



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

Form #7

Filing Date

FILED

Jul 9 4 20 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Effective Date

NOTICE OF AN EMERGENCY RULE

14

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY: West Virginia Code §§ 33-2-10; 33-6-31c

EMERGENCY 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 RULE BEING FILED AS AN EMERGENCY Series 37

TITLE OF RULE BEING FILED AS AN EMERGENCY: Substandard Motor Vehicle
Insurance Notice Requirements

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 35TH DAY AFTER FILING, WHICHEVER OCCURS FIRST.

THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:

WV Code § 33-6-31c, as created by H.B. 2728, is effective July 1, 1993 and requires that the Commissioner promulgate rules regarding the format, style, design and approval of substandard risk insurance applications and forms.

Use additional sheets if necessary

4,80

Hanley C. Clark

Signature
Hanley C. Clark
Insurance Commissioner



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

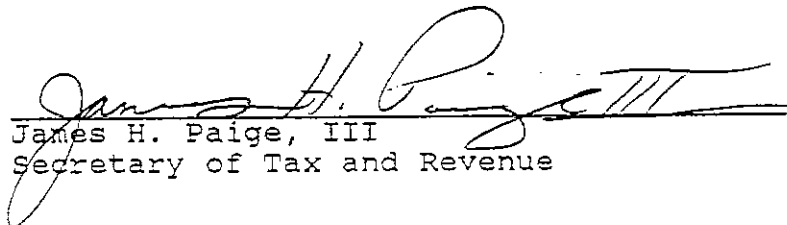
HANLEY C. CLARK
Insurance Commissioner

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 8th day of July, 1993.


James H. Paige, III
Secretary of Tax and Revenue

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.

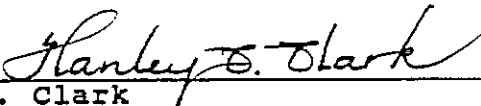
Insurance Companies subject to this rule will incur minimal administrative costs in the filing fee for the approval of the forms and in printing the required notices. The transition rule should allow subject insurance companies time to have forms printed and to use their supply of pre-printed forms by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

DATE: July 9, 1993

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Insurance Commissioner

EMERGENCY RULE TITLE: Substandard Risk Motor Vehicle Insurance Notice Requirements

1. Date of Filing July 9, 1993

2. Statutory authority for promulgating emergency rule:
West Virginia Code §§ 33-6-31c(e); 33-2-10

3. Date of filing of proposed legislative rule: July 9, 1993

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule?
Adopts new language.

5. Has the same or similar emergency rule previously been filed and expired?
No.

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the immediate preservation of public peace, health, safety or welfare.
See next question.

7. If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.

West Virginia Code § 33-6-31c, as created by H.B. 2728, is effective July 1, 1993 and requires that the Commissioner promulgate rules regarding the format, style, design and approval of substandard risk insurance applications and forms.

8. State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.

The required notifications to West Virginia applicants and policyholders of motor vehicle insurance policies written on a substandard risk will place those applicants and policyholders on notice that they may be eligible for other, less expensive, motor vehicle insurance coverage.

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

EMERGENCY

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.

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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 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.

Insurance Commissioner
Legislative Rule
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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

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

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; (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**

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

COVERAGE OR PREMIUM IS NOT SATISFACTORY, YOU MAY BE ELIGIBLE FOR OTHER INSURANCE.

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 fourteen (14) copies of the following:

- 1) Notice of an Emergency Rule;
- 2) Notice of a Comment Period on a Proposed Rule (only one copy enclosed as required);
- 3) Brief Summary;
- 4) Legislative Rule-Making Review Committee Questionnaire;
- 5) Fiscal Note;
- 6) Consent to Proposed Rule;
- 7) 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 4 28 PM '93
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

STATE OF WEST VIRGINIA

SECRETARY OF STATE

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

August 12, 1993

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: Insurance Commissioner

RULE: New Rule, Series 37, Substandard Motor Vehicle Insurance Notice Requirements

DATE FILED AS AN EMERGENCY RULE: July 9, 1993

DECISION NO. 14-93

Following review under WV Code 29A-3-15a, it is the decision of the Secretary of State that the above emergency rule be **disapproved**. A copy of the complete decision with required findings is available from this office.

FILED

Aug 12 2 27 PM '93

**OFFICE OF WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER
Secretary of State

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DECISION

EMERGENCY RULE DECISION (ERD 14-93)

AGENCY: Insurance Commissioner
RULE: New Rule, Series 37, Substandard Motor Vehicle Insurance Notice Requirements

FILED AS AN EMERGENCY RULE: July 9, 1993

- par. 1 The Insurance Commissioner (Commissioner) has filed the above new rule as an emergency rule.
- par. 2 West Virginia Code 29A-3-a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [(29A-3-a(a))].
- par. 4 (A) Procedural Compliance: WV Code 29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the thirty-five day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.

par. 6 The Commissioner filed this emergency rule with supporting documents with the Secretary of State July 9, 1993 and with the LRMRC July 9, 1993.

par. 7 It is the determination of the Secretary of State that the Commissioner has complied with the procedural requirements of WV Code §29A-3-15 for adoption of an emergency rule.

par. 8 (B) Statutory Authority -- WV Code §33-6-31c(e) reads:

(e) The commissioner shall promulgate rules in accordance with the provisions of §29A-1-1 et seq. of this code regarding the format, style, design and approval of substandard risk insurance applications and policies and such other procedures as may be required by this section.

par. 9 It is the determination of the Secretary of State that the Commissioner has not exceeded its statutory authority in promulgating this emergency rule.

par. 10 (C) Emergency -- WV Code 29A-3-15(g) defines "emergency" as follows:

(g) For the purposes of this section, an emergency exists when the promulgation of a rule is necessary for the immediate preservation of the public peace, health, safety or welfare or is necessary to comply with a time limitation established by this code or by a federal statute or regulation or to prevent substantial harm to the public interest.

par. 11 There are essentially three classes of emergency broadly presented with the above provision: 1) immediate preservation; 2) time limitation; and 3) substantial harm. An agency need only document to the satisfaction of the Secretary of State that there exists a nexus between the proposal and the circumstances creating at least one of the above three emergency categories.

par. 12 The facts and circumstances as presented by the Commissioner are as follows:

WV Code §33-6-31c, as created by HB 2728, is effective July 1, 1993 and requires that the Commissioner promulgate rules regarding the format, style, design and approval of substandard risk insurance applications and forms.

The required notifications to West Virginia applicants and policyholders of motor vehicle insurance policies written on a substandard risk will place those applicants and policyholders on notice that they may be eligible for other, less expensive, motor vehicle insurance coverage.

par. 13 It is the determination of the Secretary of State that this proposal does not qualify under the definition of an emergency as defined in §29A-3-15(g).

par. 14

This decision shall be cited as Emergency Rule Decision 14-93 or ERD 14-93 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the Insurance Commissioner, the Attorney General and the Legislative Rule Making Review Commission.



KEN HECHLER
Secretary of State

Entered _____

FILED

Jun 12 2 27 PM '93

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE