

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #6

FILED

APR 2 4 02 PM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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 X, NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 37

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

IF NO, SERIES NUMBER OF NEW 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) SB 171

SECTION 64-7-3 (f), PASSED ON March 7, 1996

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: April 2, 1996

B. Keith Huffman
AUTHORIZED SIGNATURE

3.60

PROMULGATION HISTORY

West Virginia Insurance Commission Substandard Risk Motor Vehicle Insurance Notice Requirements Title 114, Series 37

6/27/95	Notice of Comment Period Filed
7/27/95	Last Date Comments Were Received
7/28/95	Agency Approved Legislative Rule Filed
10/26/95	Date Reviewed by Legislative Rule-Making Review Committee
11/27/95	Date Modified and Approved Rule Filed
04/02/96	Filing Date
04/02/96	Effective Date

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.

114CSR37

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

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 substandard risk applicants and 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 substandard risk 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.

Insurance Commissioner
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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.

~~3.6-3.7.~~ "State" means the State of West Virginia.

~~3.7-3.8.~~ "Substandard Risk Insurance Application Notice" means the written notice required by West Virginia Code § 33-6-31c(b).

~~3.8-3.9.~~ "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) ~~A~~ Record of traffic accidents; (B) ~~A~~ 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 boldfaced type in a contrasting color or in reverse print, a

Insurance Commissioner
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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 W.Va. Code § 33-6-34.

§ 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 their substandard risk policyholders who have maintained continuous insurance coverage for three years, have not been convicted of any moving traffic violations and had

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no at fault accidents, that they may be eligible for coverage under a standard or preferred policy.

7.2. The notice to substandard risk 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) or contact 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

April 2, 1996

HAND DELIVERED

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

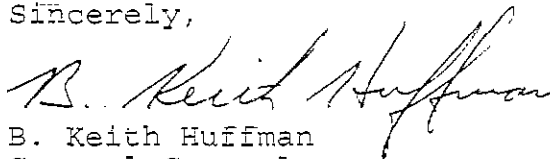
Dear Ms. Cooper:

Attached for filing with your office is the "final filing" form for the rule Series 37 titled "Substandard Risk Motor Vehicle Insurance Notice." This rule was authorized in Senate Bill 171 and passed by the Legislature on March 7, 1996.

We are also providing your office with a computer disk containing the aforementioned rule and a hard copy of the promulgation history of that rule. The filing date and effective date have already been inserted onto the computer disk.

If you have any questions about the enclosed forms or the computer disk, please do not hesitate to call me.

Sincerely,


B. Keith Huffman
General Counsel

BKH/sar
Attachment

2927

H. B. 4262

(By Delegates Douglas, Gallagher, Faircloth, Compton,
Lynch and Riggs)

(Introduced January 29, 1996 ; referred to the
Committee on Banking and Insurance then the Judiciary.)

114-37

A BILL to amend and reenact section four, article seven,
chapter sixty-four of the code of West Virginia, one
thousand nine hundred thirty-one, as amended, relating
to authorizing the insurance commissioner to
promulgate legislative rules relating to substandard
risk motor vehicle insurance notice requirements.

Be it enacted by the Legislature of West Virginia:

That section four, article seven, chapter sixty-four
of the code of West Virginia, one thousand nine hundred
thirty-one, as amended, be amended and reenacted, to read
as follows:

**ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE
TO PROMULGATE LEGISLATIVE RULES.**

§64-7-4. Insurance commissioner.

(a) The legislative rules filed in the state register

4262

1 on the seventeenth day of August, one thousand nine hundred
2 ninety-three, authorized under the authority of sections
3 four and five, article twenty-eight, chapter thirty-three,
4 of this code, modified by the insurance commissioner to
5 meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the
7 seventeenth day of June, one thousand nine hundred
8 ninety-four, relating to the insurance commissioner
9 (individual accident and sickness insurance minimum
10 standards, 114 CSR 12), are authorized.

11 (b) The legislative rules filed in the state register
12 on the fifteenth day of August, one thousand nine hundred
13 ninety-four, authorized under the authority of section ten,
14 article two, chapter thirty-three, of this code, modified
15 by the insurance commissioner to meet the objections of the
16 legislative rule-making review committee and refiled in the
17 state register on the twenty-eighth day of November, one
18 thousand nine hundred ninety-four, relating to the
19 insurance commissioner (regulation of credit life insurance
20 and credit accident and sickness insurance, 114 CSR 6), are
21 authorized.

22 (c) The legislative rules filed in the state register
23 on the twelfth day of August, one thousand nine hundred
24 ninety-four, authorized under the authority of section ten,

1 article two, chapter thirty-three, of this code, modified
2 by the insurance commissioner to meet the objections of the
3 legislative rule-making review committee and refiled in the
4 state register on the twenty-third day of November, one
5 thousand nine hundred ninety-four, relating to the
6 insurance commissioner (credit for reinsurance, 114 CSR
7 40), are authorized.

8 (d) The legislative rules filed in the state register
9 on the twenty-eighth day of July, one thousand nine hundred
10 ninety-five, authorized under the authority of section
11 thirty-one-c, article six, chapter thirty-three, of this
12 code, modified by the insurance commissioner to meet the
13 objections of the legislative rule-making review committee
14 and refiled in the state register on the twenty-seventh day
15 of November, one thousand nine hundred ninety-five,
16 relating to the insurance commissioner (substandard risk
17 motor vehicle insurance notice requirements, 114 CSR 37),
18 are authorized.

19
20 NOTE: The purpose of this bill is to authorize the
21 Insurance Commissioner to promulgate legislative rules
22 relating to substandard risk motor vehicle insurance notice
23 requirements.

24
25 Strike-throughs indicate language that would be
26 stricken from the present law, and underscoring indicates
27 new language that would be added.

SENATE BILL NO. 194

1 (By Senators Ross, Anderson, Boley,
2 Buckalew, Grubb and Macnaughtan)

3 [Introduced January 29, 1996; referred
4 to the Committee on

5 BANKING AND INSURANCE

6 THE JUDICIARY

114-37

7
8
9
10 A BILL to amend and reenact section four, article seven,
11 chapter sixty-four of the code of West Virginia, one
12 thousand nine hundred thirty-one, as amended, relating
13 to authorizing the insurance commissioner to
14 promulgate legislative rules relating to substandard
15 risk motor vehicle insurance notice requirements.

16 Be it enacted by the Legislature of West Virginia:

17 That section four, article seven, chapter sixty-four
18 of the code of West Virginia, one thousand nine hundred
19 thirty-one, as amended, be amended and reenacted, to read
20 as follows:

21 **ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE**
22 **TO PROMULGATE LEGISLATIVE RULES.**

23 **§64-7-4. Insurance commissioner.**

24 (a) The legislative rules filed in the state register

1 on the seventeenth day of August, one thousand nine hundred
2 ninety-three, authorized under the authority of sections
3 four and five, article twenty-eight, chapter thirty-three,
4 of this code, modified by the insurance commissioner to
5 meet the objections of the legislative rule-making review
6 committee and refiled in the state register on the
7 seventeenth day of June, one thousand nine hundred
8 ninety-four, relating to the insurance commissioner
9 (individual accident and sickness insurance minimum
10 standards, 114 CSR 12), are authorized.

11 (b) The legislative rules filed in the state register
12 on the fifteenth day of August, one thousand nine hundred
13 ninety-four, authorized under the authority of section ten,
14 article two, chapter thirty-three, of this code, modified
15 by the insurance commissioner to meet the objections of the
16 legislative rule-making review committee and refiled in the
17 state register on the twenty-eighth day of November, one
18 thousand nine hundred ninety-four, relating to the
19 insurance commissioner (regulation of credit life insurance
20 and credit accident and sickness insurance, 114 CSR 6), are
21 authorized.

22 (c) The legislative rules filed in the state register
23 on the twelfth day of August, one thousand nine hundred
24 ninety-four, authorized under the authority of section ten,

1 article two, chapter thirty-three, of this code, modified
2 by the insurance commissioner to meet the objections of the
3 legislative rule-making review committee and refiled in the
4 state register on the twenty-third day of November, one
5 thousand nine hundred ninety-four, relating to the
6 insurance commissioner (credit for reinsurance, 114 CSR
7 40), are authorized.

8 (d) The legislative rules filed in the state register
9 on the twenty-eighth day of July, one thousand nine hundred
10 ninety-five, authorized under the authority of section
11 thirty-one-c, article six, chapter thirty-three, of this
12 code, modified by the insurance commissioner to meet the
13 objections of the legislative rule-making review committee
14 and refiled in the state register on the twenty-seventh day
15 of November, one thousand nine hundred ninety-five,
16 relating to the insurance commissioner (substandard risk
17 motor vehicle insurance notice requirements, 114 CSR 37),
18 are authorized.

19

20 NOTE: The purpose of this bill is to authorize the
21 Insurance Commissioner to promulgate legislative rules
22 relating to substandard risk motor vehicle insurance notice
23 requirements.

24

25 Strike-throughs indicate language that would be
26 stricken from the present law, and underscoring indicates
27 new language that would be added.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900



STATE OF WEST VIRGINIA
SECRETARY OF STATE
Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

(Plus all the volunteer help we can get)

RECEIVED

APR 23 1996

LEGAL DIVISION
W. VA. INS. DEPT.

TO: Donna S. Quensebery

AGENCY: Insurance Commission

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: April 19, 1996

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 37 TITLE: 114 Insurance Commission

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Donna S. Quensebery

TITLE OF PERSON SIGNING: Associate Counsel

DATE: 5/10/96

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

MAY 13 2 42 PM '96

FILED



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

STEPHEN N. REED
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
Corporations: (304) 558-8000
FAX: (304) 558-0900

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, WV 25305-0770

(Plus all the volunteer
help we can get)

March 12, 1996

Donna S Quesenberry
Insurance
PO Box 50540
2019 Washington Street East
Charleston, WV 25305-0540

SB 171 authorizing, **Title 114, Series 37, Substandard Risk Motor Vehicle Insurance Notice Requirements** passed the Legislature on **March 7, 1996**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs **SB 171** to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 171 Section 64-7-3(f)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" DISK, YOU MUST SUBMIT A CLEAN COPY WITH ALL UNDERLINING AND STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, TO OUR OFFICE WHEN FINAL FILING THE RULE. REMEMBER, THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING, STRIKE-THROUGHS, HEADERS OR FOOTERS REMOVED, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE. NOTICE: ALL ELECTRONIC FILINGS NOT COMPLYING WITH THIS WILL BE REJECTED AND SENT BACK TO THE AGENCY TO BE RESUBMITTED!**

After the final rule is entered into the data base, the rule will be sent back to the agency for review and proofing. The agency has ten (10) working days to send a confirmation or corrections to the Secretary of States. If the agency fails to return this within ten (10) working days, the rule will be filed in the data base with a disclaimer attached stating that the agency failed to review the rule. Following confirmation, corrections or failure to review, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to contact our office.

Thank you,
Administrative Law Division