

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

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2005 MAY -6 P 3:59

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 3

TITLE OF RULE BEING AMENDED: Cancellation and Nonrenewal of Automobile Liability
Policies

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

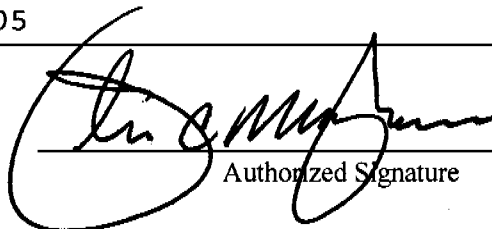
TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) S.B. 357

SECTION 64-7-2(c), PASSED ON April 9, 2005

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE
FOLLOWING DATE: May 6, 2005


Authorized Signature

PROMULGATION HISTORY

WEST VIRGINIA INSURANCE COMMISSION

TITLE

**CANCELLATION AND NONRENEWAL OF
AUTOMOBILE LIABILITY POLICIES**

TITLE 114, SERIES 3

6/30/04	Notice of Comment Period Filed
7/30/04	Last Date Comments Were Received
8/26/04	Agency Approved Legislative Rule Filed
12/05/04	Date Reviewed by Legislative Rule-Making Review Committee
5/06/05	Filing Date
5/06/05	Effective Date

114CSR3

TITLE 114

**LEGISLATIVE RULE
INSURANCE COMMISSIONER**

**SERIES 3
CANCELLATION AND NONRENEWAL OF AUTOMOBILE
LIABILITY POLICIES**

Section

- 114-3-1. General.
- 114-3-2. Notice of Cancellation or Nonrenewal.
- 114-3-3. Informal Procedure For Review Of Complaint Regarding Cancellation Or Nonrenewal.
- 114-3-4. Hearing Regarding Canceling And Nonrenewal.
- 114-3-5. Filing of Underwriting Guidelines.

114CSR34

FILED

LEGISLATIVE RULE
INSURANCE COMMISSIONER

2005 MAY -6 P 3: 59

SERIES 3
CANCELLATION AND NONRENEWAL OF AUTOMOBILE
LIABILITY POLICIES

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§114-3-1. General.

1.1. Scope. -- This regulation is to establish the procedure whereby any person whose automobile liability insurance policy has been canceled or whose policy has not been renewed in violation of article six-a, chapter thirty-three of the West Virginia Code of 1931, as amended, may appeal to the insurance commissioner for hearing and review.

1.2. Authority. -- W. Va. Code §§33-2-10, 33-6A-4a and 33-6A-5.

1.3. Filing Date. -- May 6, 2005.

1.4. Effective Date. -- May 6, 2005.

§114-3-2. Notice of Cancellation or Nonrenewal.

All nonrenewal notices issued by insurers pursuant to sections four and four-a, article six-a, chapter thirty-three of the West Virginia Code, shall state the specific reason or reasons for issuance of the notice and shall advise the insured that nonrenewal of the policy for any reason is subject to a hearing and review by the insurance commissioner. All cancellation notices issued pursuant to section three, article six-a, chapter thirty-three of the West Virginia Code shall specify the reason or reasons relied upon by the insurer for the cancellation or at the written request of the named insured the insurer shall specify the reason or reasons relied upon by the insurer for the cancellation. The written reason or reasons in a notice of nonrenewal or cancellation must be sufficiently clear that a reasonable person can understand them. A statement such as "underwriting reasons," "claims," or "increase in risk" will not be considered sufficiently clear. Nothing in this rule will prevent the insurer from providing more information in the notice relating to the reason or reasons for nonrenewal or cancellation than is required by this section.

§114-3-3. Informal Procedure For Review Of Complaint Regarding Cancellation Or Nonrenewal.

3.1. General. -- The procedure set forth in this section is recommended for persons filing a complaint with the insurance commissioner that their automobile liability insurance has been canceled or nonrenewed in violation of article six-a, chapter thirty-three of the West

Virginia Code.

3.2. Complaints filed in person or in writing. -- All complaints regarding automobile liability cancellation or nonrenewal may be filed with the insurance commissioner in person or in writing.

a. Complaint filed in person. -- If the complainant desires to present the complaint in person he or she may do so by visiting the Office of the Insurance Commissioner in Charleston, West Virginia, on any weekday during regular business hours.

b. Complaint filed in writing. -- If the complainant desires to submit the complaint in writing he or she should direct the written complaint to the Consumer Services Division within the Office of the Insurance Commissioner at its mailing address in Charleston, West Virginia.

3.3. Policies and related correspondence needed for review. -- Whether the complaint be lodged in person or in writing, the complainant should attach his or her insurance policy and all related papers or correspondence received from the respondent insurer regarding the cancellation or nonrenewal. If the complaint is submitted in writing, a letter from the complainant, written in the narrative, should accompany the policy and related papers explaining generally the basis for the complaint.

3.4. Decision that favors respondent insurer. -- If, upon review of the complaint, the insurance commissioner is of the opinion that there has been no violation of the insurance laws regarding cancellation and nonrenewal, the commissioner will explain to the complainant his or her rights and privileges under article six-a, chapter thirty-three of the West Virginia Code and why the facts presented would not be a violation of article six-a.

3.5. Explanation by respondent insurer. -- If, upon review of the complaint, it is found by the insurance commissioner that the respondent insurer may have violated article six-a, chapter thirty-three of the West Virginia Code, the commissioner will contact the respondent insurer and require an explanation of the cancellation or nonrenewal.

3.6. Letter of recommendation. -- If, after a review of information received from both the complainant and respondent insurer, the insurance commissioner is of the opinion that article six-a, chapter thirty-three of the West Virginia Code appears to have been violated by the respondent insurer, the commissioner will write a letter of recommendation to the insurer. This letter of recommendation will describe in what respects the respondent's decision to cancel or nonrenew the complainant's policy appears to violate the provisions of article six-a, chapter thirty-three of the West Virginia Code and will contain a recommendation by the insurance commissioner that the respondent insurer fully comply with those provisions.

3.7. Variance in procedure not prejudicial. -- This section is to be construed as a guideline by which an aggrieved party may file a complaint with the insurance commissioner regarding cancellation or nonrenewal of automobile liability insurance in violation of article six-

a, chapter thirty-three of the West Virginia Code and any variance by a complainant in the procedure recommended in this section shall not prejudice any rights or privileges of the complainant set forth in any insurance law or regulation of the state of West Virginia.

3.8. Compliance with forty-five (45) day requirement. -- If a complainant lodges a complaint with the insurance commissioner that his or her automobile liability insurance policy has been canceled or nonrenewed in violation of article six-a, chapter thirty-three of the West Virginia Code, it will be construed by the insurance commissioner as an appeal for hearing and review for the purpose of satisfying the forty-five (45) day requirement within which time appeal to the insurance commissioner must be made as provided in section five, article six-a, chapter thirty-three of the West Virginia Code.

§114-3-4. Hearing Regarding Canceling And Nonrenewal.

4.1. Hearing at request of complainant. -- If, after review of the complaint, it is the opinion of the insurance commissioner that there has been no violation of article six-a, chapter thirty-three of the West Virginia Code and the complainant is informed of these findings as prescribed in subsection 2.4 of this rule, the complainant may demand a formal hearing before the insurance commissioner.

4.2. Hearing at request of respondent insurer. -- If, after review of the complaint, it is the opinion of the insurance commissioner that there has been a violation of article six-a, chapter thirty-three of the West Virginia Code and the respondent insurer is informed of these findings as prescribed in subsection 2.6 of this rule, the respondent insurer may demand a formal hearing before the insurance commissioner.

4.3. Hearing called by insurance commissioner. -- If, after review of the complaint, the commissioner feels a hearing will be necessary to resolve the complaint, the commissioner may call a hearing by virtue of the authority provided under article two, chapter thirty-three of the West Virginia Code.

4.4. Hearing. -- The hearing, whether it be initiated by the complainant, the respondent insurer or the insurance commissioner, shall follow the same procedure respecting notice and rights of the parties as is prescribed in article two, chapter thirty-three and chapter twenty-nine-a of the West Virginia Code. If the hearing relates to a notice of cancellation or non-renewal issued pursuant to W. Va. Code §§33-6A-1 or 33-6A-4, the subject matter of the hearing will be the adequacy of the notice of nonrenewal or cancellation, and the ground or grounds upon which the insurer's action is based. If the hearing relates to a notice of nonrenewal issued pursuant to W. Va. Code §33-6A-4a, the subject matter of the hearing will be limited to whether the nonrenewal notice:

a. Failed to provide forty-five (45) days advance notice to the named insured of the insurer's intent to nonrenew the policy;

b. Was issued for a discriminatory reason;

c. Was based upon an underwriting standard found to be in violation of chapter thirty-three of the West Virginia Code; or

d. Causes the insurer to have issued nonrenewal notices in excess of the limitation set forth in W. Va. Code §33-6A-4a(d).

§114-3-5. Filing of Underwriting Guidelines.

Each insurer writing private passenger automobile liability insurance policies in this state shall file with the commissioner a copy of its underwriting standards for private passenger automobile liability insurance which must comply with generally accepted underwriting principles. Any subsequent modifications to the insurer's underwriting standards must be filed with the commissioner within thirty (30) business days after the modifications have been implemented.