

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

FILED

APR 22 2 32 PM '94

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 Commission TITLE NUMBER: 114

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: 38

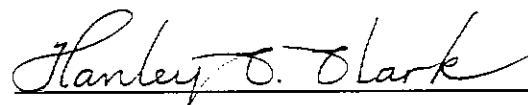
TITLE OF RULE BEING PROPOSED: Continuation of Coverage Under
Automobile Liability Policies

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 186

SECTION 64-7-2(z), PASSED ON March 12, 1994

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: April 22, 1994



Authorized Signature
(Insurance Commissioner)

3.20

PROMULGATION HISTORY

West Virginia Insurance Commission
Continuation of Coverage Under Automobile Liability Policies
Title 114 Series 38

7/9/93	Notice of Comment Period Filed
8/9/93	Last Date Comments Were Received
8/16/93	Agency Approved Legislative Rule Filed
11/16/93	Date Reviewed by Legislative Rule-Making Review Committee
11/29/93	Date Modified and Approved Rule Filed
4/22/94	Date of Final Filing of Legislative Rule
4/22/94	Effective Date of Rule

FILED

114CSR38

WEST VIRGINIA LEGISLATIVE RULE
INSURANCE COMMISSIONER

Nov 29 3 47 PM '93

SERIES 38
CONTINUATION OF COVERAGE UNDER AUTOMOBILE LIABILITY POLICIES

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§ 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 his or her 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 Appendix A to this rule:

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 the 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;

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 the 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 a 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 within thirty (30) days of the request either:

Insurance Commissioner
Legislative Rule
Title 114, Series 38

5.2.1. Provide a written confirmation of the 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.

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 have provisions in their 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 the 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 Section 5 of this rule, 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 Section 5 of this rule, 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 of this rule, will be effective at the time the request is made to the insurer.

§ 114-38-8. Severability.

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

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 this 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).

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H. B. 4272

(By Delegates Gallagher, Douglas, Compton,
Huntwork, Burk and Faircloth
(Introduced January 31, 1994; referred to the
Committee on Banking and Insurance then the
Judiciary)

A BILL to amend and reenact section two, 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 continuation of coverage under automobile liability policies.

Be it enacted by the Legislature of West Virginia:

That section two, 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.

§64-7-2. Insurance commissioner.

(a) The legislative rules filed in the state register on the eighteenth day of October, one thousand nine hundred

4272

1 eighty-three, relating to the insurance commissioner (excess line
2 brokers), are authorized.

3 (b) The legislative rules filed in the state register on the
4 eighteenth day of August, one thousand nine hundred eighty-six,
5 modified by the insurance commissioner to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the twelfth day of December, one thousand nine
8 hundred eighty-six, relating to the insurance commissioner
9 (examiners' compensation, qualification and classification), are
10 authorized.

11 (c) The legislative rules filed in the state register on the
12 twentieth day of February, one thousand nine hundred
13 eighty-seven, relating to the insurance commissioner (West
14 Virginia essential property insurance association), are
15 authorized.

16 (d) The legislative rules filed in the state register on the
17 twenty-ninth day of May, one thousand nine hundred eighty-seven,
18 relating to the insurance commissioner (medical malpractice
19 annual reporting requirements), are authorized.

20 (e) The legislative rules filed in the state register on the
21 thirty-first day of July, one thousand nine hundred eighty-seven,
22 modified by the insurance commissioner to meet the objections of
23 the legislative rule-making review committee and refiled in the
24 state register on the seventh day of November, one thousand nine
25 hundred eighty-seven, relating to the insurance commissioner

1 (medical malpractice loss experience and loss expense reporting
2 requirements), are authorized.

3 (f) The legislative rules filed in the state register on the
4 thirtieth day of November, one thousand nine hundred
5 eighty-eight, modified by the insurance commissioner to meet the
6 objections of the legislative rule-making review committee and
7 refiled in the state register on the twenty-first day of
8 February, one thousand nine hundred eighty-nine, relating to the
9 insurance commissioner (transitional requirements for the
10 conversion of Medicare supplement insurance benefits and premiums
11 to conform to Medicare program revisions), are authorized.

12 (g) The legislative rules filed in the state register on the
13 twenty-sixth day of May, one thousand nine hundred eighty-nine,
14 modified by the insurance commissioner to meet the objections of
15 the legislative rule-making review committee and refiled in the
16 state register on the twenty-eighth day of September, one
17 thousand nine hundred eighty-nine, relating to the insurance
18 commissioner (insurance adjusters), are authorized.

19 (h) The legislative rules filed in the state register on the
20 second day of February, one thousand nine hundred ninety,
21 modified by the insurance commissioner to meet the objections of
22 the legislative rule-making review committee and refiled in the
23 state register on the twenty-ninth day of May, one thousand nine
24 hundred ninety, relating to the insurance commissioner (accident
25 and sickness rate filing), are authorized.

1 (i) The legislative rules filed in the state register on the
2 tenth day of August, one thousand nine hundred ninety, modified
3 by the insurance commissioner to meet the objections of the
4 legislative rule-making review committee and refiled in the state
5 register on the ninth day of October, one thousand nine hundred
6 ninety, relating to the insurance commissioner (group
7 coordination of benefits), are authorized.

8 (j) The legislative rules filed in the state register on the
9 tenth day of August, one thousand nine hundred ninety, modified
10 by the insurance commissioner to meet the objections of the
11 legislative rule-making review committee and refiled in the state
12 register on the seventeenth day of January, one thousand nine
13 hundred ninety-one, relating to the insurance commissioner (AIDS
14 regulations), are authorized.

15 (k) The legislative rules filed in the state register on the
16 third day of December, one thousand nine hundred ninety, relating
17 to the insurance commissioner (health insurance benefits for
18 temporomandibular and craniomandibular disorders), are
19 authorized.

20 (l) The legislative rules filed in the state register on the
21 twelfth day of August, one thousand nine hundred ninety-one,
22 modified by the insurance commissioner to meet the objections of
23 the legislative rule-making review committee and refiled in the
24 state register on the thirteenth day of January, one thousand
25 nine hundred ninety-two, relating to the insurance commissioner

1 (guaranteed loss ratios as applied to individual sickness and
2 accident insurance policies), are authorized.

3 (m) The legislative rules filed in the state register on the
4 ninth day of August, one thousand nine hundred ninety-one,
5 modified by the insurance commissioner to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the thirteenth day of January, one thousand
8 nine hundred ninety-two, relating to the insurance commissioner
9 (examiners' compensation, qualifications and classification), are
10 authorized.

11 (n) The legislative rules filed in the state register on the
12 seventeenth day of July, one thousand nine hundred ninety-one,
13 modified by the insurance commissioner to meet the objections of
14 the legislative rule-making review committee and refiled in the
15 state register on the thirteenth day of January, one thousand
16 nine hundred ninety-two, relating to the insurance commissioner
17 (permanent regulations on Medicare supplement insurance), are
18 authorized.

19 (o) The legislative rules filed in the state register on the
20 twelfth day of August, one thousand nine hundred ninety-one,
21 modified by the insurance commissioner to meet the objections of
22 the legislative rule-making review committee and refiled in the
23 state register on the thirteenth day of January, one thousand
24 nine hundred ninety-two, relating to the insurance commissioner

1 ("tail" malpractice insurance covering certain medical and allied
2 health care providers), are authorized.

3 (p) The legislative rules filed in the state register on the
4 eighteenth day of September, one thousand nine hundred
5 ninety-two, relating to the insurance commissioner (regulation of
6 credit life insurance and credit accident and sickness
7 insurance), are authorized.

8 (q) The legislative rules filed in the state register on the
9 eighteenth day of September, one thousand nine hundred
10 ninety-two, modified by the insurance commissioner to meet the
11 objections of the legislative rule-making review committee and
12 refiled in the state register on the tenth day of December, one
13 thousand nine hundred ninety-two, relating to the insurance
14 commissioner (filing fees for purchasing groups and for risk
15 retention groups not chartered in this state), are authorized.

16 (r) The legislative rules filed in the state register on the
17 fourteenth day of October, one thousand nine hundred ninety-two,
18 relating to the insurance commissioner (group coordination of
19 benefits), are authorized with the amendments set forth below:

20 "On page six, subsection 2.1.9., after the words 'If a person
21 is covered by more than one employer group minimum benefits plan,
22 the order of benefits determination rules of this regulation
23 decide the order in which their benefits are determined in
24 relation to each other' by inserting a colon and the words
25 'Provided, That under the provisions of West Virginia Code

1 §5-16-12(a), coverage issued pursuant to the Public Employees
2 Insurance Act is secondary to an employer group minimum benefits
3 plan and any other applicable health insurance coverage."

4 (s) The legislative rules filed in the state register on the
5 eighteenth day of September, one thousand nine hundred
6 ninety-two, modified by the insurance commissioner to meet the
7 objections of the legislative rule-making review committee and
8 refiled in the state register on the fifteenth day of January,
9 one thousand nine hundred ninety-three, relating to the insurance
10 commissioner (permanent regulations on medicare supplement
11 insurance), are authorized.

12 (t) The legislative rules filed in the state register on the
13 eighteenth day of September, one thousand nine hundred
14 ninety-two, modified by the insurance commissioner to meet the
15 objections of the legislative rule-making review committee and
16 refiled in the state register on the fifteenth day of January,
17 one thousand nine hundred ninety-three, relating to the insurance
18 commissioner (individual and employer group minimum benefits,
19 accident and sickness insurance policies), are authorized with
20 the amendments set forth below:

21 "On page two, subsection 3.2 by striking out the period and
22 inserting the following: 'other than coverage issued pursuant to
23 the Public Employees Insurance Act, as provided in West Virginia
24 Code §5-16-12(a).'"

1 (u) The legislative rules filed in the state register on the
2 eighteenth day of September, one thousand nine hundred
3 ninety-two, modified by the insurance commissioner to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the fifteenth day of January,
6 one thousand nine hundred ninety-three, relating to the insurance
7 commissioner (long-term care insurance), are authorized.

8 (v) The legislative rules filed in the state register on the
9 eighteenth day of September, one thousand nine hundred
10 ninety-two, modified by the insurance commissioner to meet the
11 objections of the legislative rule-making review committee and
12 refiled in the state register on the fifteenth day of January,
13 one thousand nine hundred ninety-three, relating to the insurance
14 commissioner (standards for uniform health care administration),
15 are authorized.

16 (w) The legislative rules filed in the state register on the
17 sixteenth day of August, one thousand nine hundred ninety-three,
18 modified by the insurance commissioner to meet the objections of
19 the legislative rule-making review committee and refiled in the
20 state register on the twenty-ninth day of November, one thousand
21 nine hundred ninety-three, relating to the insurance commissioner
22 (continuation of coverage under automobile liability policies),
23 are authorized.

24

25 NOTE: The purpose of this bill is to authorize the Insurance
26 Commissioner to promulgate legislative rules relating to
27 continuation of coverage under automobile liability policies.

1 Strike-throughs indicate language that would be stricken from
2 the present law, and underscoring indicates new language that
3 would be added.

SENATE BILL NO. 189

(By Senators Manchin, Anderson, Grubb, Macnaughtan
and Minard)

{Introduced January 31, 1994; referred to the
Committee on

BANKING AND INSURANCE;

Judiciary

A BILL to amend and reenact section two, 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 continuation of coverage under automobile liability policies.

Be it enacted by the Legislature of West Virginia:

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14 commissioner (standards for uniform health care administration),
15 are authorized.

16 (w) The legislative rules filed in the state register on the
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18 modified by the insurance commissioner to meet the objections of
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25 NOTE: The purpose of this bill is to authorize the Insurance
26 Commissioner to promulgate legislative rules relating to
27 continuation of coverage under automobile liability policies.

1 Strike-throughs indicate language that would be stricken from
2 the present law, and underscoring indicates new language that
3 would be added.



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
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WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(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

RECEIVED

JUN 02 1994

LEGAL DIVISION
W. VA. INS. DEPT.

TO: Jeff VanGilder B. Keith Huffman

AGENCY: Insurance Commissioner

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: June 1, 1994

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: 38 TITLE: 114 Insurance Commissioner

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: B. Keith Huffman

TITLE OF PERSON SIGNING: General Counsel

DATE: 6/14/94

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

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

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

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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



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

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

March 15, 1994

B. Keith Huffman
Insurance Commission
State Capitol Complex
2019 Washington St. East
Charleston, WV 25305

SB 186 authorizing, **Title 114, Series 38, Continuation of Coverage Under Automobile Liability Policies**, passed the Legislature on **March 12, 1994**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 186, 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 186** section **64-7-2(z)**. 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" OR 5 1/4" DISK, YOU MUST SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, 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 call our office.

Thank You
Administrative Law Division



STATE OF WEST VIRGINIA
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON
Governor

HANLEY C. CLARK
Insurance Commissioner

April 22, 1994

HAND DELIVERED

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

Dear Ms. Cooper:

Attached for filing with your office is the "final filing" form for the regulation Series 38 titled "Continuation of Coverage Under Automobile Liability Policies." This regulation was authorized in Senate Bill 186 and passed by the Legislature on March 12, 1994.

We are also providing your office with a computer disc containing the aforementioned rule. The filing dates and effective dates have already been inserted onto the disc. If you have any questions about the enclosed "final filing" form or the computer disc, please do not hesitate to call me or my secretary, Carla Savage.

Sincerely,

A handwritten signature in cursive script that reads "Keith".

B. Keith Huffman
General Counsel

BKH/cjs
Enclosures