WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

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

RULE TYPE: Procedural ; CITE AUTHORITY Chapter 29-12

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: Number 3

TITLE OF RULE BEING PROPOSED: Administrative regulations of State Board of Risk & Insurance Management

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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 January 9, 1990 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Board of Risk & Insurance Management
1900 Kanawha Boulevard
Charleston, WV 25305

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

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

TO:
SKIP

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
State Capitol
Charleston, WV 25305

Gaston Caperton
Governor

Chuck Polan
Secretary

December 13, 1989

RECEIVED
DEC 15 1989
Board of Risk and Insurance Management

Mr. Robert Corey
Administrator
Board of Risk & Insurance Management
307 Jefferson Street
Charleston, West Virginia 25311

Re: Rules and Regulations

Dear Bob:

Approval is hereby given for filing of the Rules and Regulations of the State Board of Risk & Insurance Management of West Virginia, Series 3 (1989), in accordance with West Virginia Code Section 29-12-1 et seq., as attached.

Sincerely,

Chuck Polan
Secretary of Administration

CP/lm

Attachment

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

STATE BOARD OF RISK & INSURANCE MANAGEMENT

OF WEST VIRGINIA

FILED
1989 DEC -8 PM 1:36
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Chapter 29-12

Series 3
(1989)

SUBJECT: Rules and Regulations of the State Board of Risk & Insurance Management of West Virginia

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SECTION 1. GENERAL

1.01. Scope - These regulations establish rules for the general administration of the State Board of Risk & Insurance Management of West Virginia.

1.20. Authority - These regulations are issued in conformity with Chapter 29, Article 12, of the West Virginia Code of 1931, as amended.

1.03. Effective Date - These regulations are promulgated on the

1.04. Filing Date - These regulations were filed in the Office of the Secretary of State on the

1.05. Definitions - The terms "Board," "Company," "Insurance," "Insurance Company," "State property activites" and "State responsibilities," and "State property," as used in the rules and regulations shall have the same definitions as these terms are given in West Virginia Code 29-12.

The following words and phrases as used in these rules and regulations, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(a) "Risk Management" - an established program designed to protect the health and welfare of the State employees and maintain the financial integrity the State's assets, by controlling the risk of accidental loss through prevention and as a last resort, insurance.

(b) "Risk Manager" - a professional position established by and responsible to the Board and under the direction of the Board for the purpose of administering the insurance of the State and of managing a sound and adequate Risk Management Program. Minimum qualifications - Education required: Bachelor's degree in Liberal Arts, Science, Business Administration or Engineering plus courses in insurance. Experience required: at least five (5) years experience in property and casualty lines with an Insurance Company, Broker, Agent, Corporate Insurance & Loss Prevention Department or Government Agency as an Underwriter, Claims Adjustor, Engineer or position in Risk Management.

(c) "Self-Insurance Fund" - an established fund to provide for retention of a portion of the State's liability or loss from any single accident for an amount determined to protect the financial intergrity of the State.

(d) "Review Committee" - established to determine the eligibility of claims presented by agencies of the State for reimbursement from the Self-Insurance Fund. The committee members are 1)the Chairman of the Board or his designee, 2) the Director of the Budget Division, Department of Finance and Administration, and 3) a "floating" member from the State agency involved in the claim.

1.06. Amendments - To Rules and Regulations. - Amendments to these rules and regulations may be made at any meeting of the Board, by vote of a majority of the quorum, provided that the requirements of West Virginia Code 29A-3-2 are met.

1.07. Interpretation - Of Rules and Regulations - Interpretation of these rules and regulations are the responsibility of the Board and any necessary changes may be acted upon by amendment in accordance with Section 1.06. above.

SECTION 2. ADMINISTRATION

2.01. Meetings of the Board

(a) The Board shall conduct meetings at least once a month (second Tuesday of each month) and as further required in order to implement and administer the Risk Management Program. Such meetings shall be conducted at the Office of the Insurance Commissioner upon call of the Chairman.

(b) The Board shall make the Risk Manager responsible for recording the minutes of each meeting.

2.02. Records - The Board shall maintain written records of all proceedings, which shall be public and open to inspection. All records of insurance procurement activities of the Board including, but not limited to, premiums paid, commissions paid, and insurance coverages in effect shall be available to the public in the Office of the State Board of Risk & Insurance Management of West Virginia during normal working hours.

2.03. Election of Chairman.

(a) The Board shall elect one of its members as Chairman.

(b) Regular election for Chairman may be held each fiscal year provided that such a motion is made by any Board member and communicated to the Chairman prior to a Board Meeting.

(c) In the event there is a vacancy in the Office of the Chairman, any Board member may call a meeting for the purpose of electing a successor.

SECTION 3. ESTABLISHMENT OF THE PROGRAM

3.01. The Board shall have the exclusive power and authority to enter into any contracts in connection with the purchase of insurance of all State properties, activities and responsibilities in accordance with and limited to the provisions of Section 5, Article 12, Chapter 29, Administrative Code of West Virginia, as amended.

3.02. The Board is hereby authorized to hire a Risk Manager who is responsible to the Board and under the direction of the Board will administer the insurance of the State and manage a sound and adequate Risk Management Program.

3.03. It shall be the duty of every Department, Agency, Commission, Board, Officers and employees of the State having custody or control of any State property, activities and responsibilities to make immediate written reports to the Board with information required and due in accordance with the provisions of Section 6, Article 12, Chapter 29 of the Administrative Code of West Virginia, as amended.

3.04. The Board shall include in their annual budget request the following line items: "Self-Insurance Fund" and "Combined Insurance Premiums".

(a) Any unexpended balance in the appropriation for Self-Insurance Fund at the close of any fiscal year may be transferred to a special account, which will be cumulative, for reappropriation and disbursement for payments of premiums of self-insurance losses.

(b) The appropriation for "Combined Insurance Premiums" is for the purpose of paying premiums for property, accident, casualty and surety insurance coverage for the various State Departments, Agencies, and Boards. Should this appropriation be insufficient to meet the premium requirements of the State spending units, any excess premium requirements shall be a proper charge against the units and each spending unit shall reimburse to the Board any amounts required for that spending unit for premiums in excess of this appropriation.

SECTION 4. IMPLEMENTATION OF THE PROGRAM

4.01. No State spending unit having control or custody of any State property, activities and responsibilities as herein contemplated, or not so contemplated, shall expend any State money for the purpose of insurance against losses, damage or liability to any such State properties or on account of any such State activity or responsibility or incur obligation or indebtedness against the State for such insurance, except to pay invoices issued by the Board for insurance coverage arrangements.

4.02. All State insurance shall be placed only with solvent insurance companies licensed by the Insurance Commissioner to transact insurance in the State of West Virginia.

4.03. All State insurance shall be written directly with a licensed resident West Virginia Insurance agent. Commissions shall be allocated in accordance with the provisions and limitations of Section 7, Article 12, Chapter 29, of the Administrative Code of West Virginia, as amended.

4.04. The selection of insurance coverage, self-retention amounts, and the determination of an insurance carrier shall be predicated on the flexibility of markets, economic soundness of program, claim and underwriting services and accident and loss prevention services.

4.05. No insurance shall be placed with any member of the Board, the State Insurance Commissioner, Official, Officer or Employee of the State of West Virginia, Member of the Legislature, Member or Officer of any State or County political party executive committee, not with the spouse, parent or child of any such person, nor with any corporation, and stockholder of which falls within the classes herein enumerated.

4.06. Any policy of insurance purchased or contracted for by the Board shall provide that the insurer be barred and estopped from relying upon the constitutional immunity of the State of West Virginia against claims or suits.

SECTION 5. CONTROL OF RISK

5.01. The Board shall seek the most economical ways to control risk of accidental loss through an active accident and loss prevention program.

5.02. The Board shall arrange to contract engineering and diagnostic services for the purpose of systematic inspection of State properties with recommendations for elimination of the causes of loss. Such recommendations shall not conflict with the rules and regulations adopted by the State Fire Marshal's office.

SECTION 6. SETTLEMENT OF CLAIMS

6.01. The Board is hereby authorized and empowered to negotiate and effect settlement of any and all insurance claims arising on or incident to losses of and damages to State properties, activities and responsibilities. The execution and delivery of proper claim settlement releases shall be affected with the knowledge and consent of the Attorney General.

6.02. A Self-Insurance Fund has been established by the Board for State spending units that sustain uninsured losses. Eligibility and settlement of a loss will be determined by the Review Committee, and unless an exception is made, all eligible losses will be subject to a $2,000 deductible any one loss within the $1,000,000.

net annual aggregate retention. All losses above the $1,000,000. net annual aggregate retention will be subject to a $2,000. deductible any one loss.

6.03. The Board shall assist any State spending unit sustaining damage or loss to State properties, activities or responsibilities in claim reimbursement proceedings against responsible members of the public.