

**WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION**

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Form #3

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

AGENCY: WV Division of Banking TITLE NUMBER: 106

CITE AUTHORITY: W. Va. Code §§ 31A-4-13(i) and 31A-2-4(c)(11)

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

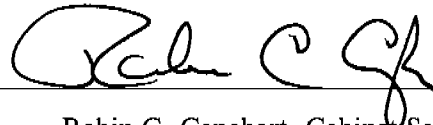
TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: Series 2

TITLE OF RULE BEING PROPOSED: The Sale of Insurance Products by State-

Chartered Banks

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.



Robin C. Capehart, Cabinet Secretary

July 31, 1998

Date

\$4.00



DIVISION OF BANKING

Building #3, Room 311 • State Capitol Complex • 1900 Kanawha Blvd., East • Charleston, WV 25305-0240 • FAX: (304) 558-0442

(304) 558-2294

COMMISSIONER OF BANKING
RULE PERTAINING TO
THE SALE OF INSURANCE PRODUCTS BY
STATE-CHARTERED BANKS
106 CSR 2

Summary of Proposed Rules

The proposed rule sets forth the regulations governing notification, policies and procedures in connection with the sale of insurance products by state-chartered banks. The rule requires that state-chartered banks provide 30 day advance written notice to the Commissioner of Banking before engaging in the proposed insurance activity. The rule also requires that state-chartered banks follow federal rules and guidelines regarding the sale of such insurance products, along with federal rules pertaining to the sharing of customer information to the extent those rules are not in conflict with state law.

The rule makes clear the ability of the Commissioner of Banking to undertake investigations to determine whether the insurance activity presents a safety and soundness problem to the bank both before the activity is begun, or anytime thereafter. It reaffirms the jurisdiction of the Insurance Commissioner over the licensing and sale of such products by banks. It further provides for penalties and enforcement of the rule including possible revocation or suspension of the authority for the bank to engage in any insurance activity. These penalties and enforcement provisions are not exclusive, but rather are cumulative with other powers and penalties provided in law.

E.E.O./AFFIRMATIVE ACTION EMPLOYER



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Statement of Circumstances

The proposed rule is required by W. Va. Code § 31A-4-13(i) as added to the Code during the last legislative session. The rule is meant to implement the procedures by which state-chartered banks are now permitted to sell insurance products including annuities.

E.E.O./AFFIRMATIVE ACTION EMPLOYER

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: The Sale of Insurance Products by State-Chartered Banks
[106 CSR 2]

Type of Rule: Legislative Interpretive Procedural

Agency: West Virginia Division of Banking

Address: State Capitol Complex

Building 3, Room 311

Charleston, West Virginia 25305-0240

1. Effect of Proposed Rule:

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSES	0	0	0	0	0
REPAIRS & ALTERATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

The rule merely tracks language which previously appeared in a Decision of Authorization allowing for the sale of insurance products by state-chartered banks which was implemented by the Division of Banking in 1996. The procedures set forth thus conform to current practices, and hence contain no additional costs.

3. Objectives of these rules:

To set forth the rules governing notification, policies and procedures in connection with the sale of insurance products by state-chartered banks as required by pursuant to W. Va. Code §31A-4-13(f) and (g).

Rule Title: Sale of Insurance Products by State-Chartered Banks
[106 CSR 2]

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government:

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

None.

C. Economic Impact on Citizens / Public at Large:

None.

Date: June 9, 1998

Signature of Agency Head or Authorized Representative:

Sharon S. Bick affirmed 7/29/98 (85)

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 29, 1998

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone) WV Division of Banking, State Capitol Complex, Building 3
Room 311, Charleston, WV 25305-0240 PH: 558-2294

LEGISLATIVE RULE TITLE The Sale of Insurance Products by State Chartered Banks

1 Authorizing statute(s) citation W.Va. Code 31A-4-13(i) and 31A-2-4(c)(11)

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 1, 1998

b. What other notice, including advertising, did you give of the hearing?
No hearing was conducted or scheduled.

c. Date of Public Hearing(s) or Public Comment Period ended:
Public Comment Period ended July 2, 1998 at 4:00pm

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

- Attached _____ No comments received 0

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

No public hearing held, but rule to be filed on July 30, 1998

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

Sharon G. Bias, Commissioner of Banking

Address: WV Division of Banking, Building 3 Room 311, State Capitol
Charleston, WV 25305-0240 PH: 558-2294 FAX 558-0442

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 as above.

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.

No hearing conducted.

b. Date of hearing or comment period:
No hearing scheduled or conducted.
Comment period from filing date June 1, 1998 to July 2, 1998 at 4:00pm.

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

No filing required.

d. Attach findings and determinations and reasons:

Attached Not applicable.

TITLE 106
LEGISLATIVE RULE
WEST VIRGINIA DIVISION OF BANKING

FILED

JUL 31 9 50 AM '98

SERIES 2
THE SALE OF INSURANCE PRODUCTS BY
STATE-CHARTERED BANKS

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§106-2-1. General.

1.1. Scope. -- This rule relates to notification, policies and procedures in connection with the sale of insurance products by state-chartered banks pursuant to W. Va. Code §31A-4-13(f) and (g).

1.2. Authority. -- W. Va. Code §§31A-4-13(i) and 31A-2-4(c)(11).

1.3. Filing Date. --

1.4. Effective Date. --

§106-2-2. Notice and Conduct of Insurance Activities.

2.1. Notice-- State-chartered banks shall first give the Commissioner of Banking thirty day written notice of their intent to engage in the sale of insurance products. If the Commissioner takes no action to prevent the bank from proceeding with the activity within the thirty-day period, the bank may sell the insurance products. The Commissioner, in his or her discretion, at any time prior to the end of the thirty-day period, may signify his or her non-objection to the sales, and the bank may proceed upon that assent. The notice and assent may apply to all products considered insurance under the laws of this state, unless otherwise limited by the Commissioner.

2.2. Federal Guidelines on Noninsured Products-- State-chartered banks shall adhere to all federal rules, regulations and general policies and guidelines regarding the sale of non-federally insured insurance products by or at their banks, including those relating to the clear disclosure that those insurance products are not insured by the Federal Deposit Insurance Corporation.

2.3. Insurance Commissioner Jurisdiction-- State chartered banks shall adhere to any and all requirements imposed by the West Virginia Commissioner of Insurance as to the sale of insurance products, the distribution of fees associated with insurance and annuity sales, and as to the

licensing of agents for insurance sales, to the same extent those requirements are applied to other corporations and national banks.

2.4. Sharing of Customer Information-- State chartered banks shall establish and adhere to written policies governing the use and sharing of their bank customer information in conformity with applicable state law. Unless contrary to applicable state laws, these policies shall conform to federal rules and guidelines involving the sale of non-deposit investment or insurance products.

§106-2-3. Safety and Soundness.

3.1. Investigation-- The Commissioner of Banking, in his or her discretion, may undertake investigation if he or she believes that any sale or proposed sale of an insurance product might impair the safety and soundness of the bank. The Commissioner may deny, modify or prohibit the sale of an insurance product, if he or she finds the activity contrary to the safety and soundness of the bank.

§106-2-4. Enforcement and Penalties.

4.1. Enforcement-- Nothing in this rule limits or prevents the Commissioner of Banking from exercising his or her lawful authority to regulate the conduct of banks and bank holding companies under the provisions of Chapter 31A of the West Virginia Code.

4.2. Penalties-- The Commissioner or the West Virginia Board of Banking and Financial Institutions may revoke or suspend a state-chartered banking institution's authority to sell insurance products or a particular insurance product if it is found that a violation of this rule has occurred and that the nature of the violation warrants the revocation or suspension. Violation of this rule or any order to enforce this rule may also result in any other penalties provided by Chapter 31A of the West Virginia Code.