

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #5

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1990 AUG 31 PM 2:04

OFFICE OF THE SECRETARY OF STATE

NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW

AGENCY: West Virginia Department of Banking TITLE NUMBER: 106

CITE AUTHORITY: West Virginia Code 46A-3-109(2)(f)

RULE TYPE: PROCEDURAL INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE _____
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW _____

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 ADOPTED: 14

TITLE OF RULE BEING ADOPTED: Format For Notice Of Right To Cancel
Consumer Credit Insurance

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS October 1, 1990

Shirley S. Biss
Deputy Commissioner

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Format For Notice Of Right To Cancel Consumer Credit Insurance

Type of Rule: Legislative Interpretive X Procedural

Agency West Virginia Dept. of Banking Address State Capitol Complex
Building 3, Room 311, Charleston, West Virginia 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ None	\$ None	\$ None	\$ None	\$ None
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates:

N/A

3. Objectives of these rules:

The purpose of this regulation is to set forth the form by which a creditor, receiving payment in full of a consumer credit sale, or consumer loan, refinancing or consolidation, must notify the debtor of his/her right to cancel any consumer credit insurance provided in association with said sale, loan, refinancing or consolidation, and receive a refund of any unearned premiums thereon.

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.

None

C. Economic Impact on Citizens/Public at Large.

None

Date: 8-31-90

Signature of Agency Head or Authorized Representative

Sharon J. Bee
Deputy Commissioner



STATE OF WEST VIRGINIA
DEPARTMENT OF BANKING
CHARLESTON 25305

SUMMARY OF COMMENTS RECEIVED REGARDING
PROPOSED RULE 106 CSR 14

A total of twenty-one (21) comments were received during the thirty day comment period. Twenty (20) comments were from financial institutions regulated by the Department of Banking and one (1) was received from the Insurance Commission.

The vast majority of comments stated that most supervised financial institutions take the amount of unearned insurance premiums into account when they arrive at a pay-off amount for a particular consumer credit sale, consumer loan, refinancing or consolidation. All felt that requiring a new notice form be sent to customers was a burdensome and unnecessary expense, as typically the customer is informed of the fact that his/her unearned insurance premiums were subtracted from their outstanding principal balance to arrive at their pay-off amount.

Some commentators stated that in circumstances where the consumer credit sale, consumer loan, refinancing or consolidation was purchased from a dealer, i.e. car dealer, appliance store, etc., the requirement that the notice include the insurer's name and address would be difficult to meet as the insurance was sold by the dealer, not the institution.

As a result of the comments received, it was decided that an exemption would be granted from the notice requirements to those financial institutions, as defined in the regulation, that take the amount of unearned insurance premiums into account when determining a customer's pay-off amount. The exempt institution must still notify the customer, in writing, of the fact that his/her pay-off amount reflects a refund of unearned insurance premiums.

TITLE 106
PROCEDURAL RULES
DEPARTMENT OF BANKING

SERIES 14
FORMAT FOR NOTICE OF RIGHT TO CANCEL
CONSUMER CREDIT INSURANCE

SECTION 106-14-1. GENERAL.

1.1 Scope and Purpose. -- The purpose of this regulation is to set forth the form by which a creditor, receiving payment in full of a consumer credit sale, or consumer loan, refinancing or consolidation, must notify the debtor of his/her right to cancel any consumer credit insurance provided in association with said sale, loan, refinancing or consolidation, and receive a refund of any unearned premiums thereon.

1.2 Authority. -- W. Va. Code 46A-3-109(2)(f).

1.3 Filing Date. -- August 31, 1990

1.4 Effective Date. -- October 1, 1990

SECTION 106-14-2. DEFINITIONS.

2.1 "BANK" shall have the meaning set forth in W. Va. Code 31A-1-2(b).

2.2 "FINANCIAL INSTITUTION", as used in this regulation, shall mean banks, building and loan associations, industrial banks, industrial loan companies, supervised lenders, credit unions and all other similar institutions, whether persons, firms or corporations.

SECTION 106-14-3. NOTICE FORM.

3.1 The form of the notice to be sent to a debtor, in the event of payment in full of a consumer credit sale, or consumer loan, refinancing or consolidation shall be found in FORM 106-14A at the end of this regulation.

SECTION 106-14-4. EXEMPTIONS.

4.1 Any creditor who is a financial institution and who applies any unearned insurance premiums to a debtor's loan balance to arrive at said debtor's payoff amount is exempt from the provisions of this regulation, Provided, that the debtor is notified of this fact in writing.

FORM 106-14A

NOTICE

AS A RESULT OF YOUR PAYMENT IN FULL OF ACCOUNT NO. _____, YOU HAVE THE RIGHT TO CANCEL THE CREDIT INSURANCE POLICY ISSUED IN CONJUNCTION WITH THAT ACCOUNT AND MAY RECEIVE A REFUND OF ANY UNEARNED INSURANCE PREMIUMS.

SHOULD YOU DESIRE TO CANCEL THE CREDIT INSURANCE POLICY, PLEASE NOTIFY, IN WRITING, THE SELLER LISTED BELOW.

SELLER:

INSURER:

106 CSR 14

TITLE 106
PROCEDURAL RULES
DEPARTMENT OF BANKING

SERIES 14
FORMAT FOR NOTICE OF RIGHT TO CANCEL
CONSUMER CREDIT INSURANCE

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FORM 106-14A

NOTICE

AS A RESULT OF YOUR PAYMENT IN FULL OF ACCOUNT NO. _____,
THE FOLLOWING ACTION, CHECKED BELOW, HAS OCCURRED OR WILL OCCUR AT
YOUR REQUEST:

_____ THE CREDIT INSURANCE POLICY, ISSUED IN CONJUNCTION WITH
THAT ACCOUNT HAS BEEN CANCELED. THE UNEARNED PREMIUMS WERE APPLIED
TO THE OUTSTANDING BALANCE TO ARRIVE AT YOUR PAYOFF AMOUNT.

A DETAILED STATEMENT OF HOW THE UNEARNED PREMIUMS WERE APPLIED
TO YOUR ACCOUNT CAN BE OBTAINED BY REQUESTING, IN WRITING, THAT
SUCH A STATEMENT BE PROVIDED TO YOU. YOUR REQUEST SHOULD BE
ADDRESSED TO THE CREDITOR LISTED BELOW.

_____ YOU HAVE THE RIGHT TO CANCEL THE CREDIT INSURANCE POLICY
ISSUED IN CONJUNCTION WITH THAT ACCOUNT AND MAY RECEIVE A REFUND OF
ANY UNEARNED INSURANCE PREMIUMS.

SHOULD YOU DESIRE TO CANCEL THE CREDIT INSURANCE POLICY,
PLEASE NOTIFY, IN WRITING, THE SELLER LISTED BELOW.

CREDITOR:

SELLER (IF DIFFERENT THAN CREDITOR LISTED ABOVE):

INSURER:



DIVISION OF BANKING

James H. Paige, III, Commissioner

Office of the Commissioner

Building #3, Room 311 • State Capitol Complex • Charleston, WV 25305 • (304) 348-2294 • FAX: (304) 348-0442

Gaston Caperton
Governor

John Ranson
Secretary

February 5, 1991

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

Re: 106 CSR 14

Dear Ms. Cooper:

Acting Commissioner Sharon Bias recently received a memorandum from you asking that the rule referenced above, which was filed by the Division of Banking in your division, be reviewed for any needed corrections and returned to you.

Amendments to WV Code §46A-3-109(2)(f) have authorized the Insurance Commissioner to promulgate the form of the "Notice of Right to Cancel Consumer Credit Insurance". Therefore, the Division of Banking would respectfully request that its rule 106 CSR 14 be officially withdrawn.

If you have any questions, please feel free to contact me at 348-2294.

Very truly yours,
Richard L. Lancianese
Richard L. Lancianese
General Counsel

RLl/ar

FILED
1992 FEB - 7 PM 3:24
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE