

WEST VIRGINIA INFORMATIONAL LETTER

NO. 39

JULY 1, 1986

TO: ALL INSURANCE COMPANIES LICENSED TO TRANSACT PROPERTY-CASUALTY INSURANCE BUSINESS IN WEST VIRGINIA

RE: CANCELLATION OR NON-RENEWAL OF AUTOMOBILE LIABILITY OR PHYSICAL DAMAGE INSURANCE POLICIES

Informational Letter No. 35 was issued on March 1, 1986, concerning the treatment of policyholders when an agent's relationship with an insurance company is terminated. Essentially, the above indicated that certain policies cannot be cancelled or non-renewed due to the severance of agent/company relationships.

The varied inquiries, inconsistent responses and misinterpretations by the insurance companies has prompted this office to clarify its position in this matter.

In any instance where an agents relationship is terminated, the insurance company must make all affected policyholders aware of their rights under West Virginia Law. In no instance can a notice of non-renewal or cancellation be issued to a policyholder.

We, therefore, request that a letter of explanation of these rights be forwarded to any policyholders who may be affected by the termination of an agent/company contract. Attached you will find an example of the information which should be made available to policyholders.

Issuance of cancellation or non-renewal notice due to the termination of an agent/company relationship on policies which are sixty days or two years old is in violation of Chapter 33, Article GA of the West Virginia Insurance Laws.

Accordingly, within thirty (30) days after receipt of this Informational Letter you are requested to acknowledge receipt of and include a copy of the notice which your company will be utilizing pursuant to the above. This information should be sent to Consumer Service Division, West Virginia Insurance Commissioner, 2100 Washington St., E., Charleston, WV 25305. Please respond separately for each insurance company which may be part of a group. If your company does not market the coverages referred to in this letter, please indicate on this letter and return same to this office.

While this department is aware of contractual agreements between agents and companies, the company's primary responsibility is to serve its policyholders in a manner consistent with the insurance laws of West Virginia.

Failure to respond promptly may result in disciplinary action against the insurance company.

Fred E. Wright
Insurance Commissioner

Dear Policyholder:

_____ Insurance Company has terminated its relationship with your agent .
This letter serves to advise you of your rights under the West Virginia Insurance Laws.

Persons insured under private passenger automobile policies have a number of very important rights as a matter of law in West Virginia. An insurance company may not cancel a policy of private passenger automobile insurance that has been in force for sixty days except for limited reasons. Those reasons are as follows:

1. The named insured fails to pay the premium or any installment of premium.
2. The policy was obtained through material misrepresentation during the policy period.
3. The named insured or any other operator, either resident in the same household or who customarily operates an insured vehicle, has had his operators license suspended or revoked for failure to comply with the traffic regulations set out in the Motor Vehicle Laws dealing with implied consent to administer tests to determine whether or not said person was driving under the influence of alcohol, drugs, or a combination of both or has had his operators or drivers license suspended or revoked for any other cause.
4. The named insured or any other operator, either resident in the same household, or who customarily operates an insured vehicle, is or becomes subject to epilepsy or heart attacks and said person cannot produce a certificate from a physician testifying to his ability to operate a motor vehicle.
5. The named insured or any other operator, either resident in the same household or who customarily operates an insured vehicle is convicted of or forfeits bail during the policy period for any of the following:
 - a. Any felony or assault involving the use of a motor vehicle.
 - b. Negligent homicide arising out of the operation of a motor vehicle.
 - c. Operating a motor vehicle while under the influence of alcohol or of any controlled substance or while having an alcohol concentration in his blood of ten one hundredths of one percent (.10) or more by weight.
 - d. Leaving the scene of a motor vehicle accident in which the insured is involved without reporting as required by law.
 - e. Theft of a motor vehicle or the unlawful taking of a motor vehicle.
 - f. Making false statements in an application for a motor vehicle operators license.
 - g. A third violation, committed within a period of twelve months, of any moving

traffic violation which constitutes a misdemeanor, whether or not the violation were repetitious of the same offense or were different offenses.

Even if one of the limited reasons for cancellation exists, an insurance company may not cancel a policy of insurance without giving the insured 30 days notice of the cancellation. However, on a new policy, the insurance company may cancel the policy on only 10 days notice.

Further, an insurance company must renew an automobile insurance policy that has been in existence for two consecutive years unless certain reasons for non-renewal exist. If the company intends to non-renew the insurance policy, it must give you 45 days advance notice. The reasons for non-renewal are listed below:

a. The named insured fails to discharge when due any of his obligations in connection with the payment of premium for such policy or any installment thereof.

b. The policy was obtained through material misrepresentation.

c. The insured violates any of the material terms and conditions of the policy.

d. The named insured or any other operator either resident in the same household or who customarily operates an automobile insured under such policy:

1. Has had his operators license suspended or revoked during the policy period; or

2. Is or becomes subject to epilepsy or heart attacks, and such individual cannot produce a certificate from a physician testifying to his ability to operate a motor vehicle.

e. The named insured or any other operator, either resident in the same household or who customarily operates an automobile insured under such policy is convicted of or forfeits bail during the policy period for any of the following:

1. Any felony or assault involving the use of a motor vehicle.

2. Negligent homicide arising out of the operation of a motor vehicle.

3. Operating a motor vehicle while under the influence of intoxicating liquor or of any narcotic drug.

4. Leaving the scene of a motor vehicle accident in which the insured is involved without reporting as required by law.

5. Theft of a motor vehicle or the unlawful taking of a motor vehicle.

6. Making false statements in an application for a motor vehicle operators license;

or

7. A second violation, committed within a period of twelve months, of any moving traffic violation which constitutes a misdemeanor, whether or not the violations were repetitions of the same offense or were different offenses.

f. The named insured or any other operator has had a second at-fault motor vehicle accident within a period of twelve months.

The company realizes you may have developed a relationship with your agent which might persuade you to have your coverage switched to another insurance company. Should you decide to replace your existing policy with a policy issued by another company you will lose the rights outlined above.

NOTE TO COMPANY:

The following options may be included in this letter to the policyholder with a request that the policyholder contact a particular person or division as to their decision.

Due to the termination of your agents contract with this company you have two options available regarding your insurance coverage:

1. The first option is to continue your policy with _____.
2. The second option is to contact your current insurance agent and request that coverage be placed with another insurance company.