

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Insurance Commission TITLE NUMBER: 114

RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code §§ 33-26A-19(d); 33-2-

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 36

TITLE OF RULE BEING PROPOSED: West Virginia Life and Health

Insurance Guaranty Association Act Notice Requirements

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 13, 1993 AT 4:30 p.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Jeffrey W. VanGilder

Associate Counsel

2019 Washington Street, East

Post Office Box 50540

Charleston, WV 25305-0540

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Hanley C. Clark

Hanley C. Clark
Insurance Commissioner

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

4-80



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

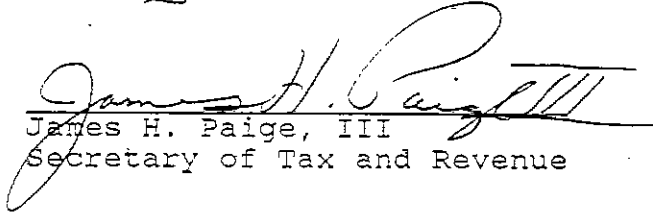
HANLEY C. CLARK
Insurance Commissioner

CONSENT TO PROPOSAL OF RULE

To Whom It May Concern:

Pursuant to West Virginia Code § 5F-2-2(a)(12), the undersigned hereby grants consent to the proposal of the following rule proposed by the Insurance Commissioner of the State of West Virginia: Title 114, Series 36, relating to Notice Requirements under the West Virginia Life and Health Guaranty Association Act.

Signed this 8th day of July, 1993.


James H. Paige, III
Secretary of Tax and Revenue

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: West Virginia Life and Health Insurance Guaranty Association Act
 Type of Rule: X Legislative Interpretive Procedural Notice Requirements
 Agency: Insurance Commissioner
 Address: 2019 Washington Street, East
Post Office Box 50540
Charleston, WV 25305-0540

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	HEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES	NONE				
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT	NONE				
OTHER					

2. Explanation of above estimates:

The rule will have no fiscal impact upon state, local or federal government.

3. Objectives of these rules:

The objective of this rule is to provide notice and disclosure to policyholders of certain life, health and annuity insurance contracts that the policy, or portion thereof, may not be covered by the West Virginia Life and Health Insurance Guaranty Association Act.

Rule Title: West Virginia Life and Health Insurance Guaranty Association Act Notice Requirements.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

The economic impact of the required notice should have minimal impact on the insurance industry.

C. Economic Impact on Citizens/Public at Large.

None.

Date: July 13, 1993

Signature of Agency Head or Authorized Representative

Hanley C. Clark

Hanley C. Clark
Insurance Commissioner

Insurance Commissioner
Legislative Rule
Title 114, Series 36

**WEST VIRGINIA LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION ACT NOTICE REQUIREMENTS**

Title 114, Series 36

BRIEF SUMMARY OF RULE

This proposed emergency rule specifies the form and content of the notice and disclaimer required to be given, pursuant to West Virginia Code § 33-26A-19, to those certain persons identified in Section 3(a) of the West Virginia Life and Health Insurance Guaranty Association Act, as amended and re-enacted by House Bill 2632 (effective July 9, 1993). This notice is to be delivered to policyholders of certain life, health and annuity insurance policies or contracts where any portion of the policy or contract is not guaranteed by the insurer, or under which the risk is borne by the policy or contract holder. The disclaimer must be attached to the face of the Summary Document which describes the general purposes and current limitations of the Guaranty Association Act.

114CSR36

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

CHAPTER 33-26A
SERIES 36

WEST VIRGINIA LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION ACT NOTICE REQUIREMENTS

Section

- § 114-36-1. General.
- § 114-36-2. Definitions.
- § 114-36-3. Form and Content of Notice.
- § 114-36-4. Form and Content of Disclaimer.
- Appendix A. Notice of Exclusion from Coverage or Limited Coverage Under the West Virginia Life and Health Insurance Guaranty Association Act.
- Appendix B. West Virginia Life and Health Insurance Guaranty Association Disclaimer.

FILED

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WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

CHAPTER 33-26A
SERIES 36

WEST VIRGINIA LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION ACT NOTICE REQUIREMENTS

§ 114-36-1. General.

1.1. Scope. -- This rule applies to insurance companies and their agents that provide insurance coverage to those certain individuals defined in Code § 33-26A-3(a) for direct, nongroup life, health, annuity and supplemental policies or contracts, for certificates under direct group policies and contracts, and for unallocated annuity contracts, if any portion of the policy or contract is not guaranteed by the insurer or under which the risk is borne by the policy or contract holder.

1.2. Authority. -- West Virginia Code §§ 33-26A-19(d); 33-2-10.

1.3. Filing Date. --

1.4. Effective Date. --

§ 114-36-2. Definitions.

As used in this legislative rule:

2.1. "Act" means the West Virginia Life and Health Insurance Guaranty Association Act, West Virginia Code §§ 33-26A-1 et seq.

2.2. "Association" means the West Virginia Life and Health Insurance Guaranty Association created under section six of the Act.

2.3. "Code" means the Code of West Virginia.

2.4. "Commissioner" means the Commissioner of Insurance of West Virginia.

2.5. "Covered Policy" means any policy or contract described in subdivision (1) of subsection (B) of section three of the Act, unless subdivision 2(d) of Subsection B of Section three of the Act applies to such policy.

2.6. "Disclaimer" means the disclaimer required to be placed on the face of the Summary Document pursuant to subsection c, section nineteen of the Act [Code § 33-26A-19(c)].

2.7. "Excluded Policy" means any policy or contract of insurance described in subdivision (1) of subsection (b) of section 3 of the Act [Code § 33-26A-3(b)(1)] and excluded from coverage in whole or in part, under paragraph (a), subdivision (2), subsection (b) of section three of the Act [Code § 33-26A-3(b)(2)(A)].

2.8. "Notice" means the notice required to be given to a policyholder of an Excluded Policy pursuant to Section 19(d) of the Act and as set forth in Appendix A of this rule.

2.9. "Summary Document" means the document, required by Subsection (b), Section 19 of the Act, as prepared by the Association and approved by the Commissioner which describes the general purposes and current limitations of the Act.

§ 114-36-3. Form and Content of Notice.

3.1. On or after August 2, 1993, no insurer or agent may deliver an Excluded Policy to a policy or contract holder, unless the Notice required by Code § 33-26A-19(d) is delivered to the policy or contract holder prior to or at the time of delivery of the Excluded Policy.

3.2. The insurer or agent making the delivery of the Notice shall maintain a record of such delivery.

3.3. The Notice shall be printed on a separate sheet of paper in a minimum 10 point type. The Notice may not include the name and address of the insurance company issuing the Excluded Policy or the name and address of the agent who procured the Excluded Policy.

3.4. The Notice shall be identical to that prescribed by the Commissioner in Appendix A of this rule.

3.5. A form filing is not required for the Notice.

§ 114-36-4. Form and Content of Disclaimer.

4.1. Sixty (60) days after approval of the Summary Document by the Commissioner, no insurer or its agent may deliver a Covered Policy to a policy or contract holder unless the Summary Document and Disclaimer is delivered to the policy or contract holder prior to or at the time of delivery of the Covered Policy.

4.2. If a "free look" period is not required by state law for the type of policy coverage being solicited, the Summary Document and Disclaimer must be delivered by the insurer or agent to the applicant at the time of solicitation or preliminary negotiations.

4.3. An insurer or its agent shall make the Summary Document and Disclaimer available to a policyholder upon request.

4.4. The insurer or agent making the delivery of the Disclaimer and Summary Document shall maintain a record of such delivery.

4.5. The Disclaimer shall be printed in a minimum 10 point type and printed on the face of the Summary Document. This Disclaimer may not include the name and address of the insurance company issuing the Covered Policy or the name and address of the agent who procured the Covered Policy.

4.6. The Disclaimer shall be identical to that prescribed by the Commissioner in Appendix B of this rule.

4.7. A form filing is not required for the Summary Document or the Disclaimer.

APPENDIX A

NOTICE OF EXCLUSION FROM COVERAGE OR LIMITED
COVERAGE UNDER THE WEST VIRGINIA LIFE AND HEALTH
INSURANCE GUARANTY ASSOCIATION ACT

Residents of West Virginia who purchase life insurance, annuities, or health insurance should know that insurance companies licensed in West Virginia to write these types of insurance are members of the West Virginia Life and Health Insurance Guaranty Association (the "Guaranty Association"). The purpose of the Guaranty Association is assure that policyholders will be protected, within limits, in the event that a member insurance company becomes financially unable to meet its obligations. If this should happen, the Guaranty Association will assess its member insurance companies for the money to pay the claims of insured persons living in this State and, in some cases, to keep coverage in force. The valuable extra protection provided by insurers through the Guaranty Association is not unlimited, however.

The Guaranty Association may NOT provide coverage for this policy, or a portion of this policy. If coverage is provided by the Guaranty Association, it may be subject to substantial limitations or exclusions.

Coverage is NOT provided for your policy or any portion of it that is not guaranteed by the insurance company or for which you have assumed the risk, such as a variable contract sold by prospectus.

You should not rely on coverage by the West Virginia Life and Health Insurance Guaranty Association in selecting an insurance company or in selecting an insurance policy.

Insurance companies and their agents are required by law to give or send you this Notice. However, insurance companies and their agents are prohibited by law from using the existence of the West Virginia Life and Health Insurance Guaranty Association to induce you to purchase any kind of insurance policy.

Inquiries concerning this Notice may be directed to the following:

West Virginia Insurance Commission
Consumer Services Division
2019 Washington Street, East
P.O. Box 50540
Charleston, West Virginia 25305-0540
(304) 558-3386
Toll Free 1-800-435-7381

West Virginia Life and Health Insurance Guaranty Association
Post Office Box 816
Huntington, West Virginia 25712

This Notice does not change anyone's rights or obligations under the Guaranty Act or the rights or obligations of the Guaranty Association.

APPENDIX B

WEST VIRGINIA LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION DISCLAIMER

The West Virginia Life and Health Insurance Guaranty Association (the "Guaranty Association") provides coverage of claims under some types of life, health and annuity policies if the insurer becomes financially unable to meet its obligations. COVERAGE MAY NOT BE AVAILABLE FOR YOUR POLICY. Even if coverage is provided, there are substantial limits and exclusions. Coverage may be conditioned on residence in West Virginia. Other conditions may also preclude coverage.

Your insurer and its agents are prohibited by law from using the existence of the Guaranty Association or its coverage to sell you an insurance policy. You should not rely on availability of coverage under the Guaranty Association when selecting an insurer or an insurance policy.

The Guaranty Association or the West Virginia Insurance Commission will respond to questions you may have which are not answered by this document. Policyholders with additional questions may contact:

West Virginia Insurance Commission
Consumer Services Division
2019 Washington Street, East
Post Office Box 50540
Charleston, West Virginia 25305-0540
(304) 558-0401
Toll Free 1-800-435-7381

or

West Virginia Life and Health Insurance Guaranty Association
Post Office Box 816
Huntington, West Virginia 25712

This document does not change anyone's right or obligations under the Guaranty Act or the rights and obligations of the Guaranty Association.



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

HANLEY C. CLARK
Insurance Commissioner

July 13, 1993

HAND DELIVERED

Ms. Judy Cooper, Director
Administrative Law Division
Office of Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Ms. Cooper:

Enclosed please find for filing one (1) copy of the following:

- 1) Notice of a Comment Period on a Proposed Rule;
- 2) Brief Summary of Rule;
- 3) Consent to Proposed Rule;
- 4) Fiscal Note;
- 5) The West Virginia Life and Health Guaranty Association Act Notice Requirement (Series 36).

Please contact me if further information is required.

Sincerely,

Jeffrey W. VanGilder
Associate Counsel

JWV/sar
Enclosures

FILED
JUL 13 4 22 PM 1993
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE