

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

Form #3

**FILED**

Aug 16 5 06 PM '93

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY West Virginia Code §§ 33-6-36(c); 33-2-10

AMENDMENT TO AN EXISTING RULE: YES  NO

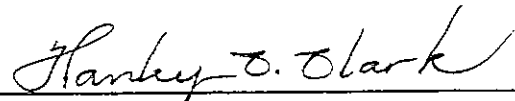
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

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

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 38

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

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Hanley C. Clark  
Insurance Commissioner

5140



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON  
Governor

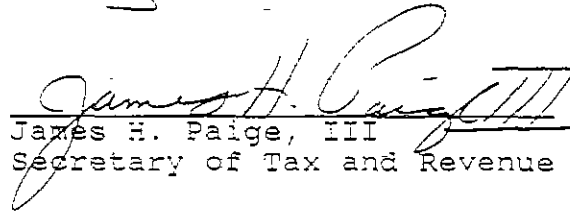
HANLEY C. CLARK  
Insurance Commissioner

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 Policy

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	THEREAFTER
<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

DATE: August 16, 1993

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: West Virginia Insurance Commissioner, by B. Keith Huffman,  
General Counsel

LEGISLATIVE RULE TITLE: Continuation of Coverage Under Automobile Liability Policies

1. Authorizing statute(s) citation W. Va. Code §§ 33-6-36(c):

33-2-10

2. a. Date filed in State Register with Notice of Hearing

July 9, 1993 (Notice of Comment Period)

b. What other notice, including advertising, did you give of the hearing?

NONE

c. Date of Hearing(s) Comment period July 9, 1993 until

August 9, 1993 at 4:30 p.m.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received           

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 16, 1993

f. Name and phone number(s) of agency person(s) to contact for additional information:

B. Keith Huffman, General Counsel

(304) 558-0401

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

Not applicable.

b. Date of hearing: Not applicable.

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

Not applicable.

d. Attach findings and determinations and reasons:

Attached Not applicable.

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

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WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

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.~~ either:

5.2.1. Provide a written confirmation of such request to the named insured or spouse of the named insured; or

5.2.2. Issue a policy to the named insured or spouse of the named insured.

Insurance Commissioner  
Legislative Rule  
Title 114, Series 38

5.3. Property and casualty insurers which are organized for the sole purpose of providing insurance policies to members of a particular organization and which insurer has provisions in its by-laws which prohibit the sale of insurance policies to nonmembers of that organization may condition the issuance of the policies addressed in this rule upon the named insureds' or spouse of the named insureds continued membership in such organization. If the issuance of a policy is made mandatory by this rule, membership or continued membership in the subject organization shall be offered to the named insured or spouse of the named insured.

**§ 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.

**§ 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).

ATTACHMENT TO QUESTION 2(d):

Only one comment was received concerning the proposed rule. This comment was submitted by Mr. Donald S. Cleasby, as Senior Counsel to the National Association of Independent Insurers, a trade association.

Mr. Cleasby made three suggestions for changes to the rule, which are addressed as follows:

1. The first was to include language which recognizes that certain insurers offer policies only to members of certain organizations and that the rule did not change that the insurer could condition issuance of a policy on membership in the organization. Examples of such organizations are the "Farm Bureau" or certain auto clubs. It is felt by the agency that such language is proper and acceptable so long as it is made clear that the named insured or spouse of the named insured cannot be denied membership in the organization upon the occurrence of a death, divorce or legal separation as addressed by H.B. 2271. This resulted in a new section 5.3 which clarifies that although membership in the organization may still be required as a condition to issuance of the insurance policy, membership in the relevant organization must be freely given to the named insured or spouse of the named insured.

2. The second suggestion relates to the requirement in section 5.2 of the rule that the insurer must upon receipt of an oral request for a policy made under section 5.1.4, within thirty days provide the named insured or spouse of the named insured a written confirmation of the request. Mr. Cleasby indicated that

several members of his organization had suggested that the insurer should be given a second and third option as to how to respond to an oral request. These were either (2) to issue a policy within thirty days, or (3) that the agent of the insurer must send an application for a policy to the insurer within thirty days.

It is felt by the agency that since the fundamental reason for the confirmation requirement is to give the named insured or spouse of the named insured documentation of their request for coverage, that the issuance of the policy within thirty days will accomplish that purpose. In fact, the issuance of the policy will be a better confirmation of the request for coverage than a mere acknowledgement of the request. Therefore, section 5.2 of the rule was amended to include new subsections designated as 5.2.1 and 5.2.2 to allow the insurer to within thirty days either give a written confirmation of the request for coverage or issue the policy.

The third option suggested by Mr. Cleasby is believed by the agency not to accomplish the fundamental purpose of giving the named insured or spouse of the named insured documentation of their request for coverage. Also, it is believed that in most cases it should not take thirty days for an agent to send an application to their company. Therefore, the third option was not adopted.

3. The third suggestion was to consider amendment of Appendix A to the rule by adding an explanation that some personal lines policies already allow for transfer of the policy

to the surviving spouse upon death of the named insured.

It is believed by the agency that the existing Appendix A is not inconsistent with such a transfer. Also, all policies covered by the rule may not contain such "transfer" language. For these reasons, it is felt that amendment of Appendix A is not necessary and could cause confusion with regard to policies which do not contain transfer language.



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON  
Governor

HANLEY C. CLARK  
Insurance Commissioner

August 25, 1993

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE  
Aug 26 9 50 AM '93  
FILED

HAND DELIVERED

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

Re: Agency Approved Proposed Regulation on  
"Continuation of Coverage Under Automobile Liability  
Policies" Series 38 - Filed August 16, 1993

Dear Ms. Cooper:

Enclosed please accept for filing one copy of the Addendum to Attachment to Question 2(d) of the Legislative Rule-Making Review Committee Questionnaire previously filed with your agency on August 16, 1993. A comment (also attached) on the agency approved proposed rule on the regulation listed above was received by the Legal Division after the comment period because it was not addressed correctly and was sent to the wrong division. The notice of comment period clearly stated that any comments were to be addressed to B. Keith Huffman of the Insurance Commission. The comment received after the August 16, 1993 deadline was addressed to Hanley C. Clark, Insurance Commissioner and we were not aware of the comment until after the deadline.

Thank you for your consideration of this matter. Please contact me if further information is needed.

Sincerely,

*B. Keith Huffman*  
B. Keith Huffman  
General Counsel

BKH/cjs  
Enclosures

ADDENDUM TO ATTACHMENT TO QUESTION 2(d):

The comment period on this rule closed on August 1, 1993. It was discovered by the Legal Division of the Insurance Commissioner's Office after the comment period that a comment to the proposed rule had been mailed by Ms. Deborah Lancto directly to the Insurance Commissioner instead of to the General Counsel as was set forth in the instructions on the Notice of a Comment Period on a Proposed Rule. This caused the comment to be misidentified as a general piece of correspondence instead of a comment to the rule. Therefore, although the comment was received in the Insurance Commissioner's office before the close of the comment period on August 4, 1993, the legal division was unaware of the comment until well after the comment period had ended.

In the interest of fairness, this addendum is offered in response to the comments of Ms. Loncto. Ms. Loncto submitted her comments on behalf of Farm Family Insurance Company (Farm Family). She makes five separate points.

The first relates to the fact that Farm Family offers insurance only to members of the Farm Bureau. This point is identical to the point raised by Donald S. Cleasby on behalf of the National Association of Independent Insurers (NAII) of which Farm Family is a member. The point was therefore, previously addressed in the original Attachment to Question 2(d).

The second point proposes that the definition of "Named Insured" in § 114-38-3.2 be amended because the commentator felt the existing definition was too broad. The agency determined that Ms. Lancto's proposed definition was too narrow and could potentially exclude persons who were intended to be protected by H.B. 2271. The definition was therefore left as is.

The third point is that the commentator felt that the language "change or termination of the policy" as used in § 4.1.2 of the rule should be narrowly defined to include only deletions, substitutions, or additions of named insureds or listed drivers on the policy. The agency determined that since the exact language of H.B. 2271 requires notification upon "any change or termination of the policy..." [§ 33-6-36(b)] that such a narrow definition was not appropriate.

The fourth point relates to options available to an insurer upon receipt of an oral request for a policy and has been previously addressed in the response to the comments of Donald S. Cleasby on behalf of the NAII.

The fifth point relates to the amendment of Appendix A to the rule to permit the use of the particular insurance company name. The agency determined that this proposed amendment was completely stylistic in nature and therefore, did not warrant an amendment to Appendix A.



Insurance Companies  
Glenmont, New York

Deborah A. Lonetto, J.D.  
Assistant Counsel

August 2, 1993

The Honorable Hanley C. Clark  
Commissioner of Insurance  
Office of the Commissioner  
West Virginia Insurance Department  
P.O. Box 50540  
2019 Washington Street, East  
Charleston, WV 25305-0540

Re: Proposed Regulation Series 38 Implementing HB 2271:  
Continuation of Coverage Under Automobile Liability Policies

Dear Mr. Clark:

I am writing to convey the concerns of Farm Family Mutual Insurance Company regarding the above-identified regulation.

Farm Family Mutual Insurance Company (Farm Family) is an insurance company licensed in West Virginia and established by several Farm Bureaus, including the West Virginia Farm Bureau, to meet the unique insurance needs of the Farm Bureau members. Farm insurance programs such as farmowners, livestock mortality, pollution liability, etc. are the primary focus of Farm Family, but as a complete insurance service company Farm Family writes automobile insurance. Membership in the Farm Bureau is a uniform requirement of eligibility for insurance with Farm Family.

As a mutual insurance corporation, a policyholder of Farm Family is deemed an owner of the corporation. Farm Family's ability to maintain ownership of the Company among Farm Bureau members, for whom the Company was formed, would be substantially impaired if the membership requirement is not uniformly applied. Therefore our policies in West Virginia specifically state that the maintenance of membership in the West Virginia Farm Bureau is a material term and condition of the policy.

As you know, sections one and four of Article 6A permit cancellation or nonrenewal of a policy for failure to comply with a material term or condition of a policy. Since HB 2271 provides that "spin off" policy requirements do not apply to policies cancelled or nonrenewed pursuant to the provisions of section one and section four of Article Six-a, it appears that the intent of the legislature was to permit cancellations and nonrenewals in a case where our membership requirements, which are a material term and condition of our policies, are not met.

Farm Family Life Insurance Company  Farm Family Mutual Insurance Company  United Farm Family Insurance Company

*Serving Farm Bureau Members' Insurance Needs*

Member - PO Box 656 ■ ALBANY, NEW YORK 12201-0656 ■ (518) 438-9751 ■ Fax (518) 426-4321

The Honorable Hanley C. Clark  
Page 2  
August 2, 1993

Accordingly, Farm Family requests that the regulation promulgated to implement HB 2271 clarify that membership companies, like Farm Family, may require Farm Bureau membership for "spin off" policies and that "spin off" policies may be cancelled or nonrenewed if the individual does not maintain such membership.

We believe the following language added as Section 114-38-5.3 would preserve our membership requirement while effectuating the objectives of the West Virginia Legislature in enacting HB 2271:

Notwithstanding any of the provisions of this regulation, any property/casualty insurance company organized for the sole and exclusive purpose of providing insurance policies to members of an organization, may condition the issuance and renewal of an individual motor vehicle liability insurance policy upon the person meeting the requirements contained in the by-laws of such company which prohibit the sale of policies to nonmembers of said organization.

Additionally, the definition of "Named Insured" in section 114-38-3.2 is overly broad and could be construed to include anyone who is insured under the policy. We would suggest a more precise definition as follows:

"any natural person who appears as a named insured on a motor vehicle liability policy declarations page."

Section 4.1.2 requires notice to an insured whenever there is a "change or termination of the policy." As you know, a change in a policy can include situations such as a deletion of a vehicle, the addition of a lienholder, etc. It would be helpful if the word "change" were defined as follows:

3.6 "Change in the policy" means deletion, substitution or addition of a named insured and/or a listed driver on the policy.

This would eliminate the need to send the notice with changes that have nothing to do with a change in insured under the policy.

The Honorable Hanley C. Clark  
Page 3  
August 2, 1993

We would further suggest that section 5.2 should be clarified. That section requires an insurance company to send a written confirmation of an oral request for a "spin off" policy when the oral request is made to an agent. If a person eligible for a "spin off" policy orally requests such a policy from an agent, the agent will submit a written application signed by the insured to the company in order to obtain a policy. Therefore, any oral request made to an agent will be transmitted in written form to the insurance company. It would seem to be more practical to require an agent who receives an oral or written request for a "spin off" policy to submit an application to the insurance company within 30 days of the request, rather than require a written confirmation from the company. Submission of the application will assure the insured of obtaining a policy while a simple written confirmation will not.

With regard to the required notice, it would be preferable if the company's name were to be set forth in the notice wherever the notice refers to "your insurance company" or "this company." For instance, the notice would state in paragraph "1" that "... the named insured's spouse has the right to request his or her own separate policy with Farm Family Mutual Insurance Company."

We are hopeful that the West Virginia Department of Insurance will take our concerns into account when finalizing Regulation 114CSR38.

Please do not hesitate to contact us if you have any questions or concerns in this regard. We would be happy to meet with you to further discuss our concerns.

Very truly yours,

Deborah A. Loncto

DAL:ptm

cc: Don Cleasby, NAII  
Richard S. Hannah, West Virginia Farm Bureau, Inc.

National Association



of Independent Insurers

2600 RIVER ROAD, DES PLAINES, ILLINOIS 60018-3286  
708/297-7800 FAX: 708/297-5064

RECEIVED

AUG 9 1993

August 6, 1993

LEGAL DIVISION  
Donald S. Clardy  
W. VA. DEPT. OF  
COUNSEL

Mr. B. Keith Huffman  
General Counsel  
West Virginia Insurance Commissioner  
2019 Washington Street, East  
Charleston, W. VA. 25305

Re: Proposed regulation on continuation of coverage under automobile liability policies

Dear Mr. Huffman:

This letter provides comments of the National Association of Independent Insurers (NAII) to the above-referenced proposed regulation. I respectfully request that it be made part of the record for this proposal.

The NAII is a national property and casualty insurance trade association representing over 570 member companies. We have 37 members writing private passenger auto insurance in West Virginia.

While the NAII and our members understand the concerns that prompted House Bill 2271 and this proposed regulation, the new law has itself created concern among NAII member companies that utilize some form of eligibility criteria for people who may be insured by the company. We request that the proposed regulation contain language clarifying that House Bill 2271 was not intended to usurp these eligibility standards.

Several NAII member companies provide private passenger auto insurance only to people who belong to other types of organizations such as the Farm Bureau or an auto club. Oftentimes these insurance companies are affiliated with the organization. The ability to obtain insurance coverage through the insurer is a valuable benefit of belonging to the organization. Membership criteria also assures, particularly for mutual insurance companies, that the organization's members are able to retain ownership control of the insurer. If the insurance company must provide coverage to persons who are not members of the organization, which may be the case with the spouse in House Bill 2271, the value of membership in the organization is diminished and membership control of the insurer is weakened.

The NAII encourages the Department, therefore, to incorporate into the regulation implementing House Bill 2271 language that clarifies that the House Bill 2271 requirements do not usurp membership or eligibility criteria. Other states have adopted such language when mandating insurance coverage

B. Keith Huffman

Page 2

August 6, 1993

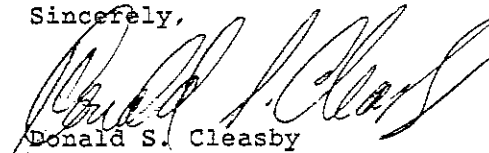
extensions. NAII member company Farm Family Mutual Insurance Company has suggested language reading: "Notwithstanding any of the provisions of this regulation, any property/casualty insurance company organized for the sole and exclusive purpose of providing insurance policies to members of an organization, may condition the issuance and renewal of an individual motor vehicle liability insurance policy upon the person meeting the requirements contained in the by-laws of such company which prohibit the sale of policies to nonmembers of said organization."

Adopting this language is consistent with the language found in House Bill 2271. The statute allows insurers to continue to nonrenew or cancel policies of the divorced or surviving spouse if he or she does not comply with the terms and conditions of the insurance policy. For those companies including in their insurance policies provisions requiring membership in a group or some other eligibility requirement, a person not meeting that provision is subject to nonrenewal or cancellation. Including express exclusionary language in the regulation, therefore, does not grant these insurers any greater nonrenewal or cancellation rights than already granted in House Bill 2271. It simply clarifies that House Bill 2271 does not apply in these situations.

We have two more technical comments. In section 5.2 an insurer is required to send written confirmation within thirty (30) days of an oral request for coverage. Several NAII member companies have commented that this should be amended to require one of the following: the agent must send the insurer an application for policy within thirty (30) days; the insurer must issue a policy within thirty (30) days; or the insurer must send written confirmation within thirty (30) days. Also, many if not all personal lines policies allow for the conveying of the policy to a surviving spouse in the case of death of the named insured. The Appendix A language may wish to mention this in some manner. Otherwise, the recipient may believe that insurance coverage to the surviving spouse automatically terminates upon death of the named insured.

The NAII appreciates your consideration of these comments. Please contact me should you have any questions or comments on the contents of this letter.

Sincerely,



Donald S. Cleasby  
Senior Counsel

DC/dc  
2634s

cc: Larry Swann, NAII West Virginia local counsel