WEST VIRGINIA CODE: §33-20-3

§33-20-3. Ratemaking.

All rates shall be made in accordance with the following provisions:

(a) Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state and to all other relevant factors within and outside this state.

(b) Rates may not be excessive, inadequate or unfairly discriminatory.

(c) Rates for casualty and surety insurance to which this article applies shall also be subject to the following provisions:

(1) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

(2) Risks shall be grouped by classifications and by territorial areas for the establishment of rates and minimum premiums. Classification of rates shall be modified to produce rates for individual risks in a territorial area in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses: Provided, That such standards shall include the establishment of at least seven territorial rate areas within the state: Provided, however, That such territorial rate established by any insurer or group of insurers may differ from those of other insurers or group of insurers.

(3) Due consideration shall be given to such factors as expense, management, individual experience, underwriting judgment, degree or nature of hazard or any other reasonable considerations, provided such factors apply to all risks under the same or substantially the same circumstances or conditions.

(d) Rates for fire and marine insurance to which this article applies shall also be subject to the following provisions:

(1) Manual, minimum, class rates, rating schedules or rating plans shall be made and adopted, except in the case of specific inland marine rates on risks specially rated.

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(2) Due consideration shall be given to the conflagration hazard and in the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which such experience is available.

(e) Rates for title insurance to which this article applies shall also be subject to the following provisions:

(1) Title insurance rates shall be reasonable and adequate for the class of risks to which they apply. Rates may not be unfairly discriminatory between risks involving essentially the same hazards and expense elements. The rates may be fixed in an amount sufficient to furnish a reasonable margin for profit after provisions to account for: (i) Probable losses as indicated by experience within and without this state; (ii) exposure to loss under policies; (iii) allocations to reserves; (iv) costs participating insurance; (v) operating costs; and (vi) other items of expense fairly attributable to the operation of a title insurance business.

(2) (A) Policies may be grouped into classes for the establishment of rates. A title insurance policy that is unusually hazardous to the title insurance company because of an alleged defect or irregularity in the title insured or because of uncertainty regarding the proper interpretation or application of the law involved may be classified separately according to the facts of each case.

(B) Title insurance companies shall file separate rate schedules for commercial and noncommercial risks. The Insurance Commissioner shall promulgate rules regarding the requirements of this subsection which shall give due consideration to the nature of commercial transactions and the need for greater protections for consumers in noncommercial transactions.

(3) Title insurance rates may not include charges for abstracting, record searching, certificates regarding the record title, escrow services, closing services and other related services that may be offered or furnished or the cost and expenses of examinations of titles.

(f) Except to the extent necessary to meet the provisions of subdivisions (b) and (c) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(g) Rates made in accordance with this section may be used subject to the provisions of this article.

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