

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

JUN 27 4 00 PM '95

OFFICE OF WEST VIRGINIA SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Insurance Commissioner TITLE NUMBER: 114

RULE TYPE: Legislative; CITE AUTHORITY W.Va. Code §33-6-31c

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 37

TITLE OF RULE BEING AMENDED: Substandard Risk Motor Vehicle Insurance Notice Requirements

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

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 July 27, 1995 AT 4:30 p.m.

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

Donna Quesenberry, Associate Counsel
West Virginia Insurance Commission
Post Office Box 50540
2019 Washington Street, East
Charleston, West Virginia 25305-0540
(304)558-0401

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

B. Keith Huffman, General Counsel
Authorized Signature

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

4.60



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

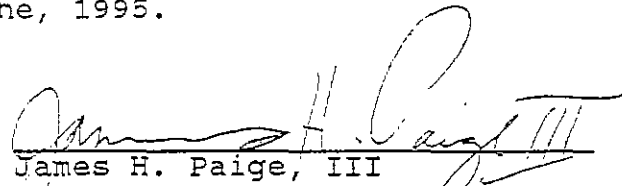
HANLEY C. CLARK
Insurance Commissioner

CONSENT TO FILING OF RULE

To Whom It May Concern:

Pursuant to West Virginia Code § 5F-2-2(a)(12), the undersigned hereby grants consent to the filing of the following rule proposed by the Insurance Commissioner of the State of West Virginia: Title 114, Series 37, relating to "Substandard Risk Motor Vehicle Insurance Notice Requirements".

Signed this 26th day of June, 1995.


James H. Paige, III
Secretary of Tax and Revenue

Insurance Commissioner
Legislative Rule
Title 114, Series 37

SUBSTANDARD RISK MOTOR VEHICLE INSURANCE NOTICE REQUIREMENT

Title 114, Series 37

STATEMENT OF CIRCUMSTANCES

On April 8, 1993, the West Virginia Legislature passed House Bill 2728 which added Section 31c to Article 6, Chapter 33 of the West Virginia Code relating to substandard risk motor vehicle insurance policies and required notices. Amendments were made to Section 31c in the 1995 legislative session which require insurers to provide notice to policyholders who may qualify for coverage under a standard or preferred policy.

West Virginia Code § 33-6-31c(e) requires the Insurance Commissioner to promulgate rules regarding the format, style, design and approval of substandard risk insurance applications, notices and policies.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 114, Series 37
 Substandard Risk Motor Vehicle Insurance Notice
 Requirements

Type of Rule: X Legislative Interpretive Procedural

Agency: INSURANCE COMMISSIONER

Address: Post Office Box 50540
 2019 Washington Street, East
 Charleston, West Virginia 25305-0540

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1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
ESTIMATED TOTAL COST	None				
PERSONAL SERVICES	None				
CURRENT EXPENSE	None				
REPAIRS AND ALTERNATIONS	None				
EQUIPMENT	None				
OTHER	None				

2. Explanation of above estimates:

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

3. Objectives of these rules:

The objectives of this rule are to establish the format, style, design and approval of substandard risk insurance applications and policies and notices to policyholders who may qualify for coverage under a standard or preferred policy.

Rule Title: Substandard Risk Motor Vehicle Insurance Notice Requirements

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None. Filing of forms and filing fee established by West Virginia Code § 33-6-31c(d); 33-6-34.

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

None.

C. Economic Impact on Citizens/Public at Large.

None.

Date: 6/27/95

Signature of Agency Head or Authorized Representative

B. Keith Huffman, General Counsel

Insurance Commissioner
Legislative Rule
Title 114, Series 37

SUBSTANDARD RISK MOTOR VEHICLE INSURANCE NOTICE REQUIREMENT

Title 114, Series 37

BRIEF SUMMARY OF RULE

This proposed rule implements the provisions of West Virginia Code § 33-6-31c which was amended during the 1995 legislative session by House Bill 2264. The rule establishes the format, style, design and approval of substandard risk insurance applications and policies and notices to policyholders who may qualify for coverage under a standard or preferred policy.

114CSR37

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 37
SUBSTANDARD RISK MOTOR VEHICLE INSURANCE NOTICE REQUIREMENTS

Section

- 114-37-1. General.
- 114-37-2. Applicability.
- 114-37-3. Definitions.
- 114-37-4. Format of Substandard Risk Insurance Application Notice.
- 114-37-5. Format of Substandard Risk Insurance Policy Notice.
- 114-37-6. Submission of Form Filing Required.
- 114-37-7. Notice of Eligibility for Coverage Under Standard or Preferred Policy.
- 114-37-8. Severability.

FILED

114CSR37

JUN 27 4 00 PM '95

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 37

SUBSTANDARD RISK MOTOR VEHICLE INSURANCE NOTICE REQUIREMENTS

§ 114-37-1. General.

1.1. Scope. -- This legislative rule implements the provisions of West Virginia Code § 33-6-31c requiring a written notification on automobile insurance applications and policies written on substandard risks, and a written notification to insureds regarding eligibility for coverage under a standard or preferred policy. This rule sets forth the format, style, design and method for approval of substandard risk insurance applications, and policies, and notices, and any additional procedures required.

1.2. Authority. -- W. Va. Code § 33-6-31c.

1.3. Filing Date. --

1.4. Effective Date. --

§ 114-37-2. Applicability.

2.1. Applicability. -- This legislative rule applies to all insurers writing motor vehicle liability insurance in this State if the rate or premium charged for the motor vehicle liability coverage reflects a greater than normal exposure to loss which is assumed by an insurer writing insurance for a substandard risk. The notification provisions apply to all motor vehicle liability policies covering substandard risks issued on or after the effective date of this rule, and all motor vehicle liability insurance applications covering substandard risks taken on or after the effective date of this rule, and all notices to policyholders of eligibility for coverage under a standard or preferred policy arising on or after the effective date of this rule.

2.2. This legislative rule applies to insurance companies writing motor vehicle ~~liability~~ liability insurance coverage through the assigned risk plan ("AIPSO").

2.3. This legislative rule applies to insurance companies that write only one tier of motor vehicle liability insurance business if the rate or premium charged for such coverage reflects the greater than normal exposure to loss which is assumed by the insurer writing insurance for a substandard risk.

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2.4. The provisions of this legislative rule do not apply to insurance policies issued or applications taken for commercial automobile liability insurance.

§ 114-37-3. Definitions.

The following words and terms, when used in this rule, have the following meanings, unless the context clearly indicates otherwise:

3.1. "Application" means a printed form used by an insurance company which includes questions about a prospective insured and the desired insurance coverage and limits. It provides the insurer's underwriter with information for accepting or rejecting the prospective insured and rating the desired policy.

3.2. "Commissioner" means the Insurance Commissioner of the State of West Virginia.

3.3. "Contrasting Color" means a color strikingly dissimilar to the color of the other text and background as to produce an intensified effect that is easily readable and draws the attention of the reader.

3.4. "Form Filing" means a filing of the application and first page of the policy bearing the imprint of the specified statement submitted to the Commissioner for prior approval in accordance with West Virginia Code § 33-6-8.

3.5. "Policy" is the form setting forth the automobile insurance declarations, insuring agreements, conditions and exceptions, often bound by a policy jacket.

3.6. "Reverse Print" means white text on a black background as to produce an intensified effect that is easily readable and draws the attention of the reader.

~~2.6-3.7.~~ "State" means the State of West Virginia.

~~2.7-3.8.~~ "Substandard Risk Insurance Application Notice" means the written notice required by West Virginia Code § 33-6-31c(b).

~~2.8-3.9.~~ "Substandard Risk Insurance Policy Notice" means the written notice required by West Virginia Code § 33-6-31c(c).

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~~3-9-3.10.~~ "Substandard Risk" means an applicant for insurance who presents a greater exposure to loss than that contemplated by commonly used rate classifications, as evidenced by one or more of the following conditions: (A) Record of traffic accidents; (B) Record of traffic law violations; (C) Undesirable occupational circumstances; or (D) ~~Undesirable moral characteristics~~ Any other valid underwriting consideration.

~~3-10-3.11.~~ "Substandard Risk Rate" means a rate or premium charge that reflects the greater than normal exposure to loss which is assumed by an insurer writing insurance for a substandard risk.

§ 114-37-4. Format of Substandard Risk Insurance Application Notice.

4.1. The Application for a motor vehicle insurance policy to be issued in this State and written on the basis of a substandard risk rate schedule shall have printed directly thereon in a ~~minimum~~ minimum 10 point bold-faced type in a contrasting color or in reverse print, a statement appearing on the front page of the Application reading substantially as follows: THE POLICY FOR WHICH YOU ARE APPLYING HAS BEEN RATED IN ACCORDANCE WITH A SPECIAL RATING SCHEDULE FILED WITH THE COMMISSIONER OF INSURANCE PROVIDING FOR HIGHER PREMIUM CHARGES THAN THOSE GENERALLY APPLICABLE FOR AVERAGE RISKS. IF THE COVERAGE OR PREMIUM IS NOT SATISFACTORY, YOU MAY BE ELIGIBLE FOR OTHER INSURANCE. IF THIS COVERAGE OR PREMIUM IS SATISFACTORY, YOU MAY BE ELIGIBLE FOR COVERAGE UNDER A STANDARD OR PREFERRED POLICY IF DURING THE NEXT THREE YEARS YOU HAVE NO TRAFFIC VIOLATIONS OR ACCIDENTS AND YOU MAINTAIN CONTINUOUS INSURANCE COVERAGE.

4.2. The Substandard Risk Application Notice shall be clear and conspicuous on the face of the Substandard Risk Application.

4.3. The Substandard Risk Application Notice may not be printed on a separate sheet of paper, on a sticker attached to the Application, or on an overlay sheet ~~or by using white text in a black box.~~

§ 114-37-5. Format of Substandard Risk Insurance Policy Notice.

5.1. A motor vehicle insurance policy issued in this State and written on the basis of a substandard risk rate schedule shall have printed directly thereon, in a minimum 10 point bold

Insurance Commissioner
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faced type in a contrasting color or in reverse print, a statement appearing on the policy jacket or the first page of the policy reading substantially as follows: THIS POLICY HAS BEEN RATED IN ACCORDANCE WITH A SPECIAL RATING SCHEDULE FILED WITH THE COMMISSIONER OF INSURANCE PROVIDING FOR HIGHER PREMIUM CHARGES THAN THOSE GENERALLY APPLICABLE FOR AVERAGE RISKS. IF THE COVERAGE OR PREMIUM IS NOT SATISFACTORY, YOU MAY BE ELIGIBLE FOR OTHER INSURANCE. IF THIS COVERAGE OR PREMIUM IS SATISFACTORY, YOU MAY BE ELIGIBLE FOR COVERAGE UNDER A STANDARD OR PREFERRED POLICY IF DURING THE NEXT THREE YEARS YOU HAVE NO TRAFFIC VIOLATIONS OR ACCIDENTS AND YOU MAINTAIN CONTINUOUS INSURANCE COVERAGE.

5.2. The Substandard Risk Insurance Policy Notice shall be clear and conspicuous on the face of the Substandard Risk Policy.

5.3. The Substandard Risk Insurance Policy Notice may not be printed on a separate sheet of paper, on a sticker attached to the Policy, or on an overlay sheet or by using white text in a black box.

§ 114-37-6. Submission of Form Filing Required.

6.1. All insurers shall submit the Form Filing to comply with W. Va. Code 33-6-31c to the Rates and Forms Division of the Office of the West Virginia Insurance Commissioner. The form filing is effective upon approval by the Commissioner.

6.2. The Form Filing shall include: Two (2) Cover Letters informing the Commissioner that this filing is submitted to comply with West Virginia Code § 33-6-31c; a Form Filing Abstract (PCA-F-81); a copy of the properly imprinted application; a copy of the properly imprinted Policy Form; an amendment to the manual page stating that these imprinted forms are to be used with every automobile insurance policy written on a substandard risk in the State; and the appropriate filing fee required by law.

§ 114-37-7. Notice of Eligibility for Coverage Under Standard or Preferred Policy.

7.1. All insurers selling or which have in force substandard risk motor vehicle insurance policies shall provide a one time notice in writing to policyholders who have maintained continuous insurance coverage for three years, have not been convicted of

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any moving traffic violations and had no at fault accidents, that they may be eligible for coverage under a standard or preferred policy.

7.2. The notice to policyholders regarding their eligibility for coverage under a standard or preferred policy shall read substantially as follows: Our records show that for the past three years you have maintained continuous motor vehicle insurance coverage, have not been convicted of any moving traffic violations, and have had no at fault accidents. You may, therefore, be eligible for coverage under a standard or preferred policy at lower premium charges than those you are currently paying. To confirm your eligibility for such coverage, contact us at (appropriate address and telephone number)/the insurer of your choice.

7.3. The notice required in this section must be provided either by personal delivery or by regular mail addressed to the policyholder at the last address appearing for the policyholder in the records of the insurer.

§ 114-37-8. Severability.

8.1 If any provision of this rule or the application of this rule to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provisions to other persons or circumstances shall not be affected by the holding.



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

HANLEY C. CLARK
Insurance Commissioner

June 27, 1995

HAND DELIVERED

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

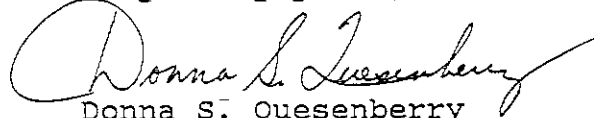
Dear Ms. Cooper:

Enclosed please find for filing one copy of the following:

- (1) Notice of A Comment Period on a Proposed Rule;
- (2) Consent of Tax and Revenue Cabinet Secretary to Proposed Rule;
- (3) Brief Summary of Rule;
- (4) Statement of Circumstances;
- (5) Fiscal Note;
- (6) The proposed rule entitled "Substandard Risk Motor Vehicle Insurance Notice Requirements" (Series 37).

Please contact me if further information is required.

Very truly yours,


Donna S. Quesenberry
Associate Counsel

DSQ/cjs
Enclosures