

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

Form #2

Do Not Mark In this Box

**FILED**

**JUL 9 3 54 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 \_\_\_\_\_

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: Series 38

TITLE OF RULE BEING PROPOSED: Continuation of Coverage Under  
Automobile Liability Policies

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.

B. Keith Huffman  
General Counsel  
WV Insurance Commission  
2019 Washington Street, East  
Charleston, WV 25305

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

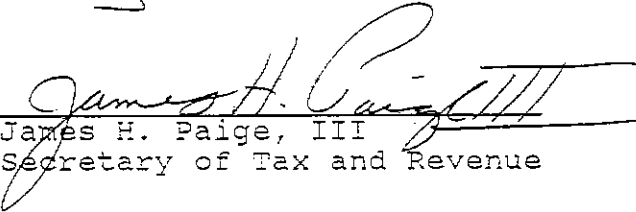
HANLEY C. CLARK  
Insurance Commissioner

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 38, relating to Continuation of Coverage under Automobile Liability Policies.

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

  
James H. Paige, III  
Secretary of Tax and Revenue

**APPENDIX B**

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Continuation of Coverage Under Automobile Liability Polici

Type of Rule: X Legislative      Interpretive      Procedural

Agency Insurance Commission

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	None				
REPAIRS & ALTERNATIONS	None				
EQUIPMENT	None				
OTHER	None				

**2. Explanation of above estimates:**

None. The proposed rule will have no cost impact on state, local or federal government.

**3. Objectives of these rules:**

To extend automobile liability insurance coverage to West Virginia insurance consumers who have divorced, legally separated or are widowed when the policy is two (2) years or older.

Rule Title: Continuation of Coverage Under Automobile Liability Policies

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.

Motor vehicle liability insurers will have minimal expense due to the printing and mailing of forms. Otherwise, none.

C. Economic Impact on Citizens/Public at Large.

Will benefit West Virginia citizens who are divorced, widowed, or legally separated and may have had to purchase more expensive insurance coverage. Otherwise, none.

Date: 8 July 1993

Signature of Agency Head or Authorized Representative

Hanley C. Clark

Hanley C. Clark  
Insurance Commissioner

Insurance Commissioner  
Legislative Rule  
Title 114, Series 38

CONTINUATION OF COVERAGE UNDER AUTOMOBILE LIABILITY POLICIES

Series 38

BRIEF SUMMARY

This rule puts into effect the mandates of H.B. 2271 which was passed April 10, 1993 and is effective July 9, 1993. H.B. 2271 requires motor vehicle liability insurers to offer continued coverage to the named insured and spouse who have been insured for more than two (2) years when there is a death, legal separation, or divorce from the named insured. This rule provides the form by which insurers must notify insureds of their right to continued coverage and rules pertaining to the continuation of such motor vehicle liability coverage.

114CSR38

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 38

CONTINUATION OF COVERAGE UNDER AUTOMOBILE LIABILITY POLICIES

Section

- |            |                                     |
|------------|-------------------------------------|
| 114-38-1.  | General.                            |
| 114-38-2.  | Applicability.                      |
| 114-38-3.  | Definitions.                        |
| 114-38-4.  | Notice of policy availability.      |
| 114-38-5.  | Mandatory continuation of coverage. |
| 114-38-6.  | No lapse in coverage.               |
| 114-38-7.  | Changes in coverage amount.         |
| 114-38-8.  | Separability.                       |
| Appendix A | Notice of policyholder rights       |

**FILED**

114CSR38

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

Jul 9 3 54 PM '93

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

SERIES 38

CONTINUATION OF COVERAGE UNDER AUTOMOBILE LIABILITY POLICIES

§ 114-38-1. General.

1.1. Scope. -- This rule establishes the form and procedures for notice to be given by insurers to named insureds and spouses of named insureds with regard to the continuation of motor vehicle liability coverage when the named insured dies, becomes legally separated, or terminates their marital relationship.

1.2. Authority. -- West Virginia Code §§ 33-6-36(c), 33-2-10

1.3. Filing Date. --

1.4. Effective Date. --

§ 114-38-2. Applicability.

2.1. Applicability. -- This rule applies to all motor vehicle liability policies under which the named insured is a natural person.

§ 114-38-3. Definitions.

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

3.2. "Named Insured" means any natural person who appears on the records of an insurer as an insured under a motor vehicle liability policy.

3.3. "Insurer" means any insurer offering or providing motor vehicle liability insurance coverage.

3.4. "Policy" means any motor vehicle liability policy.

3.5. "Expiration of Policy" or "Termination of Policy" means the discontinuation of coverage by the insurer under a motor vehicle liability policy as to any named insured or spouse of a named insured for any reason except those permissible reasons for cancellation and non-renewal of policies set forth in West Virginia Code §§ 33-6A-1 and 4.

§ 114-38-4. Notice of policy availability.

4.1. Insurers must provide to all named insureds a notice in the form of Exhibit A to this rule:

**Insurance Commissioner  
Legislative Rule  
Title 114, Series 38**

4.1.1. Either when the policy is issued, or at the first renewal of the policy after this rule is effective, whichever occurs first; and

4.1.2. Upon the occurrence of any change in the policy or termination of the policy for any reason other than those set forth in West Virginia Code §§ 33-6A-1 and 4.

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

**§ 114-38-5. Mandatory continuation of coverage upon timely request.**

5.1. As to all policies which have been in existence for a continuous period of two full years the insurer must issue a separate policy to any named insured or spouse of a named insured when:

5.1.1. The named insured has died; or

5.1.2. The named insured has become legally separated from their spouse; or

5.1.3. The named insured has terminated their marital relationship with their spouse; and

5.1.4. The named insured or the named insured's spouse has made a request to the insurer for the issuance of their own policy and such request was made within thirty (30) days of the expiration or termination of the policy.

5.2. The named insured or spouse of the named insured may make such request for their own policy either in writing to the home office of the insurer or in writing or orally to a local agent of the insurer. In the event of an oral request, the insurer must provide a written confirmation of such request to the named insured or spouse of the named insured within thirty (30) days of the request.

**§ 114-38-6. No lapse in coverage.**

6.1. As to all policies issued pursuant to § 5 above, there will be no lapse in the coverage provided to the named insured or spouse of a named insured who has requested a separate policy so long as appropriate premiums are paid for all relevant time periods.

Insurance Commissioner  
Legislative Rule  
Title 114, Series 38

§ 114-38-7. Changes in coverage amount.

7.1. Upon the issuance of policies pursuant to § 5 above, the named insured or spouse of named insured must be permitted by the insurer to increase or decrease coverage amounts to the same extent such coverage options would have been available under the original policy.

7.2. Requests for increases or decreases in coverage made pursuant to subsection 7.1 above, will be effective at the time such request is made to the insurer.

§ 114-38-8. Separability.

8.1. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

IMPORTANT NOTICE OF POLICYHOLDER RIGHTS IN EVENT OF DEATH,  
LEGAL SEPARATION, OR TERMINATION OF MARRIAGE (DIVORCE)  
OF THE NAMED INSURED

RIGHT TO REQUEST SEPARATE POLICY

If you have had your auto policy two full years and the named insured either dies, becomes legally separated, or the marital relationship ends (eg. divorce), then each named insured and the named insured's spouse has the right to request their own separate policy with this company.

MUST ACT WITHIN THIRTY DAYS OF END OF YOUR COVERAGE

If any of the situations above apply to you and you are a named insured or named insured's spouse, and you want your own separate policy you must make a request to your insurance company for your own separate policy within thirty days after the date the existing policy ends your coverage.

IMPORTANT TWO-YEAR POLICYHOLDER PROTECTIONS

Once you have had your auto policy for two full years you earn certain protection from your policy being terminated. After two years West Virginia law won't let your policy be terminated except for certain reasons which are spelled out by statute. If you switch coverage to a different insurance company you will lose these protections.

*If you wish to make a request for your own separate policy as explained above please contact us at (appropriate address and telephone number).*



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

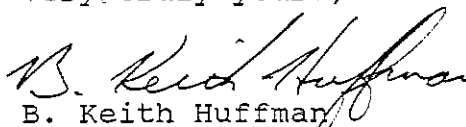
Dear Ms. Cooper:

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) Continuation of Coverage Under Automobile Liability Policies (Series 38).

Please contact me if further information is required.

Very truly yours,

  
B. Keith Huffman  
General Counsel

BKH/sar  
Enclosures

