

114CSR81

**PROCEDURAL RULE
OFFICES OF THE INSURANCE COMMISSIONER**

**SERIES 81
PROCEDURES FOR ANALYTICAL CRITERIA AND METHODOLOGY**

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§114-81-1. General.

1.1. Scope. -- The purpose of this rule is to set forth the analytical criteria and methodology of all factors to be considered by the Insurance Commissioner in the report to the Legislature of the impact of certain legislation upon rates and insurance availability in the state of West Virginia.

1.2. Authority. -- W. Va. Code §§33-2-10 and 33-2-15d(b).

1.3. Filing Date. -- December 8, 2006.

1.4. Effective Date. -- January 7, 2007.

§114-81-2. Legislative Reforms To Be Studied.

2.1. The legislation to be considered in the report is contained in Senate Bill 418 that was enacted during the 2005 regular legislative session of the West Virginia Legislature. In particular, the study will focus on W. Va. Code §§33-11-4a, 33-11-4b and 33-11-6, which eliminated the private cause of action under the Unfair Trade Practices Act (W. Va. Code §33-11-4(9)) for unfair settlement practices by third parties and established an administrative procedure for review of such allegations by the Insurance Commissioner.

§114-81-3. Report Criteria.

3.1. The report will examine four dimensions of a well-functioning insurance market in order to assess the impact of the changes to the Unfair Trade Practices Act on the personal lines market, with a focus on cost and availability of automobile liability insurance.

a. Changes in premium rates that reflect underlying costs will be examined through rate comparisons for five major companies in the states bordering West Virginia. Also, rate changes for various types of drivers in several locations of the state, as shown in auto rate evidence from the Annual Auto Survey, published every April by the Offices of the Insurance Commissioner, will be evaluated.

b. Entry of new insurance companies and exit of non-profitable ones will be examined using the National Association of Insurance Commissioners' quarterly reports. This data will be used to compare the experience of West Virginia with the border states over the last

four (4) years.

c. Product development will be examined in the context of new products offered in the relevant markets.

d. Availability of product will be examined by a study of commonly-available advertising pieces over the past four (4) years.

3.2. After changes in cost and availability are assessed, the data will be analyzed to evaluate the degree to which these changes, if any, are attributable to the legislative changes. This part of the report will be performed through the use of an observational study to estimate the degree of change in market conditions that is attributable to the change in West Virginia law. The observational study will attempt to control a number of relevant variables, including legislative and other legal changes in West Virginia and the bordering states affecting the insurance business environment as well as economic factors such as general price levels, investment performance and loss statistics.