WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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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: Insurance Commission

TITLE-SERIES: 114-98

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: 114-98 Adoption of Valuation Manual

PRIMARY CONTACT

NAME: Victor A Mullins

ADDRESS: 900 Pennsylvania Ave

Charleston, WV 25302

EMAIL: victor.a.mullins@wv.gov

PHONE NUMBER: 304-414-8026

CITE STATUTORY AUTHORITY: W. Va. Code §§33-2-10 and 33-7-9(n)

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code §33-7-9(n) required the Insurance Commissioner to promulgate a rule adopting a valuation manual substantially similar to the valuation manual approved by the National Association of Insurance Commissioners (NAIC). The operative date of the valuation manual was required to be January 1 of the first calendar year following the first July 1 of which certain enumerated triggering factors set forth therein occurred. Those triggering factors were met in June 2016 and the valuation manual was adopted effective January 1, 2017. The subject rule provides West Virginia's formal adoption of the valuation manual.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? Yes

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? Yes

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD:

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED:

COMMENTS RECEIVED:

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING:

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

W. Va. Code §33-7-9(n) required the Insurance Commissioner to promulgate a rule adopting a valuation manual substantially similar to the valuation manual approved by the National Association of Insurance Commissioners (NAIC). The operative date of the valuation manual was required to be January 1 of the first calendar year following the first July 1 of which certain enumerated triggering factors set forth therein occurred. Those triggering factors were met in June 2016 and the valuation manual was adopted effective January 1, 2017. The sunset date on this rule must be extended for the Insurance Commissioners office to maintain its accreditation with the NAIC. The subject rule provides West Virginia's formal adoption of the valuation manual.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The Insurance Commissioner seeks to amend this rule solely to extend the sunset date, which is currently August 1, 2027. The rule was initially promulgated in 2017 pursuant to W. Va. Code §33-7-9(n), which is known as the Standard Valuation Law. The West Virginia Standard Valuation Law establishes a principle-based valuation methodology that is applicable, subject to specified exceptions, to life, health and annuity business written after the operative date of the uniform Valuation Manual adopted by the National Association of Insurance Commissioners (NAIC). To enable uniform and simultaneous implementation by participating states, the Standard Valuation Law provides that the Valuation Manual will only become operative when a sufficient number of states have adopted substantially similar laws before July 1 of the preceding year. The Valuation Manual was adopted by the NAIC on December 2, 2012. In 2017, the number of states adopting principle-based valuation at the state level reached the specified supermajority. Fifty-one jurisdictions have now engaged principle-based valuation reserving legislation, and the NAIC began requiring it as an accreditation standard, effective January 1, 2020. Prior to principle-based valuation, static formulas and assumptions were used to determine these reserves as prescribed by state laws and regulations. However, this rule-based approach would occasionally leave an insurer with excessive reserves for certain insurance products and inadequate reserves for others. The solution was to right-size reserve calculations by replacing a rule-based approach with a principle-based approach. Under principle-based valuation, insurers are required to hold the higher of reserves using prescribed factors or reserves which consider a wide range of future economic conditions and is computed using credible insurer experience factors specific to an insurer, such as mortality, policyholder behavior and expenses. By promulgating this rule, West Virginia provided clear guidance to both the insurance industry and to other states that West Virginia intended to begin reserving in accordance with principle-based reserving effective January 1, 2017 and provided assurances of uniformity of reserving in these jurisdictions. The sunset date of this rule must be extended for the Insurance Commissioners office to maintain its accreditation with the NAIC.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Anoop Bhasin -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 114

LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 98
ADOPTION OF VALUATION MANUAL

Section.

114-98-1. General

114-98-2. Definitions

114-98-3. Determination of Operative Date of Valuation Manual

114-98-4. Adoption of Valuation Manual

TITLE 114

LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 98
ADOPTION OF VALUATION MANUAL

§114-98-1. General.

1.1. Scope. -- The purpose of this rule is to formally adopt the most recent changes to the Valuation Manual adopted by the National Association of Insurance Commissioners ("NAIC") as specified in W.Va. Code §33-7-9(n).

1.2. Authority. -- W. Va. Code §§33-7-9(n) and 33-2-10.

1.3. Filing date. – ~~June 6, 2022~~.

1.4. Effective date. – ~~July 1, 2022~~.

1.5. Sunset date. – This rule shall terminate and have no further force or effect on August 1, ~~2027~~ 2032.

§114-98-2. Definitions.

2.1. For purposes of this section, "Valuation Manual" shall have the meaning ascribed in W. Va. Code §33-7-9(a)(11).

§114-98-3. Determination of Operative Date of Valuation Manual.

3.1. The Insurance Commissioner has made the following determinations:

3.1.1. The Valuation Manual was adopted by the NAIC on December 2, 2012 by an affirmative vote of 43 members, representing over three-fourths of the members voting.

3.1.2. The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and conditions, has been enacted by states representing over 77% of the direct premiums written as reported in the following annual statements submitted in 2008: Life, accident and health annual statements; health annual statements; or fraternal annual statements.

3.1.3. The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and conditions, has been enacted by 44 states.

3.2. On June 10, 2016, the NAIC, after conducting an extensive analysis of state laws, voted unanimously to recognize that all three triggers defining the operative date of the Valuation Manual have been satisfied.

3.3. In accordance with W. Va. Code §33-7-9(n)(2), the operative date of the Valuation Manual for this state shall be January 1, 2017.

§114-98-4. Adoption of Valuation Manual.

4.1. In accordance with W. Va. Code §33-7-9, the Valuation Manual (and any amendments to such manual as may be subsequently approved by the NAIC) is hereby adopted by this state to become effective January 1, 2017.