July 2000

WEST VIRGINIA INFORMATIONAL LETTER

NO. 121

W.Va. Code § 33-6-31d became effective on April 10, 1993. This statute requires that all insurers "make available" to a named insured under each policy the optional limits of uninsured motor vehicle (UM) and underinsured motor vehicle (UIM) coverage which are presently required by W.Va. Code § 33-6-31. West Virginia Code § 33-6-31d dictates that the mandatory offer of optional UM and UIM coverages be offered on a form "prepared and made available" by the West Virginia Insurance Commissioner. This letter is to provide the revised, required form and to explain the procedures for "making available" to a named insured optional UM and UIM coverages.

Although the forms provided by the Commissioner with Informational Letter No. 88, previously executed and on file with the insurers, shall continue in full force and effect for the purpose of creating a presumption of an effective offer and a knowing and intelligent election or rejection, this Informational Letter replaces Informational Letter No. 88 in its entirety.

Insurers should begin using the new revised forms as soon as possible, but no later than **October 1, 2000**.

The prior uninsured and underinsured motorist coverage Forms A and B required insurers to list the applicant's "present coverage." It has been removed. Therefore, the uninsured and underinsured motorist coverage offer Forms A and B attached hereto no longer require the insurer to list the amount of existing coverage. Additionally, the prior forms required the insurer to provide a "vehicle description." This portion of the form has likewise been removed. However, the remainder of the forms' content is identical to the prior forms.

As you are aware, existing W.Va. Code § 33-6-31 requires that insurers offer the following optional limits of UM and UIM coverage:

Mandatory Options in West Virginia

UNINSURED (UM)

Bodily Injury Per Person	Bodily Injury Per Accident	Property Damage Per Accident
Option #1...		
Amount up to limits of insured's liability coverage but not less than $20,000	Amount up to limits of insured's liability coverage but not less than $40,000	Amount up to limits insured's liability coverage but not less than $10,000

Option #2...

$100,000	$300,000	$50,000

UNDERINSURED (UIM)

Bodily Injury Per Person	Bodily Injury Per Accident	Property Damage Per Accident
Amount up to limits of insured's liability coverage	Amount up to limits of insured's liability coverage	Amount up to limits insured's liability coverage

WHEN INSURER MUST PROVIDE UM AND UIM OPTION FORMS

W.Va. Code § 33-6-31d dictates that the forms prescribed by the Insurance Commissioner must be provided by the insurer to a named insured :

1. Upon application for insurance either by:

(a) Hand Delivery to a prospective named insured, or

(b) By mail with the first premium notice to a named insured, and

2. Upon the request of any named insured for different coverage limits.

A mass mailing of the revised forms to existing policyholders is not required upon receipt of this Informational Letter. Further, insurers are not required to mail these revised forms to existing policyholders at renewal. However, insurers should begin using the new forms by October 1, 2000 when the enumerated circumstances set forth above occur. Not withstanding these revisions, the prior version of these forms, (prepared and made available by the Insurance Commissioner), which have been previously executed by an insured and which remain on file with the insurer shall continue in full force and effect for the purpose of creating a presumption of an effective offer of optional coverages and a knowing and intelligent election or rejection.

MANDATORY CONTENTS OF FORM

W.Va. Code § 33-6-31d specifies that at a minimum the form must:

1. Inform a named insured of the optional coverages offered;

2. Inform the named insured of the rate calculation for the optional coverages including amount of coverage and the number of vehicles; and

3. Give the named insured the option to reject the optional coverage.

PREPARATION OF FORMS BY INSURERS: COMPLIANCE REQUIREMENTS

Statutory compliance in the reproduction of the forms contained herein necessary to create a presumption of an effective offer of optional coverages and a knowing and intelligent election or rejection is achieved so long as the reproduced forms provide ALL the information set forth within the Insurance Commissioner promulgated forms. It is not necessary that the reproduced forms be exact replicas of the Commissioner forms in size and shape. However, a minimum 10 point font size and a commonly used font face are required. Additionally, the portions of the Insurance Commissioner promulgated forms which appear in bold font style must likewise appear in bold on the insurer reproduced forms.

OFFER VALID FOR THIRTY DAYS/FORM MUST BE COMPLETED BY NAMED INSURED

A named insured upon receiving the prescribed form must complete and return it to the insurer within thirty days or W.Va. Code § 33-6-31d creates a presumption that such named insured has rejected or waived the optional UM and UIM coverages on behalf of all insureds under the policy. The form must be completed, dated and signed by a named insured in their own handwriting.

INSTRUCTIONS FOR COMPLETION OF FORM BY INSURER

The revised forms developed by the Insurance Commissioner pursuant to W.Va. Code § 33-6-31d consist of two parts: 1) The "Important Notice" and 2) Alternative Forms A and B. These revised documents are attached to this letter.

The Important Notice must be provided in all circumstances listed above. The Important Notice must be combined by the insurer with either Form A or Form B, as appropriate.

Form A is to be used by insurers which offer "split limits" liability coverages. Form B is to be used by insurers which offer single limit liability coverage. Therefore, the form provided to a named insured would consist of either the:

Important Notice and Form A (split limits) or the;

Important Notice and Form B (single limit).

NOTE: If the insured offers both split limits and single limit coverages, both Form A and Form B must be provided to the insured and the insured allowed to reject the coverage not wanted.

INSURER MUST COMPLETE UPPER PORTION OF BOTH PAGES OF FORM A OR FORM B FOR *EACH POLICY*

Forms A and B each address uninsured (UM) coverage on the first page and underinsured (UIM) coverage on the second page of the respective form. The insurer must complete the upper portion of Form A or Form B for each named insured notified in order to make an effective offer of optional UM and UIM coverages. As to each named insured notified, the insurer must provide: 1) The number of vehicles covered by the policy; 2) Whether there is a multi-car discount used in the premium calculation; 3) The agent's name (if the insurer is a direct marketer and no agent is used, the insurer should type in "none"); 4) The policy number; 5) The policy period (e.g. 3, 6 or 12 months); and 6) The premium amount for that policy period which would apply to each optional UIM and UM coverage offered by the insurer for which the named insured is eligible.

Insurers are not required to (but may) quote premiums as to UM and UIM coverage levels higher than those required by W.Va. Code § 33-6-31 (see chart above). If on Forms A and B there are blank spaces for premium which correspond to coverages not required to be offered by W.Va. Code § 33-6-31 and the insurer does not wish to offer such coverages, the insurer should type out "not available" in such blank spaces. The blank spaces near the bottom of the per person, per accident, and property damage columns are provided to allow the insurer some flexibility in completing the form. In these spaces the insurer must list other levels of coverage (and premium) which are required by W.Va. Code § 33-6-31 (see chart above) but are not specifically listed on Form A or B. Also, the insurer may list in these spaces (if space permits) other levels of coverage (and premium) which are not required by W.Va. Code § 33-6-31 but which the insurer voluntarily wants to offer.

The Insurance Commissioner will give notice of any additional changes to the forms provided by this letter. If you have any questions, you may direct them to Thomas Marchio, Director, Rates and Forms Division, telephone number (304) 558-2094. Thank you for your attention to this matter.

Hanley C. Clark
Insurance Commissioner

IMPORTANT NOTICE

OFFER VOID AFTER THIRTY (30) DAYS

TO: PROPOSED POLICYHOLDERS (APPLICANT);

IF YOU DO NOT RETURN THIS FORM TO YOUR INSURER WITHIN THIRTY (30) DAYS IT MEANS YOU HAVE DECIDED NOT TO BUY OPTIONAL UNDERINSURED COVERAGES OR OPTIONAL LIMITS OF UNINSURED MOTORIST COVERAGE ABOVE THAT REQUIRED BY LAW.

OR

PRESENT POLICYHOLDERS;

IF YOU DO NOT RETURN THIS FORM TO YOUR INSURER WITHIN THIRTY (30) DAYS IT MEANS YOUR COVERAGE WILL STAY THE SAME AS IT IS NOW. THIS IS AN OPPORTUNITY TO CHANGE THE COVERAGE YOU PRESENTLY HAVE.

Uninsured Motor Vehicle Coverage

The State of West Virginia requires that you purchase **Uninsured** motor vehicle coverage with limits not less of $20,000 per person, $40,000 per accident for uninsured bodily injury losses, and $10,000 for uninsured property losses. The law also requires that you be given the opportunity to purchase higher limits.

Uninsured Motor Vehicle Coverage will protect you and passengers in your car if you are injured in an accident that was caused by an uninsured driver who was at-fault, or an unidentified driver who was at-fault.

UNDERinsured Motor Vehicle Coverage

The State of West Virginia **does not require** you to purchase **UNDERinsured** motor vehicle coverage. However, the law does state that you must be given the opportunity to purchase this coverage at limits as high as your liability coverage.

If you and passengers in your car are involved in an accident in which the other driver is legally at fault, the at-fault driver's insurance policy has the obligation to pay for your damages. It is not uncommon that the at-fault driver will not have enough liability insurance to pay for all the damages you have suffered. In order for you to protect yourself and others in your car, **UNDERinsured motor vehicle coverage** is available to you. This type of coverage will pay for the remainder of your damages up to your policy limits.

EXAMPLE:

You have purchased **UNDERinsured** motor vehicle coverage with limits of $50,000 per person with a maximum of $100,000 for any accident. You are in an accident where the other driver is at fault. The at-fault driver's liability policy limits are $20,000 per person. You suffered damages of $30,000. You receive $20,000 from the at-fault driver's insurance. Since you still have outstanding losses of $10,000, you can receive $10,000 from your **UNDERinsured** motor vehicle coverage.

If you do not have **UNDERinsured motor vehicle coverage,** you may have found yourself in a situation where you did not have enough coverage to meet all of the losses you sustained in the accident.

FORM A

UNDERINSURED MOTORISTS COVERAGE OFFER

Below are different limits and the _____ **month premium** available to you.

COMPANY MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION OR REJECTION.

UNDERINSURED MOTORISTS COVERAGE (OPTIONAL) _____
AGENT

Number of vehicles subject to premiums below _____. _____
POLICY/BINDER NUMBER

Rates [ ] **include** [ ] **do not include** multi-car discount.

Bodily Injury Per Person	Bodily Injury Per Accident	Property Damage		Premium
OPTIONAL LIMITS				
$ 20,000	$ 40,000	$ 10,000	**[A]**	$ _____
$ 25,000	$ 50,000	$ 10,000	**[B]**	$ _____
$ 50,000	$ 100,000	$ 10,000	**[C]**	$ _____
$ 100,000	$ 300,000	$ 10,000	**[D]**	$ _____
$ 100,000	$ 300,000	$ 50,000	**[E]**	$ _____
$ _____	$ _____	$ _____	**[F]**	$ _____
$ _____	$ _____	$ _____	**[G]**	$ _____
REJECT	REJECT	REJECT		REJECT

I SELECT
(Check One)

[A] _____
[B] _____
[C] _____
[D] _____
[E] _____
[F] _____
[G] _____
[ ] **REJECT**

A named insured or applicant must select or reject coverage offered above, and complete this part of the form in his or her own handwriting.

I have read the **IMPORTANT NOTICE**, attached, on **UNDERinsured** motor vehicle coverage and understand how this coverage works.

I have been given the opportunity to select or reject limits of **UNDERinsured** motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.

_____ _____
SIGNATURE OF A NAMED INSURED OR APPLICANT **DATE**

This selection or rejection of coverage is binding on all persons covered under the policy. These limits apply until a change in the limits is requested.

FORM A

UNINSURED MOTORISTS COVERAGE OFFER

Below are different limits and the _____ **month premium** available to you.

COMPANY MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION.

UNINSURED MOTORISTS COVERAGE (MANDATORY) _____
AGENT

Number of vehicles subject to premiums below _____. _____
POLICY/BINDER NUMBER

Rates [ ] **include** [ ] do not include multi-car discount.

Bodily Injury Per Person	Bodily Injury Per Accident	Property Damage		Premium		I SELECT (Check One)
MANDATORY LIMITS						
$ 20,000	$ 40,000	$ 10,000	**[A]**	$_____		**[A]** __
OPTIONAL LIMITS						
$ 25,000	$ 50,000	$ 10,000	**[B]**	$_____		**[B]** ___ _____
$ 50,000	$ 100,000	$ 10,000	**[C]**	$_____		**[C]** ___ _____
$ 100,000	$ 300,000	$ 10,000	**[D]**	$_____		**[D]** ___ _____
$ 100,000	$ 300,000	$ 50,000	**[E]**	$_____		**[E]** ___ _____
$ _____	$ _____	$ _____	**[F]**	$_____		**[F]** ___ _____
$ _____	$ _____	$ _____	**[G]**	$_____		**[G]** ___ _____

A named insured or applicant must complete this part of the form in his or her own handwriting.

I have read the **IMPORTANT NOTICE**, attached, on **UNinsured** motor vehicle coverage and understand how this coverage works.

I have been given the opportunity to select the optional limits of **UNinsured** motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.

SIGNATURE OF A NAMED INSURED OR APPLICANT _____ **DATE** _____

This selection of coverage is binding on all persons covered under the policy. These limits apply until a change in the limits is requested.

FORM B

UNINSURED MOTORISTS COVERAGE OFFER

Below are different limits and the _____ **month premium** available to you.

COMPANY MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION.

UN**INSURED MOTORISTS COVERAGE (MANDATORY)** _____
AGENT

Number of vehicles subject to premiums below _____ _____
POLICY/BINDER NUMBER

Rates [ ] **include** [ ] **do not include** multi-car discount.

Single Limits	Premium	**I SELECT (Check One)**
MANDATORY LIMITS		
$ 50,000	**[A]** $ _____	**[A]** _____
OPTIONAL LIMITS		
$ 100,000	**[B]** $_____	**[B]** ____
$ 200,000	**[C]** $_____	**[C]** ____
$ 300,000	**[D]** $_____	**[D]** ____
$ 350,000	**[E]** $_____	**[E]** ____
$ _____	**[F]** $_____	**[F]** ____
$ _____	**[G]** $_____	**[G]** ____

A named insured or applicant must complete this part of the form in his or her own handwriting.

I have read the **IMPORTANT NOTICE**, attached, on **UNinsured** motor vehicle coverage and understand how this coverage works.

I have been given the opportunity to select the optional limits of **UNinsured** motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.

SIGNATURE OF A NAMED INSURED OR APPLICANT _____ **DATE**

This selection of coverage is binding on all persons covered under the policy. These limits apply until a change in the limits is requested.

FORM B

UNDERINSURED MOTORISTS COVERAGE OFFER

Below are different limits and the _____ **month premium** available to you.

COMPANY MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION OR REJECTION.

UNDERINSURED MOTORISTS COVERAGE (OPTIONAL) _____
AGENT

Number of vehicles subject to premiums below _____. _____
POLICY/BINDER NUMBER

Rates [ ] **include** [ ] **do not include** multi-car discount.

Single Limits		Premium		I SELECT (Check One)	
OPTIONAL LIMITS					
$ 50,000	**[A]**	$		**[A]**	
$ 100,000	**[B]**	$		**[B]**	
$ 200,000	**[C]**	$		**[C]**	
$ 300,000	**[D]**	$		**[D]**	
$ 350,000	**[E]**	$		**[E]**	
$	**[F]**	$		**[F]**	
$	**[G]**	$		**[G]**	
REJECT			REJECT	**[ ]**	I REJECT

A named insured or applicant must select or reject coverage offered above, and complete this part of the form in his or her own handwriting.

I have read the **IMPORTANT NOTICE**, attached, on **UNDERinsured** motor vehicle coverage and understand how this coverage works.

I have been given the opportunity to select or reject the optional limits of **UNDERinsured** motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.

SIGNATURE OF A NAMED INSURED OR APPLICANT **DATE**

This selection or rejection of coverage is binding on all persons covered under the policy. These limits apply until a change in the limits is requested.