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**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #5

FILED

2003 AUG 18 P 3:58

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

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

CITE AUTHORITY: WV Code §29-12-1 et seq.

RULE TYPE: PROCEDURAL INTERPRETIVE

EXEMPT LEGISLATIVE RULE

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Administrative Regulations of State Board of Risk & Insurance Management

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE EFFECTIVE DATE OF THIS RULE IS September 17, 2003


Authorized Signature

Tom Susman, Acting Cabinet Secretary
Department of Administration

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
BOARD OF RISK AND INSURANCE MANAGEMENT



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TOM SUSMAN
ACTING CABINET SECRETARY

August 8, 2003

Ms. Judy Cooper
Administrative Law Division
Secretary of State
Building 1, Suite 157K
1900 Kanawha Blvd., East
Charleston, West Virginia 25305

Re: Procedural Rule Title 115, Series 3

Dear Ms. Cooper:

Per your request in a telephone conversation with Linda Dexter of this office, enclosed are Form #5, Notice of Agency Adoption of a Procedural or Interpretive Rule or a Legislative Rule Exempt from Legislative Review, and the diskette with the procedural rule in final format.

Please let us know if you need anything else.

Sincerely yours,

A handwritten signature in black ink, appearing to read "C. E. Jones, Jr.", written in a cursive style.

Charles E. Jones, Jr.
Executive Director

CEJ:lld

Enclosures

Memo

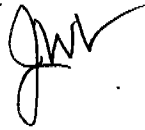
To: Donna M. Prunty, Executive Coordinator

From: Jeff VanGilder, BRIM General Counsel

CC: Charles E. Jones, Jr. Director

Date: July 30, 2003

Re: Procedural Rule Title 115 Series 3



There were no comments received regarding the amendment to the procedural rule Title 115, Series 3, "Administrative Regulations of State Board of Risk and Insurance Management".

115 CSR 3

**TITLE 115
BOARD OF RISK AND INSURANCE MANAGEMENT**

**SERIES 3
ADMINISTRATIVE REGULATIONS OF STATE BOARD OF RISK
AND INSURANCE MANAGEMENT**

**BRIEF SUMMARY OF COMMENTS RECEIVED WITH REGARD
TO PROPOSED RULE**

No comments were received. Therefore, no response is necessary.

115 CSR 3

**TITLE 115
BOARD OF RISK AND INSURANCE MANAGEMENT**

**SERIES 3
ADMINISTRATIVE REGULATIONS OF STATE BOARD OF
RISK AND INSURANCE MANAGEMENT**

STATEMENT OF CIRCUMSTANCES REQUIRING THIS RULE

In 1986, the West Virginia Legislature determined that a need existed for the Board of Risk and Insurance Management to make liability and property insurance available to political subdivisions and charitable or public services organizations. The legislature has since determined a need to create and expand the entities to which coverages is made available.

The legislature modified §29-12-5 in House Bill 601 (Dec. 1, 2001) and in House Bill 4581 (March 7, 2002).

The purpose of this proposed rule is to modify language in the existing rule to delete the requirement that the Attorney General have knowledge of and give consent to the execution and delivery of proper claim settlement releases and to delete sections of the rule that provided for initial establishment and implementation of the program for political subdivisions and charitable or public service organizations; and to delete provision not required by statute. This modification reflects a statutory change made in §29-12-5 by House Bill 601, (Dec. 1, 2001) and House Bill 4581 (March 7, 2002). In addition, a change is proposed to allow the discussion or consideration of financial or personal information of an insured to be held in executive session closed to the public. This additional proposed modification also reflects a statutory change made by House Bill 601, (Dec. 1, 2001) and House Bill 4581 (March 7, 2002).

115 CSR 3

TITLE 115

BOARD OF RISK AND INSURANCE MANAGEMENT

SERIES 3

**ADMINISTRATIVE REGULATIONS OF STATE BOARD OF
RISK AND INSURANCE MANAGEMENT**

BRIEF SUMMARY OF PROPOSED RULE

The purpose of this proposed rule is to modify language in the existing rule to delete the requirement that the Attorney General have knowledge of and give consent to the execution and delivery of proper claim settlement releases and to delete sections of the rule that provided for initial establishment and implementation of the program for political subdivisions and charitable or public service organizations; and to delete provision not required by statute. This modification reflects a statutory change made in §29-12-5 by House Bill 601, (Dec. 1, 2001) and House Bill 4581 (March 7, 2002). In addition, a change is proposed to allow the discussion or consideration of financial or personal information of an insured to be held in executive session closed to the public. This additional proposed modification also reflects a statutory change made by House Bill 601, (Dec. 1, 2001) and House Bill 4581 (March 7, 2002).

115CSR3
Title 115
Procedural Rule
State Board of Risk and Insurance Management
Series 3
Administrative Regulations of State Board of
Risk and Insurance Management

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§115-3-5.	Control of Risk.
§115-3-6.	Settlement of Claims.

Proposed Changes for W. Va. CSR §115-3-1, et seq.

TITLE 115
PROCEDURAL RULE
STATE BOARD OF RISK AND INSURANCE MANAGEMENT

SERIES 3
ADMINISTRATIVE REGULATIONS OF STATE BOARD OF
RISK AND INSURANCE MANAGEMENT

FILED

2003 AUG -1 P 4:50

OFFICE WEST VIRGINIA
SECRETARY OF STATE

□ 115-3-1. General.

1.1. Scope. -- These regulations establish rules for the general administration of the ~~S~~state ~~B~~board of ~~R~~risk & ~~and~~ ~~I~~nsurance ~~M~~management of West Virginia.

1.2. Authority. -- W.Va. Code □ 29-12-1 et seq.

1.3. Filing Date. -- ~~January 9, 1990~~ _____

1.4. Effective Date. -- ~~February 9, 1990~~ _____

1.5. Definitions. -- The terms "Board", "Company", "Insurance", "Insurance Company", "State property activities" and "State responsibilities", and "State property", as used in the rules and regulations shall have the same definitions as these terms are given in W.Va. Code □ 29-12-1 et seq.

~~1.5.1. 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:~~

~~1.5.1.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.~~

~~1.5.1.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.~~

~~1.5.1.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 integrity of the State.~~

~~1.5.1.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.~~

1.6. 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 W.Va. Code § 29A-3-2 are met.

1.7. 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 1.6 above.

§ 115-3-2. Administration.

2.1. Meetings of the Board.

2.1.1. The Board shall conduct meetings at least once a month quarter (~~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.~~

~~2.1.2. The Board shall make the Risk Manager responsible for recording the minutes of each meeting.~~

~~2.2. 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 W.Va. during normal working hours.~~

2.3. Election of Chairman.

2.3.1. The Board shall elect one of its member as Chairman.

2.3.2. 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.

2.3.3. 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 successor.

~~§ 115-3-3. Establishment of the program.~~

~~3.1. 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 W.Va., as amended.~~

~~3.2. 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.~~

~~3.3. 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 W.Va., as amended.~~

~~3.4. The Board shall include in their annual budget request the following line items: "Self Insurance Fund" and "Combined Insurance Premiums".~~

~~3.4.1. Any unexpected 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.~~

~~3.4.2. 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.~~

~~□ 115-3-4. Implementation of the Program.~~

~~4.1. 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.~~

~~4.2. All state insurance shall be placed only with solvent insurance companies licensed by the Insurance Commissioner to transact insurance in the State of W.Va.~~

~~4.3. 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 W.Va., as amended.~~

~~4.4. 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 service.~~

~~4.5. 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, not with any corporation, and stockholder of which falls within the classes herein enumerated.~~

~~4.6. 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.~~

~~□ 115-3-5. Control of Risk.~~

~~5.1. The Board shall seek the most economical ways to control risk of accidental loss through an active accident and loss prevention program.~~

~~5.2. 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.~~

~~□ 115-3-6. Settlement of Claims.~~

~~6.1. 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. Any discussion or consideration of the financial or personal information of an insured may be held by the board in executive session closed to the public.~~

~~6.2. 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.~~

~~6.3. 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.~~

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES
TITLE 115
SERIES 3

Rule Title: Administrative Regulations of State Board of Risk & Insurance Management

Type of Rule: Legislative Interpretive Procedural

Agency: WV Board of Risk & Insurance Management
90 MacCorkle Avenue, S.W., Suite 203

Address: South Charleston, WV 25303

1. Effect of Proposed rule: *No financial effect anticipated.*

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST					
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

3. Objectives of These Rules:

Rule Title: Administrative Regulations of State Board of Risk & Insurance Management

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

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

C. Economic Impact on Citizens/Public at Large.

Date: 7/31/03

Signature of Agency Head or Authorized Representative:

Charles E. Jones Jr.

[Signature]

Tom Susman, Acting Cabinet Secretary
Department of Administration