WEST VIRGINIA CODE: §33-60-3

§33-60-3. Acceptance or rejection of application.

(a)(1) Unless extended as provided in §33-60-3(a)(2) of this code, the commissioner shall issue a notice of acceptance or rejection in accordance with this section within 60 days from the date an application is received.

(2) The commissioner may extend by not more than 30 days the period provided in subdivision (1) of this subsection if he or she notifies the applicant before expiration of the initial 60-day period.

(3) An application that has not been accepted or rejected by a notice of acceptance or rejection issued by the commissioner prior to expiration of the initial 60-day period, or if applicable, the period provided in §33-60-3(a)(2) of this code, shall be deemed accepted.

(b) The commissioner may request from the applicant any additional material or information necessary to evaluate the application, including but not limited to:

(1) Proof of financial stability;

(2) A proposed business plan;

(3) Pro-forma financial statement; and

(4) Executive profiles on the applicant and its leadership demonstrating insurance or insurance-related industry experience and applicable experience in the use of the technology.

(c) The commissioner shall review the application to:

(1) Identify and assess:

(A) The potential risks to consumers, if any, posed by the innovation; and

(B) The manner in which the innovation would be offered or provided; and

(2) Determine whether it satisfies the following requirements:

(A) The application satisfies the requirements of §33-60-2 of this code;

(B) The application proposes a product, process, method, or procedure that meets the definition of innovation under §33-60-1 of this code;

(C) Approval of the application does not pose an unreasonable risk of consumer harm;

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(D) The application identifies statutory or regulatory requirements that actually prevent the innovation from being utilized, issued, sold, solicited, distributed, or advertised in this state; and

(E) The application proposes an innovation that is not substantially similar to another innovation:

(i) That has been previously beta tested; or

(ii) Proposed in an application that is currently pending with the commissioner.

(d) Upon review of the application, the commissioner shall, in his or her discretion, issue one of the following:

(1) If the commissioner determines that the application fails to satisfy any of the requirements under §33-60-3(c)(2) of this code, he or she shall:

(A) Issue a notice of rejection to the applicant; and

(B) Describe in the notice of rejection the specific defects in the application; or

(2) If the commissioner determines that the application satisfies the requirements of §33-60-3(c)(2) of this code, he or she shall issue a notice of acceptance to the applicant. The notice of acceptance shall:

(A) Set forth the terms and conditions that will govern the applicant’s beta test, which shall include, at a minimum:

(i) A requirement that the applicant:

(I) Abide by all West Virginia law, except where explicitly excepted;

(II) Utilize the insurance innovation within this state; and

(III) Report any change in the disclosures made pursuant to §33-60-2(a)(7) of this code;

(ii) A notice of the licenses required to be obtained prior to the commencement of the beta test;

(iii) Monthly reporting obligations structured to determine the progress of the beta test;

(iv) Consumer protection measures deemed necessary by the commissioner to be employed by the applicant;

(v) The level of financial stability required to be in place for the beta test. The commissioner may increase, decrease, or waive the requirements for financial stability required under §33-60-2(a)(8) of this code, commensurate with the risk of consumer harm posed by the

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insurance innovation;

(vi) The duration of the beta test, including any extension authorized under §33-60-5 of this code;

(vii) Permitted conduct under the limited letter;

(viii) Any limits established by the commissioner on the:

(I) Financial exposure that may be assumed by an applicant during the beta test;

(II) Number of customers an applicant may accept; and

(III) Volume of transactions that an applicant or its clients may complete during the beta test; and

(ix) The metrics the commissioner intends to use to determine the innovation's utility; and

(B) Provide that the notice of acceptance shall expire unless:

(i) It is accepted by the applicant in writing; and

(ii) The acceptance is filed with the commissioner within 60 days of the issuance of the notice.

(e) An applicant may request a hearing pursuant to §33-2-13 of this code on:

(1) A notice of rejection; and

(2) A notice of acceptance, if the request is made prior to its expiration.

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