

WEST VIRGINIA INFORMATIONAL LETTER
INSURANCE COMMISSIONER

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UNINSURED MOTORIST, UNDERINSURED MOTORIST COVERAGES
(Senate Bill 288)

It has come to the attention of the West Virginia Insurance Commissioner that some uncertainty exists among insurers in regard to the revisions of West Virginia Code § 33-6-31(b) which became effective April 1, 1982. These revisions, a consequence of West Virginia Senate Bill 288, concern uninsured motorist and underinsured motorist coverages. This informational letter is designed to alleviate insurer confusion so that filings may be structured in accordance with the new provisions.

Uninsured Motorist (U/M) Coverage

Every automobile liability policy issued or delivered in West Virginia must provide the insured with U/M coverage in amounts not less than \$20,000 bodily injury per person, \$40,000 bodily injury per occurrence and \$10,000 property damage per occurrence, pursuant to the requirements of West Virginia Code § 17D-4-2. The insured must be given the option to purchase additional U/M coverage in amounts up to and including \$100,000/\$300,000/\$50,000. The insurer is not precluded from offering U/M coverage in amounts greater than \$100,000/\$300,000/\$50,000. Further, the insured may purchase U/M coverage in amounts greater than, less than or equal to the amounts of liability coverage purchased; for example, an insured could purchase liability coverage in the amounts of \$20,000/\$40,000/\$10,000 and U/M coverage in the amounts of \$100,000/\$300,000/\$50,000. Pursuant to Senate Bill 288 the insured must also be given the option to waive all U/M coverage. This waiver must be in writing and the writing must contain the following statutorily prescribed language, "[t]he commissioner of the department of motor vehicles of the State of West Virginia has determined that there are many operators of motor vehicles from in and out of the state who do not have liability insurance. For this reason uninsured motorist coverage is recommended to each and every West Virginian." Property damage coverage may be subject to a \$300 deductible.

Underinsured Motorist (Ui/M) Coverage

Prior § 33-6-31(b) did not address UI/M coverage. The revised statute defines an "underinsured motor vehicle" and provides that the insured must be given the option to purchase UI/M coverage in amounts up to and including the amounts of bodily injury liability and property damage liability coverages purchased by the insured. The insurer is not precluded from offering UI/M coverage in amounts greater than the liability coverage amounts purchased by the insured. The insured may waive all UI/M coverage; written waiver is not required by the statute. UI/M coverage may not be subject to deductibles.

The insured may purchase U/M and UI/M coverages in differing amounts; for example, an insured could purchase U/M coverage in the amounts of \$50,000/\$100,000/\$25,000 and UI/M coverage in the amounts of \$20,000/\$40,000/\$10,000.

Summary of Coverages

Uninsured and underinsured coverages must be offered as separate and distinct coverages. The insured cannot be required to purchase the two coverages as a "combination" or "package" coverage. Accordingly, under the provisions of § 33-6-31(b) the insured may choose the following:

- (1) Uninsured motorist without underinsured motorist,
- (2) underinsured motorist without uninsured motorist,
- (3) both uninsured motorist and underinsured motorist,
- (4) neither uninsured motorist nor underinsured motorist.

Please address any inquiries to the Rates and Forms Division of the West Virginia Insurance Department.

Richard G. Shaw
Insurance Commissioner