

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #2

**FILED**  
JUL 9 3 55 PM '93  
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 §§ 33-2-10; 33-6-31c

AMENDMENT TO AN EXISTING RULE: YES \_\_\_ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 37

TITLE OF RULE BEING PROPOSED: Substandard Risk Motor Vehicle  
Insurance 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 9, 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

West Virginia Insurance Commissioner

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

4.40



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON  
Governor

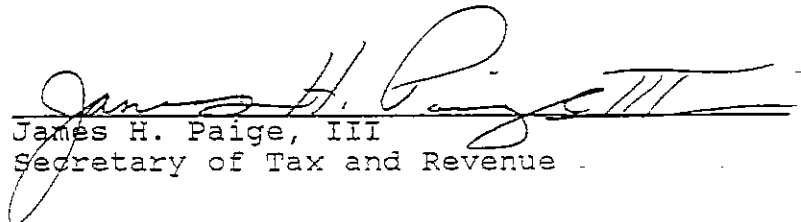
HANLEY C. CLARK  
Insurance Commissioner

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 37, relating to the format, style, design and approval of the forms by the Insurance Commissioner of West Virginia of substandard risk insurance applications and policies.

Signed this 8<sup>th</sup> day of July, 1993.

  
James H. Paige, III  
Secretary of Tax and Revenue

Insurance Commissioner  
Leg. Rule 33-6-31c  
Title 114  
EMERGENCY

#### FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY

On April 8, 1993, the West Virginia Legislature passed House Bill 2728, which took effect July 1, 1993. This legislation created a new section 31c of Article 6, Chapter 33 of the West Virginia Code relating to substandard risk motor vehicle insurance policies and required notices. 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 and policies.

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Substandard Risk Motor Vehicle Insurance Notifications

Type of Rule: X Legislative      Interpretive      Procedural

Agency Insurance Commissioner

Address 2019 Washington Street, East  
Charleston, West Virginia 25305

**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					
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 is to set forth the format, style, design and the approval of the forms by the Insurance Commissioner of substandard risk insurance applications and policies.

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 W. Va. Code §§ 33-6-31(c)(d); 33-6-34.

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

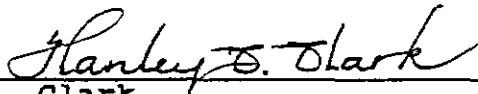
Insurance Companies subject to this rule will incur minimal administrative costs in the filing fee for the approval of the forms and in printing the required notices. The transition rule should allow subject insurance companies time to have forms printed and to use their supply of pre-printed forms by the use of a rubber stamp to affix the required notices to the policies and applications.

C. Economic Impact on Citizens/Public at Large.

The small increase in administrative and compliance costs for insurance companies writing motor vehicle insurance policies written on substandard risks should not result in increased premium rates or, only a minimal premium rate increase. The benefit of the notice to applicants and policyholders should outweigh any premium rate increase.

Date: July 9, 1993

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_  
Hanley C. Clark  
Insurance Commissioner

Insurance Commissioner  
Leg. Rule 33-6-31c  
Title 114  
EMERGENCY

SUBSTANDARD RISK MOTOR VEHICLE INSURANCE NOTICE REQUIREMENT

Chapter 33-6-31C, Series 37

BRIEF SUMMARY

This proposed emergency rule implements the provisions of newly enacted 33-6-31c of the West Virginia Code which was created by House Bill 2728 [effective July 1, 1993]. The rule establishes the format, style, design and approval of substandard risk insurance applications and policies.

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. Transitional Rules.

**FILED**

**JUL 9 3 55 PM '93**

114CSR37

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 Chapter 33, Article 6, Section 31c of the West Virginia Code requiring a written notification on automobile insurance applications and policies written on substandard risks. This regulation sets forth the format, style, design and method for approval of substandard risk insurance applications and policies and any additional procedures required.

1.2. Authority. -- W. Va. Code § 33-6-31e; 29A-3-13.

1.3. Filing Date. -- \_\_\_\_\_, 1993.

1.4. Effective Date. -- July 1, 1993.

§ 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 July 1, 1993, and all motor vehicle liability insurance applications covering substandard risks taken on or after July 1, 1993.

2.2. This legislative rule applies to insurance companies writing motor vehicle 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.

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

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§ 114-37-3. Definitions.

The following words and terms, when used in the regulation, shall 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. "Code" means the West Virginia Code.

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

3.4. "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. For example, a red or blue printed substandard notice would be considered printed in a contrasting color, an application printed on white paper with black type for the main text.

3.5. "Form Filing" means a filing of the application and first page of the policy bearing the imprint of the specified statement submitted to the Insurance Commissioner for prior approval in accordance with Code 33-6-8 Filing and Approval of Forms and Informational Letter No. 29 relating to Form and Rate Filing Abstracts for Casualty Filings.

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

3.7. "State" means the State of West Virginia.

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

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

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

**Insurance Commissioner  
Legislative Rule  
Title 114, Series 37**

of the following conditions: (A) Record of traffic accidents; (B) Record of traffic law violations; (C) Undesirable occupational circumstances; (D) Undesirable moral characteristics.

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 be printed directly thereon in a minimum 10 point bold-faced type in a contrasting color the 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.**

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, 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-faced type in a contrasting color, 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.**

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

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

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

6.1. The Form Filing to comply with W. Va. Code 33-6-31c must be submitted to the Rates and Forms Division of the West Virginia Insurance Department to become effective upon approval by the Commissioner.

6.2. The Form Filing shall include: Two (2) Cover Letters informing that this filing is submitted to comply with House Bill 2728; 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. Transitional Rules.**

7.1. The Substandard Notice may be stamped, in a contrasting color, on an Application or Policy covering a Substandard Risk instead of printed directly thereon during the period July 1, 1993 through December 31, 1993.



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON  
Governor

HANLEY C. CLARK  
Insurance Commissioner

July 9, 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) Substandard Risk Motor Vehicle Insurance Notice Requirements (Series 37).

Please contact me if further information is required.

Sincerely,

Jeffrey W. VanGilder  
Associate Counsel

JWV/sar  
Enclosures

FILED  
JUL 9 3 55 PM '93  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE