

WEST VIRGINIA  
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #4

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: WV Division of Banking TITLE NUMBER: 106

CITE AUTHORITY WV Code 31A-4-13 (i) and 31A-2-4 (c) (11)

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 NEW RULE BEING PROPOSED: Series 2

TITLE OF RULE BEING PROPOSED: The sale of insurance products  
by state-chartered banks

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE  
MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT  
BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE  
FILED WITH THE SECRETARY OF STATE.

  
Authorized Signature

\$2.80

TITLE 106  
LEGISLATIVE RULE  
WEST VIRGINIA DIVISION OF BANKING

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

OFFICE OF THE  
SECRETARY OF STATE  
WEST VIRGINIA

§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. Before the expiration of the thirty-day period, the Commissioner may object to the proposed sale of insurance products if he or she finds, based upon existing information known to the Commissioner or following an investigation conducted under subsection 3.1 of this rule, that the proposed activity would be contrary to the safety and soundness of the bank. 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 an 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.



**DIVISION OF BANKING**

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October 7, 1998

Ms. Judy Cooper  
Administrative Law Division  
Secretary of State  
State Capitol  
Charleston, WV 25305

VIA HAND DELIVERY

RE: Title 106, Series 2  
The Sale of Insurance Products by State-chartered Banks

Dear Ms. Cooper:

I enclose a copy of the Notice of Rule Modification of Proposed Rule, as approved by Secretary Capehart, and the proposed legislative rule with modifications as agreed to with Debra Graham, counsel to the Legislative Rule making Review Committee.

This day I am also filing ten (10) copies of the above document package with the Committee.

If you have any questions regarding this matter, please feel free to contact me. As always, thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "R. J. Lamont", written in a cursive style.

Robert J. Lamont  
General Counsel

pc: Debra A. Graham

E.E.O./AFFIRMATIVE ACTION EMPLOYER



FILED

SEP 23 10 23 AM '98

**WEST VIRGINIA LEGISLATURE**  
**Legislative Rule-Making Review Committee**

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

*State Capitol - Room MB-49*  
*Charleston, West Virginia 25305*  
*(304) 347-4840*

*Senator Mike Ross, Co-Chairman*  
*Delegate Mark Hunt, Co-Chairman*  
*Debra A. Graham, Counsel*

September 23, 1998

*Joseph A. Altizer, Associate Counsel*  
*Rita Pauley, Associate Counsel*  
*Teri Anderson, Administrative Assistant*

NOTICE OF ACTION TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: Ken Hechler, Secretary of State, State Register

TO: Sharon G. Bias  
West Virginia Division of Banking  
Capitol Complex  
Building 3, Room 311

FROM: Legislative Rule-Making Review Committee

Proposed Rule: **The Sale of Insurance Products by State-Chartered Banks, 106CSR2**

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
  - (a) as originally filed \_\_\_\_\_
  - (b) as modified by the agency       ✓
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. \_\_\_\_\_
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. \_\_\_\_\_

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: West Virginia Division of Banking

Subject: The Sale of Insurance Products by State-Chartered  
Banks, 106CSR2

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PERTINENT DATES

Filed for public comment: June 1, 1998  
Public comment period ended: July 2, 1998  
Filed following public comment period: July 31, 1998  
Filed LRMRC: July 31, 1998  
Filed as emergency:

Fiscal Impact: None

FILED  
AUG 20 10 35 AM '98  
OFFICE OF THE CLERK  
SECRETARY OF STATE  
WEST VIRGINIA

ABSTRACT

The proposed rule is new. The following is a section by section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 requires banks to give the Banking Commissioner 30 days written notice of the intent to engage in the sale of insurance products. It requires state-chartered banks to adhere to all federal regulations and guidelines regarding the sale of non-federally insured insurance products at their bank. They must also comply with the requirements of the Insurance Commissioner regarding the sale of insurance products. Finally, they are to have written policies governing the use and sharing of their bank customer information in conformity with applicable state law.

Section 3 allows the Commissioner to investigate the sale or proposed sale of an insurance product that might impair the safety and soundness of the bank and may deny, modify or prohibit that sale.

Section 4 allows the Commissioner to revoke or suspend a state-chartered bank's authority to sell insurance products.

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AUTHORITY

Statutory authority: W.Va. Code, §31A-4-13, which provides, in part, as follows:

...(i) The commissioner shall promulgate rules in accordance with chapter twenty-nine-a of this code relating to the sale of insurance or annuities, including, but not limited to, rules requiring notice of the intention to engage in such activities and relating to the policies and procedures state-chartered banking institutions should adopt in connection with such activities...

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ANALYSIS

I. HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?

No.

II. IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?

Yes.

III. DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?

No.

IV. IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?

Yes.

V. IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?

Yes.

VI. CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?

No.

VII. WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISION OF THE CODE?

Yes.

VIII. OTHER.

Counsel has technical modifications to suggest.