal.

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 to satisfactorily complete the information packet may also result in the entity losing insurance coverage and/or forfeiting moneys collected by the board as acquisition cost.

Section 4. Data Acquisition Cost.

4.1. An amount designated as a data acquisition cost 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 data acquisition cost shall be an amount equal to eight percent of the annual earned premium charged the entity for insurance coverage.

Section 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.

Section 6. Ineligible Classes.

6.1. The following classes of entities have been determined by the Board to be ineligible for coverage under the Senate Bill #3 program.

6.1.a. (1) Hospitals - except those owned and operated by political subdivisions already insured with the state program.
(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

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.

Section 7. Rates and Coverages.

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

Section 8. Advisory Committee.

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

Section 9. Cancellation Provisions.

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

9.2. The Board shall give an entity a 30 day notice of cancellation for non payment of premium.

STATE OF WEST VIRGINIA
BOARD OF RISK AND INSURANCE MANAGEMENT
CAPITOL COMPLEX, BUILDING 5, ROOM 1017, CHARLESTON, WEST VIRGINIA 25305 (304) 348-2291

MEMORANDUM

TO: All Agents of Record for Public Entities Program

FROM: William Sigmund, Chairman, Board of Risk and Insurance

DATE: August 15, 1988

SUBJECT: Fee Agreement

Attached is a revised Fee Agreement that will be used by the Board of Risk and Insurance Management for the payment of fees to agents who have provided services to the Board, and the entities insured in the Public Entities Program.

Please note the following changes from the previous Fee Agreement:

1. The attached agreement is a permanent agreement. It can only be changed upon the insureds request for a new agent or when the fee percentage amount is changed.

2. The new agreement will allow the Board to pay fees directly to the agent or agency. The difference between the agents fee and the maximum 8% will be credited to the insured's account.

3. The Board will pay based upon the annual earned premium.

4. The Board will pay at the end of the policy year. This will eliminate accounting problems when there are changes in premiums during the policy year.

5. The Board will pay only those agents that comply with the underwriting requests of the Board and who return the attached Fee Agreements.

6. The attached Fee Agreement is in triplicate. One is to be returned to the Board, the second is for the agent's records, and the third is for the insured's records.

7. The revised Fee Agreement makes it optional to pay either the individual agent or the agency. You must indicate how you want the fee to be paid.

8. FEE AGREEMENTS MUST BE RETURNED TO THE BOARD NO LATER THAN OCTOBER 1, 1988.

If you have any questions, please do not hesitate to contact our office at 1-800-345-4669.

FORM AG88 - SENATE BILL NO. 3 AGREEMENT ACCOUNT NO.

The following definitions apply to this agreement:

"Board" means the West Virginia Board of Risk and Insurance Management

"Insured" means the following insured entity:

"Agent of Record" means the following licensed Insurance Agent or Insurance Agency:

Name of Agent ______________________ License # ____________

Name of Agency ______________________ Tax #: ____________
Street/P.O.Box ______________________
City/State/Zip ______________________

This agreement made with the "Board", the "Insured", and the Insured's designated "Agent of Record" mutually agrees as follows:

The "Insured" authorizes the "Board" to pay the "Agent of Record" a fee of ______% (subject to a maximum of 8%) of the earned premium. Payment of said fee is subject to the Agents compliance with all underwriting requirements as determined by the "Board".

The difference between the maximum of 8% and the percentage paid to the "Agent of Record" shall be credited to the "Insured's" account with the "Board".

The earned premium will be computed on an annual basis of July 1st of each year to June 30th of the following year. The "Insured" upon written request to the "Board" can change the "Agent of Record" and/or fee paid to the "Agent of Record".

______________________ ____________
Authorized Representative of the Board Date

______________________ ____________
Authorized Representative of the Insured Date

______________________ ____________
Signature of Agent of Record Date

Social Security Number of Agent: ____________

Indicate if check is to be paid to Agent _____ or Agency _____.

DATE: March 14, 1989

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Board of Risk & Insurance Management

EMERGENCY RULE TITLE: Rules of WV Board of Risk & Insurance Mgt. Public Entities Insurance Program

1. Date of filing: January 12, 1989

2. Statutory authority for promulgating the emergency rule: 29-12-1 et. seq.

3. Date of filing of proposed legislative rule: ________

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

   no

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 <u>immediate</u> preservation of public peace, health, safety or <u>welfare</u>.

   Due to availability of insurance to governmental entities and non profit organizations, the rules were adopted by the Board to act in a similar manner as an insurance company and use the local insurance agents knowledge of a risk to implement an efficiently underwritten program.

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.

no

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

The rules are established so that the general public may have the use of a professional Insurance Agent.

STATE OF WEST VIRGINIA
BOARD OF RISK AND INSURANCE MANAGEMENT
CAPITOL COMPLEX, BUILDING 5, ROOM 1017, CHARLESTON, WEST VIRGINIA 25305 (304) 348-2291

To: All Insured's and Agents of Record

From: Board of Risk and Insurance Management

Date: February 15, 1989

Subject: Public Entities Insurance Program
Rules and Regulation's Public Hearings

In compliance with West Virginia Code 6-9A-3 the Board of Risk will be holding Public Hearings on its Rules and Regulations filed with the Secretary of State concerning the Public Entities Insurance Program.

The Public Hearings are scheduled on the following:

May 3, 1989 at 1:00 p.m. - Ramada Inn, Morgantown, WV

May 8, 1989 at 1:00 p.m. - Ramada Inn, South Charleston, WV

Please check the box indicating which meeting you will be able to attend and return this memo to the Board of Risk. If you can not attend either of the meetings, you can give to the Board your written comments concerning the Rules and Regulations. <Attached>

Comments:

Section 6 Ineligible Classes, Section 6.1.a. (4) This apparently excludes Civic Clubs-Ruritans in particular which is a non-profit community help organization not for profit. It would be nice to see this type organization included in the eligible classes.

Section 5, 5.2, Commission of agent of record shall not be more than eight percent of the earned annual premium. When the average Company is paying from 15% to 25% for commercial business commission, there is small incentive to induce Fire Companies, Rescue Squads, etc., to join the program.

Sorry Cannot attend, have conflicting seminar already signed for.

Amherst Insurance Agency

Harry D. Watson

Amherst Insurance Agency
of West Virginia
Rebel Hill, Capon Springs, WV
304-874-3721

Cabell County
Public Schools

today's challenges...tomorrow's successes

620 Twentieth Street • P.O. Box 446 • Huntington, West Virginia 25709 • (304) 528-5000

Robert J. Brewster
Superintendent

March 8, 1989

State of West Virginia
Board of Risk & Insurance Management
Capitol Complex, Building 5
Room 1017
Charleston, West Virginia 25305

Dear Sirs:

We will have two representatives at your May 8, 1989 meeting at the Ramada Inn in South Charleston.

I do hope a member of your Board dares to be present.

Very truly yours,

H. Thomas McCray

H. Thomas McCray
Treasurer

HTM:mad

STATE OF WEST VIRGINIA
BOARD OF RISK AND INSURANCE MANAGEMENT

CAPITOL COMPLEX, BUILDING 5, ROOM 1017, CHARLESTON, WEST VIRGINIA 25305 (304) 348-2291

RECEIVED
MAR - 3 1989
INSURANCE EXCHANGE INC.

To: All Insured's and Agents of Record

From: Board of Risk and Insurance Management

Date: February 15, 1989

INSURANCE EXCHANGE, INC.
P. O. BOX 599
ST. ALBANS, WV 25177

Subject: Public Entities Insurance Program
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3-14-89

(1) SERVICE FEE: IS TO LOW AND PENALIZE THE WRITTING AGENT ON SMALL AND MEDIUM ACCOUNTS.

(2) DATA ACQUISITION COST: SHOULD BE DISCONTINUED, THIS WAS A START UP DEFERMENT FOR OVER HEAD COSTS. YOU COLLECT 92% OF PREMIUM, AND YOUR EARNINGS SHOULD PAY YOUR OVER HEAD NOW.

(3) THE RATE: SHOULD BE USING ISO RATE NOT RATES BASED UPON WVa EXPERIENCE ONLY

(4) INELIGIBLE CLASSES: SHOULD BE NON RENEW UPON PRESENT POLICY EXPIRATION

[signature]

STATE OF WEST VIRGINIA
BOARD OF RISK AND INSURANCE MANAGEMENT
CAPITOL COMPLEX, BUILDING 5, ROOM 1017, CHARLESTON, WEST VIRGINIA 25305 (304) 348-2291

To: All Insured's and Agents of Record

From: Board of Risk and Insurance Management

Date: February 15, 1989

Subject: Public Entities Insurance Program
Rules and Regulation's Public Hearings

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Please check the box indicating which meeting you will be able to attend and return this memo to the Board of Risk. If you can not attend either of the meetings, you can give to the Board your written comments concerning the Rules and Regulations. <Attached>

It is my opinion that non-profit organizations should not be a part of this program as the private markets have responded to the need. I think the State should limit itself to Public Entities and respond to non profit when and if the need arises otherwise the State will be competing with private business which should not happen.

Sincerely
C.M. Sacre
C SACRE & Co
[illegible] WV

Corporation of Ranson
312 S. Mildred Street • Ranson, W. Va. 25438 • Phone: 304/725-1010

March 8, 1989

State of West Virginia
Board of Risk and Insurance Management
Capitol Complex
Building 5, Room 1017
Charleston, WV 25305

Dear Sir/Madam:

The City of Ranson is unable to send a representative to either public hearing scheduled by the Board of Risk for review of the Rules and Regulations filed with the Secretary of State concerning the Public Entities Insurance Program.

Regarding the rules and regulations, the City objects quite strenuously to Section 3, 3.6 which states "Failure to satisfactorily complete the information packet may also result in the entity losing insurance coverage and/or forfeiting moneys collected by the Board as acquisition cost.

It is my understanding that the information packet is furnished to the agent of record. If the city or entity is jointly responsible for submitting the packet, then the entity should also receive a packet. In addition, the City feels strongly that a notice should be sent to the entity informing them if the packet has not been received or satisfactorily completed prior to penalties or loss of coverage.

Please include the above concerns with comments received at the public hearing.

Very truly yours,

Dawn Hatzer

Dawn Blackstock Hatzer
City Administrator

DBH:js
Enc.

PUBLIC HEARING

GOVERNMENTAL ENTITY INSURANCE PROGRAM

RULES & REGULATIONS

May 3, 1989 Morgantown, WV

NAME	REPRESENTING	COMMENT yes	COMMENT no
26. Jessie L. Daugherty	Daugherty Ins. Agcy		✓
27. Sharon A. Brown	" " " "		✓
28. Marilyn Walton	Marion County Commission		✓
29. Nancy Markley	Marion County Board of Education		✓
30. Loretta Chase	" "		✓
31. Tom Zeid	McDonough Caperton / Wheeling		✓
32. M Henender	C.O.W.		✓
33. Robert M. Bakewell	Levendorf Ins. Agency		✓
34. Herbert R. [illegible]	Town of Fairview		✓
35. Thomas Pizewski	Weirton Firemen's Pension		✓
36. H Skip TARASUK	DAVIS & TARASUK INS CORP		✓
37. Clarence W Ford	Fort Ashby PSD		✓
38. George H. Bean	Fort Ashby P.S.D.		✓
39. JEFF HOOD	UNITED SECURITY AGY		✓
40. Randy KERNS	United Security Agency		✓
41. Greg Marion	CIIAWV		
42. [illegible]	Preston Taylor Community Health Center		
43. Janice F. Polino	" " " " "		
44. Phillip Mazzo	Monongalia County		
45. Ed Heflin	Heflin Insurance Agency		
46. Pauline Brown	Grafton-Taylor Co Health Dept		
47. GLENN SAPP	GRAFTON TWP WV		
48. FRED HORTON	MON CO FAIR COMM.		
49. [illegible]	Thomas & Abel Floors Inc.		
50. [illegible]	" "		

PUBLIC HEARING

GOVERNMENTAL ENTITY INSURANCE PROGRAM

RULES & REGULATIONS

May 3, 1989 Morgantown, WV

NAME	REPRESENTING	COMMENT yes	no
51. Bob Hensley Brugmire	BARTLETT HOUSE, INC		✓
52. Don Van Dyne	Tyler County Commission		✓
53. Jim Smith	Taylor County Bd of Educ		—
54. Kermit R. Bias	TAYLOR COUNTY Bd. of EDUCATION		✓
55. Earl Smith	Wetzel-Valley	✓	
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PUBLIC HEARING

GOVERNMENTAL ENTITY INSURANCE PROGRAM

RULES & REGULATIONS

May 8, 1989 South Charleston, WV

NAME	REPRESENTING	COMMENT yes	COMMENT no
1. Steve Diamond	Prestera M.H. Center		X
2. James E. Roach	Insurance Systems Inc		X
3. Bill Walker	Surface Ins. Agy. Inc		X
4. John D. Vance	Vance Insurance Agency		X
5. Charles E. Martin	Welch Insurance Agency		X
6. Lyle McClanahan	Putnam County Commission		X
7. [illegible] A. Halstead	Boone County Schools		X
8. Susan Booth	Logan County Schools		X
9. Susan Minton	" " "		X
10. Carol Hughes	Buckley Child Care Center		X
11. Rob Vass	McDonough-Caperton-Hunt.		X
12. JERRA MONTSINGER	Mc DONOUGH CAPERTON - CHAS		X
13. Sidney Wheeler	McDonough Caperton - CHAS		X
14. Bill F. Dingess	Bill Dingess Agency		X
15. James O. Clevenger	James O. Clevenger Ins agency		X
16. Robert L. Dunfee	Dunfee Ins Agency		X
17. Howard Sturgeon	Howard Sturgeon Insurance Agency		X
18. [illegible]	Commercial Ins. Service		X
19. [illegible]	Commercial Ins Services		X
20. RUSSELL RUCKER, Jr	RUCKER, BILLUPS & FOWLER		X
21. Ron Gregory	Kanawha County Commission		X
22. P.A. WEBER	KANAWHA COUNTY COMMISSION		X
23. Raymond Smith	WATERS INS. AGENCY		
24. C. Wayne Manning AAI, CLU, ChFC	C. Wayne Manning Ins Agency		X
25. Lynne Burris	C. WAYNE MANNING AGY.		X

PUBLIC HEARING

GOVERNMENTAL ENTITY INSURANCE PROGRAM

RULES & REGULATIONS

May 8, 1989 South Charleston, WV

NAME	REPRESENTING	COMMENT yes	COMMENT no
26. John C. Davis	Box 347, Delbarton WV		✓
27. Ken Crutchfield	Flat Top Ins. Gen. Office Bluefield		✓
28. Guy Shelton	Shelton + Jarrell Ins Beckley		
29. Steve Seiss	YMCA of Kanawha Valley		✓
30. Arch Keller	Insurance Systems, Inc		
31. Charles R. [illegible]	Kan-Chas Health Dept		✓
32. Martha Stapler	Cal. Co. Emergency Services		✓
33. Randall [illegible]	City of Parkersburg		
34. Jim DeLuca	McDonough Caperton - Pkbg		✓
35. Deborah Parton	City of Parkersburg		✓
36. [illegible]	Mason Co. Ins.		✓
37. [illegible] Von Blond	PBC Insurance		✓
38. Gary Marion	Independent Insurance Agents of WV		✓
39. [illegible]	Buckley Ins. Assoc. Inc	✓	
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BEFORE THE BOARD OF RISK AND INSURANCE MANAGEMENT
STATE OF WEST VIRGINIA

IN RE: Public Hearing on Rules and Regulations

TRANSCRIPT OF PROCEEDINGS

Transcript of the proceedings had in the above-styled matter, which was held on the 3rd day of May, 1989, commencing at 1:00 p.m., and concluding at 1:20 p.m., at the Ramada Inn, Route 119 S & U. S. 48 @ I-79, Conference Room D, Morgantown, Monongalia County, West Virginia, pursuant to notice.

LANA L. BENDER, C.C.R.
ECHO REPORTING AGENCY
204 MORRISON BUILDING
CHARLESTON, WEST VIRGINIA 25301
(304) 345-3246

APPEARANCES: HARRY "SKIP" MORRIS, Underwriting Manager
Board of Risk and Insurance Management
State Capitol Complex
Building 5, Room 1017
Charleston, West Virginia 25305.

JOHN W. LANDFRIED, Chairman
Board of Risk and Insurance Management
State Capitol Complex
Building 5, Room 1017
Charleston, West Virginia 25305.

RALPH R. WALLACE, JR., Board Member
Board of Risk and Insurance Management
State Capitol Complex
Building 5, Room 1017
Charleston, West Virginia 25305.

PROCEEDINGS

MR. MORRIS: First, I'd like to thank everyone for attending. Did everyone bring a copy of the Rules and Regulations with them? If not, there's a box of them back there and you can grab an extra copy if you'd like.

When you signed in, we asked you to, of course, give your name and who you were with and also to mark if you wanted to make a public comment or not.

So far, no one wants to make any public comment, and, of course, it is a public hearing. The purposes of public hearings are established under the West Virginia Code 29A-2-6, which requires public hearings on all rules and regulations established by State agencies.

The purpose of the public hearings is to have citizens' input into these rules and regulations. So if anyone would like to reconsider in making any comment, we would appreciate it, or this will be a very short meeting.

Let me introduce a couple of people up here. This is our Board Chairman, Chairman of the Board of Risk and Insurance Management, John Landfried; and this is Board Member, Mr. Wallace. This is our court reporter here, so we can have all this documented.

My name is Skip Morris and I work at the Board of Risk, and we have a very distinguished guest with us today, the former insurance commissioner, PIA director, professor at West Virginia University, and more important as a trout fisherman, Fred Wright.

And, as I say, the purpose of these public hearings is to go over the rules and regulations, and, again, I would appreciate it if anybody would like to make any comment.

After we go through the rules and regulations, if time permits, and it looks like it will, if you-all want to have a discussion concerning other aspects of the State program, we will attempt to listen to what you have to say and to hopefully answer your questions.

Let's try to get these gentleman to sign in, since they came in late.

The first part that we have to do is that when we sent out the little instructions, we stated that if you wanted to make written comments, you could do the same. And so I have to at least read off the written comments made concerning the rules and regulations so that they can be put on public record.

The first written comment was from Mr. John Marshall from Insurance Exchange of St. Albans. He stated that, "Service fee is too low and penalizes the writing against small and medium accounts, that acquisition cost should be discontinued; this is a start-up. And for our overhead costs we are collecting ninety-two percent (92%) of the premium and our earnings should pay for our overhead cost."

He said, on the rating system, that we should be using ISO rates and not rates based upon West Virginia and experience.

On the question of ineligible classes, he said we should not be writing non-profit organizations.

Another written comment came from Mr. C. M. Sacre, Sacre Insurance. He said, "It is my opinion that non-profit organizations should not be a part of the program, that the private markets have responded to the need. I think the State should limit itself to public entities and respond to non-profits when and if the need arises; otherwise, the State will be competing with private business, which should not happen."

And a third response that we received was from the City of Ranson. It was written by the city administrator, Dawn Hatzer. It says, "Regarding the rules and regulations, the City objects quite strenuously to Section 3, 3.6, which states:

> Failure to satisfactorily complete the information packet may also result in the entity losing insurance coverage and/or forfeiting moneys collected by the board as acquisition cost.

"It is my understanding that the information packet is furnished to the agent of record. The senate, city or entity is jointly responsible for subsubmitting the packet, that the entity should also receive a packet.

"In addition, the City feels strongly that a notice should be sent to the entity, informing them if the packet has not been received or satisfactorily completed prior to penalties or loss of coverage."

And then we received another comment. This was from Cabell County Public Schools, signed by

H. Thomas McCray, treasurer. He says, "I do hope a member of your board dares to be present."

Well, as I said before, this will be a very quick meeting, since nobody wishes to make any comments, unless anybody would like to reconsider and make a public comment to go on record?

The gentleman in the back with the mustache?

VOICE: I just got here. I'm not sure what's going on. Good old West Virginia roads.

MR. MORRIS: Well, you need to sign in.

The gentleman that just signed in, Mr. Earl Smith from Wetzel Valley Insurance Agency, did mark that he would like to make comments. You're the first and only one so far.

MR. SMITH: Give me a second to get prepared, Mr. Morris.

MR. MORRIS: Well, I can tell some jokes.

MR. SMITH: It was my understanding that this meeting was a public hearing and the idea was to make any comments concerning the proposed, and I assume these are proposed, Skip, rules and regulations?

MR. MORRIS: They're emergency rules and

regulations that have been filed with the Secretary of State's office.

MR. SMITH: I think, the thing that disturbed me most was that these rules and regulations, I guess, were negotiated and filed, and during the recent legislative session there seemed to be some movement to counteract these rules and regulations before they were even put into effect or made official.

And I thought that was a little bit disturbing, since the fact that if your car broke down, you wouldn't take it to an auto underwriter to get it fixed, you'd take it to an auto mechanic. If you needed legal advice, you wouldn't take it to a rater, you'd take it to an attorney. If you were seriously ill or injured, you wouldn't seek the counsel of a risk manager, you would seek the counsel of a doctor. In the same sense, if you've got an insurance program, I think you'd want to consult an insurance professional to handle that particular program.

If you look in the small towns, and that's basically what our area deals with, small towns, small volunteer fire department, these people that are the fire chiefs and the mayors, et cetera, these people are -- they own grocery stores, they own businesses, they work in the coal mines, they're auto mechanics, they're not insurance professionals. And there are things in this insurance program -- if you tried to send this information by mail or handle direct, strictly out of an office in Charleston, I think you're going to miss the whole purpose of the program and I think you're going to miss a lot of information that you'd need under this particular program.

As I said, in those four instances, I think anybody with any reasonable level of intelligence would go to a professional, not somebody that's not in that particular field.

I don't know anything about repairing a car, but I feel I'm very good at what I do, and that's being an insurance professional.

I think, if you do have an insurance program, it should be handled by that, and some of the criticism that I heard about insurance agents handling the program, and I don't know whether it's criticism or jealousies or what it came out about the insurance agent handling the program, it's pretty well covered in every item of these proposed laws.

Section 3.5, for example, someone said, "Well, what if you had a non-professional insurance agent? People don't know what they're doing." But that says:

> Failure of the agent of record to satisfactorily complete the information packet may result in disciplinary action by the Insurance Commissioner of West Virginia.

I think that would pretty well eliminate anybody's criticism who feels that, okay, maybe there are some agents out there who are not doing what their part of the bargain is. You already have that part of it covered under your rules and regulations.

In the same sense, the question about commissions, there was somebody -- I think this fight or whenever the disagreement started a year or so ago with one particular large county, who felt that they had the expertise to be insurance agents along with county commissioners and everything else, and they felt that they should not have to pay a commission to an agent when they felt they were more capable to handling this information themselves. Well, your rules and regulations cover that:

> The amount of commission or fee of the agent of record shall be a matter to be resolved between the entity and its agent.

You don't need an endorsement added to a bill in the Legislature to eliminate the agents to solve the problem you're trying to do in the first place. You already had your rules and regulations to do that. You don't need somebody in Charleston trying to change things when you've got the rules already that will handle all that information.

And I think those were the two (2) biggest things that I have heard come out of the program. So I'm really not sure what's left to discuss. You do have one thing, I notice, in these rules and regulations that sounds very good. In 8.1:

> The Board shall establish an advisory committee to assist the Board in identifying insurance problems for various types of organizations.

I think -- no disrespect to the Board of

Risk, but I think you need an agent to protect the entity from the Board of Risk. I thought you'd like that, Skip.

But basically what I'm talking about here, we work with these people, and especially in smaller areas like we do, we have a number of small entities.

The fire department had a wreck at nine-thirty (9:30) at night. I got called to come down to the fire department to look at the fire truck. Somebody hit them. They didn't know the status of those particular people's insurance. And if you're in a small town, you do those particular things.

Now, I can't see somebody getting in a car in Charleston, driving to New Martinsville, West Virginia at nine-thirty (9:30) at night to take a look at the fire truck. I can't see somebody from Charleston getting in the car and driving to the City of New Martinsville, and during the city council meeting on Monday evening they have a question come up about insurance. I just can't see this happening.

In the program, I did not see the risk manager advising small towns that if they separate their fire departments from their city, you have a special fire department program; it's more competitive that way. I didn't see that information being volunteered.

I didn't see the Board of Risk volunteering to advise cities that their fidelity bond does not cover faithful work or performance.

This information, I think, is one of the main reasons that it's imperative that you have a qualified -- and I put that word in there -- professional insurance agent handling this program. You have all the rules and regulations to eliminate those people who don't what to be professional agents.

If I get in the car and drive an hour and a half to a volunteer fire department, spend two (2) hours trying to explain the insurance program and drive an hour and a half back, and they meet a week later and decide to take it, and you make the same trip out to explain again, to get the premium, I mean, you're getting eight percent (8%) commission and you're getting a hundred and fifty dollars ($150).

You know, your eight percent (8%) is not enough commission, but I understand that that's going to be it. And to eliminate or reduce that, like I said, I'm just not sure where people are coming from. I don't know whether they're in the same world or not, and, in my thinking, it doesn't sound like it.

I see really nothing wrong with the rules and regulations you set up. Again, I don't know what the thinking out of Charleston was, where somebody was misguided to try to misguide some legislators or trying to put a bill in to eliminate the agents, but, members of the Board, you need the agents in there, you need their expertise, you need their local service which, no matter what people think, you can't handle that by phone, you can't handle that by mail. You have to be in these, especially the small communities to handle these situations. Thank you very much.

MR. MORRIS: Thank you, Earl.

Is there anyone else who would like to make a comment?

Yes, sir?

MR. WRIGHT: Have you made an assessment of the impact of this bill, which places responsibility on the Board to furnish liability insurance to anybody performing obstetrical work which would be or might be covered under Medicaid?

MR. MORRIS: Fred, Commissioner or ex-Commissioner, Professor Wright, why don't we stick to the rules and regulations.

MR. WRIGHT: I wanted to prolong the meeting.

MR. MORRIS: To comply with the law, I believe if there are no more public comments concerning the rules and regulations, and I presume there's not, then we can call the public hearing off.

And since in my opening statement I said if time permitted, and quite obviously it shall permit, then we can address other things and try to answer other questions.

MR. WRIGHT: I think you've done very well with these regulations. Under the circumstances, where you were forced to limit the service fees and provide certain things, forced by law, I might add, to modify the system from what would have been more effective and efficient, and I think that the things that have been said so far all relate back to the fact that you were taken to court, you were forced to do these things that are undesirable, and under those circumstances you've done a very fine job.

MR. MORRIS: Thank you, sir.

Is there any other comment?

Well, if that be the case, then the public hearing will be considered to be over with.

(WHEREUPON, at 1:20 p.m., the public hearing in the above-entitled matter was concluded.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF MONONGALIA, to wit:

I, Lana L. Bender, Certified Court Reporter and Notary Public in and for the State of West Virginia, do hereby certify that the foregoing is, to the best of my skill and ability, a true and accurate transcript of all proceedings had in the aforementioned case, as set forth in the caption hereof, at a hearing held on the 3rd day of May, 1989.

Given under my hand this 15th day of May, 1989.

Lana L. Bender

Lana L. Bender, CCR
Notary Public.

STATE OF WEST VIRGINIA
OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
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My Commission Expires July 26, 1993

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