

**114CSR21**

**TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER**

**SERIES 21  
WEST VIRGINIA ESSENTIAL PROPERTY INSURANCE ASSOCIATION**

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**§114-21-1. General.**

1.1. Scope. -- This legislative rule sets forth the plan of operation of the West Virginia Essential Property Insurance Association.

1.2. Authority. -- W. Va. Code §§33-20A-3(b) and 3-2-10.

1.3. Filing Date. -- April 13, 2006.

1.4. Effective Date. -- July 1, 2006.

**§114-21-2. Definitions.**

As used in this legislative rule:

2.1. Producer means an individual insurance producer licensed by the Commissioner to sell property and casualty insurance in West Virginia.

2.2. Association means the West Virginia Essential Property insurance Association.

2.3. Board means the Board of Directors of the Association.

2.4. Commissioner means the West Virginia Insurance Commissioner.

2.5. Eligible applicant means any person having an insurable interest in habitational or commercial property eligible for coverage under the provisions of this legislative rule and the Association's Plan of Organization.

2.6. Extended coverage insurance means indemnification against loss caused by the perils of fire, lightning, riot, explosion, vehicle, smoke, hail, aircraft, and wind.

2.7. Essential Property Insurance Coverage means fire and extended coverage insurance as well as any other kind of insurance that the Commissioner finds is required by the public interest but which is not readily available in the voluntary insurance market. Such a finding may only be made after a public hearing conducted by the Commissioner.

2.8. Insurer means any insurance company authorized to write and engage in writing essential property insurance coverage in West Virginia.

**§114-21-3. Type of Organization.**

3.1. Nonprofit unincorporated organization. The Association shall be a nonprofit unincorporated organization.

**§114-21-4. Administration.**

4.1. Board of Directors. The Association shall be administered by a Board of Directors under the general supervision of the Commissioner.

a. The Board shall be appointed by the Commissioner with due consideration given to the composition of the membership of the Association and to the interests of the insureds who are provided essential property insurance coverage by the Association.

b. The Board shall consist of not less than five (5) nor more than nine (9) members serving terms of one (1) year or until their successors are appointed.

**§114-21-5. Management.**

5.1. Servicing facilities. The Board may contract with one or more servicing facilities and/or hire its own employee as are necessary to issue and service policies on risks insured by the Association.

5.2. Approval by Commissioner. Designation of a servicing facility by the Board is subject to approval by the Commissioner.

**§114-21-6. Commencement and Termination of Operation.**

6.1. Commencement of operation. The Association shall begin issuing policies of insurance for risks found insurable by the Association effective November 1, 1986.

6.2. Termination of operation. The Association shall be dissolved at the earliest date when essential property insurance coverage becomes readily available in the voluntary market.

a. Dissolution of the Association is subject to approval of the Commissioner.

b. Dissolution of the Association shall be accomplished under the supervision of the Commissioner in an equitable and reasonable manner.

**§114-21-7. Rates.**

7.1. Establishment of rates. The Association shall establish appropriate rates, rate classifications and rating adjustments in accordance with the provisions of W. Va. Code §33-20A-5(b)(6).

7.2. Approval of rates. The Association's rates, rate classifications and rating adjustments are subject to approval by the Commissioner.

#### **§114-21-8. Policy Forms.**

8.1. Standard fire policy. All policies issued by the Association shall conform with the provisions of W. Va. Code §33-17-2.

8.2. Total or partial fire loss. The provisions of W. Va. Code §33-17-9 do not apply to policies issued by the Association.

8.3. Policy term. All policies issued by the Association shall be for a term of one (1) year.

8.4. Policy form approval. Policies and endorsements may be issued on forms approved by the Commissioner.

#### **§114-21-9. Coverage Limits and Types.**

9.1. Coverage limits. Coverage for risks found insurable by the Association shall be provided in an amount up to the reasonable insurable value of the property but in no event shall coverage provided by the Association exceed the amount of two hundred thousand dollars (\$200,000) for any one habitational risk or five hundred thousand dollars (\$500,000) for any one commercial risk.

9.2. Coverage types. Coverage issued by the Association shall be limited to indemnification against loss caused by the perils of fire, lightning, riot, explosion, vehicle, smoke, hail, aircraft and wind.

#### **§114-21-10. Underwriting.**

10.1. Underwriting standards. The Board shall adopt reasonable and equitable underwriting standards.

10.2. Approval by commissioner. Underwriting standards adopted by the Board are subject to approval by the Commissioner.

#### **§114-21-11. Application For Insurance and Policy Issuance.**

11.1. Method of application. An eligible applicant may authorize a producer to make application to the Association for essential property insurance coverage. The application shall be accompanied by proof, in such form as may be prescribed or approved by the Commissioner, of the applicant's effort and inability to obtain essential property insurance in the voluntary market.

11.2. Policy issuance. Upon approval by the Association of an application for coverage and upon receipt by the Association of the premium due, the Association shall issue a policy and

a binding receipt. The Association may decline to issue a policy and binding receipt when the applicant owes premium monies to the Association for previous insurance coverage.

#### **§114-21-12. Producer Commissions.**

12.1. New and renewal business. Producer commission shall be ten percent (10%) of the premium on new business and at such level as the Board shall determine on renewal business, not to exceed ten percent (10%) of the renewal commission.

12.2. Cancellation of business. Upon cancellation of a policy, the producer shall refund commissions on the return premium to the Association at the same rate at which such commissions were originally paid.

#### **§114-21-13. Inspection of Property.**

13.1. Inspection of property. Upon submission to the Association of a completed application for insurance, the property requested to be insured may be physically inspected.

13.2. Cost of inspection. Any physical inspection shall be made without cost to the eligible applicant.

13.3. Inspection report. A written inspection report shall be made for each property inspected and a copy provided to the eligible applicant.

#### **§114-21-14. Appeal Procedures.**

14.1. Initial appeal to board. Any applicant for insurance, person insured by the Association or member insurer aggrieved by any ruling, action or decision of the Association or the designated servicing facility may appeal to the Board within fifteen (15) days of such ruling, action or decision. The appeal shall be in writing. The Board or an Appeals Committee designated by the Board shall hear and determine the appeal within fifteen (15) days after the appeal is filed.

14.2. Appeal to commissioner. The determination of the Board may be appealed in writing to the commissioner within ten (10) days of such determination. The Commissioner shall render a decision concerning the appeal within thirty (30) days.

#### **§114-21-15. Premium Taxes.**

15.1. Premium tax liability. The Association shall be liable for premium taxes to the same extent and in the same manner as a licensed insurer engaged in writing fire and extended coverage insurance in West Virginia.

#### **§114-21-16. Annual Report.**

16.1. Annual report. The Board shall, on or before July 1 of each year, submit to the

Commissioner a report of the operation of the Association for the previous calendar year.

**§114-21-17. Severability.**

17.1. Severability. If any provision of this legislative rule is held invalid, the remainder of the rule shall not be affected thereby.