

**TITLE 114
LEGISLATIVE RULE
INSURANCE COMMISSIONER**

**SERIES 37
SUBSTANDARD RISK MOTOR VEHICLE INSURANCE
NOTICE REQUIREMENTS**

§114-37-1. General.

1.1. Scope. -- This legislative rule implements the provisions of West Virginia Code §33-6-31c requiring a written notification on automobile insurance applications and policies written on substandard risks, and a written notification to substandard risk applicants and insureds regarding eligibility for coverage under a standard or preferred policy. This rule sets forth the format, style, design and method for approval of substandard risk insurance applications, policies, and notices, and any additional procedures required.

1.2. Authority. -- W. Va. Code §33-6-31c.

1.3. Filing Date. -- April 2, 1996.

1.4. Effective Date. -- April 2, 1996.

§114-37-2. Applicability.

2.1. Applicability. -- This legislative rule applies to all insurers writing motor vehicle liability insurance in this State if the rate or premium charged for the motor vehicle liability coverage reflects a greater than normal exposure to loss which is assumed by an insurer writing insurance for a substandard risk. The notification provisions apply to all motor vehicle liability policies covering substandard risks issued on or after the effective date of this rule, all motor vehicle liability insurance applications covering substandard risks taken on or after the effective date of this rule, and all notices to substandard risk policyholders of eligibility for coverage under a standard or preferred policy arising on or after the effective date of this rule.

2.2. This legislative rule applies to insurance companies writing motor vehicle liability insurance coverage through the assigned risk plan ("AIPSO").

2.3. This legislative rule applies to insurance companies that write only one tier of motor vehicle liability insurance business if the rate or premium charged for such coverage reflects the greater than normal exposure to loss which is assumed by the insurer writing insurance for a substandard risk.

2.4. The provisions of this legislative rule do not apply to insurance policies issued or applications taken for commercial automobile liability insurance.

§114-37-3. Definitions.

The following words and terms, when used in this rule, have the following meanings, unless the context clearly indicates otherwise:

3.1. "Application" means a printed form used by an insurance company which includes questions about a prospective insured and the desired insurance coverage and limits. It provides the insurer's underwriter with information for accepting or rejecting the prospective insured and rating the desired policy.

3.2. "Commissioner" means the Insurance Commissioner of the State of West Virginia.

3.3. "Contrasting Color" means a color strikingly dissimilar to the color of the other text and background as to produce an intensified effect that is easily readable and draws the attention of the reader.

3.4. "Form Filing" means a filing of the application and first page of the policy bearing the imprint of the specified statement submitted to the Commissioner for prior approval in accordance with W. Va. Code §33-6-8.

3.5. "Policy" is the form setting forth the automobile insurance declarations, insuring agreements, conditions and exceptions, often bound by a policy jacket.

3.6. "Reverse Print" means white text on a black background as to produce an intensified effect that is easily readable and draws the attention of the reader.

3.7. "State" means the State of West Virginia.

3.8. "Substandard Risk Insurance Application Notice" means the written notice required by W. Va. Code §33-6-31c(b).

3.9. "Substandard Risk Insurance Policy Notice" means the written notice required by W. Va. Code §33-6-31c(c).

3.10. "Substandard Risk" means an applicant for insurance who presents a greater exposure to loss than that contemplated by commonly used rate classifications, as evidenced by one or more of the following conditions: (A) A record of traffic accidents; (B) A record of traffic law violations; (C) Undesirable occupational circumstances; or (D) Any other valid underwriting consideration.

3.11. "Substandard Risk Rate" means a rate or premium charge that reflects the greater than normal exposure to loss which is assumed by an insurer writing insurance for a substandard risk.

§ 114-37-4. Format of Substandard Risk Insurance Application Notice.

4.1. The Application for a motor vehicle insurance policy to be issued in this State and written on the basis of a substandard risk rate schedule shall have printed directly thereon in a minimum 10 point bold-faced type in a contrasting color or in reverse print, a statement appearing on the front page of the Application reading substantially as follows: **THE POLICY FOR WHICH YOU ARE APPLYING HAS BEEN RATED IN ACCORDANCE WITH A SPECIAL RATING SCHEDULE FILED WITH THE COMMISSIONER OF INSURANCE PROVIDING FOR HIGHER PREMIUM CHARGES THAN THOSE GENERALLY APPLICABLE FOR AVERAGE RISKS. IF THE COVERAGE OR PREMIUM IS NOT SATISFACTORY, YOU MAY BE ELIGIBLE FOR OTHER INSURANCE. IF THIS COVERAGE OR PREMIUM IS SATISFACTORY, YOU MAY BE ELIGIBLE FOR COVERAGE UNDER A STANDARD OR PREFERRED POLICY IF DURING THE NEXT THREE YEARS YOU HAVE NO TRAFFIC VIOLATIONS OR ACCIDENTS AND YOU MAINTAIN CONTINUOUS INSURANCE COVERAGE.**

4.2. The Substandard Risk Application Notice shall be clear and conspicuous on the face of the Substandard Risk Application.

4.3. The Substandard Risk Application Notice may not be printed on a separate sheet of paper, on a sticker attached to the Application, or on an overlay sheet.

§114-37-5. Format of Substandard Risk Insurance Policy Notice.

5.1. A motor vehicle insurance policy issued in this State and written on the basis of a substandard risk rate schedule shall have printed directly thereon, in a minimum 10 point boldfaced type in a contrasting color or in reverse print, a statement appearing on the policy jacket or the first page of the policy reading substantially as follows: **THIS POLICY HAS BEEN RATED IN ACCORDANCE WITH A SPECIAL RATING SCHEDULE FILED WITH THE COMMISSIONER OF INSURANCE PROVIDING FOR HIGHER PREMIUM CHARGES THAN THOSE GENERALLY APPLICABLE FOR AVERAGE RISKS. IF THE COVERAGE OR PREMIUM IS NOT SATISFACTORY, YOU MAY BE ELIGIBLE FOR OTHER INSURANCE. IF THIS COVERAGE OR PREMIUM IS SATISFACTORY, YOU MAY BE ELIGIBLE FOR COVERAGE UNDER A STANDARD OR PREFERRED POLICY IF DURING THE NEXT THREE YEARS YOU HAVE NO TRAFFIC VIOLATIONS OR ACCIDENTS AND YOU MAINTAIN CONTINUOUS INSURANCE COVERAGE.**

5.2. The Substandard Risk Insurance Policy Notice shall be clear and conspicuous on the face of the Substandard Risk Policy.

5.3. The Substandard Risk Insurance Policy Notice may not be printed on a separate sheet of paper, on a sticker attached to the Policy, or on an overlay sheet.

§114-37-6. Submission of Form Filing Required.

6.1. All insurers shall submit the Form Filing to comply with W. Va. Code §33-6-31c to the Rates and Forms Division of the Office of the West Virginia Insurance Commissioner. The form filing is effective upon approval by the Commissioner.

6.2. The Form Filing shall include: Two (2) Cover Letters informing the Commissioner that this filing is submitted to comply with W. Va. Code §33-6-31c; a Form Filing Abstract (PCA-F-81); a copy of the properly imprinted application; a copy of the properly imprinted Policy Form; an amendment to the manual page stating that these imprinted forms are to be used with every automobile insurance policy written on a substandard risk in the State; and the appropriate filing fee required by W.Va. Code §33-6-34.

§114-37-7. Notice of Eligibility for Coverage Under Standard or Preferred Policy.

7.1. All insurers selling or which have in force substandard risk motor vehicle insurance policies shall provide a one time notice in writing to their substandard risk policyholders who have maintained continuous insurance coverage for three years, have not been convicted of any moving traffic violations and had no at fault accidents, that they may be eligible for coverage under a standard or preferred policy.

7.2. The notice to substandard risk policyholders regarding their eligibility for coverage under a standard or preferred policy shall read substantially as follows: Our records show that for the past three years you have maintained continuous motor vehicle insurance coverage, have not been convicted of any moving traffic violations, and have had no at fault accidents. You may, therefore, be eligible for coverage under a standard or preferred policy at lower premium charges than those you are currently paying. To confirm your eligibility for such coverage, contact us at (appropriate address and telephone number) or contact the insurer of your choice.

7.3. The notice required in this section must be provided either by personal delivery or by regular mail addressed to the policyholder at the last address appearing for the policyholder in the records of the insurer.

§114-37-8. Severability.

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