

**FILED**

2001 MAY -2 P 11: 55

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# **WEST VIRGINIA LEGISLATURE**

FIRST REGULAR SESSION, 2001

---

**ENROLLED**

## **House Bill No. 2970**

(By Delegates Michael, Beane, G. White,  
Amores, Staton, Angotti and Beach)

---

Passed April 14, 2001

In Effect Ninety Days from Passage

FILED

2001 MAY -2 P 11:55

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

ENROLLED

## H. B. 2970

(BY DELEGATES MICHAEL, BEANE, G. WHITE,  
AMORES, STATON, ANGOTTI AND BEACH)

[Passed April 14, 2001; in effect ninety days from passage.]

AN ACT to amend article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-one-f, relating to excess or umbrella policies of insurance; and requiring offers of uninsured and underinsured motorist coverage in such policies.

*Be it enacted by the Legislature of West Virginia:*

That article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty-one-f, to read as follows:

### ARTICLE 6. THE INSURANCE POLICY.

#### **§33-6-31f. Uninsured and underinsured motorists' coverage optional on umbrella and excess type liability policies.**

- 1 (a) Notwithstanding any other provisions of this article,
- 2 insurers issuing or providing liability policies that are of an excess

FILED

Enr. H. B. 2970]

3 or umbrella type and which are written to cover automobile  
4 liability shall offer uninsured and underinsured motor vehicle  
5 coverage on such policies in an amount not less than the amount  
6 of liability insurance purchased by the named insured, *Provided,*  
7 That the named insured may decline any or all of the coverage  
8 offered under the excess or umbrella type policy.

9 (b) Offers of optional uninsured and underinsured motor  
10 vehicle coverage required by subsection (a) of this section shall be  
11 made to the named insured on a form prepared and made available  
12 by the insurance commissioner on or before the effective date of  
13 this section. The form shall allow any named insured to decline  
14 any or all of the coverage offered.

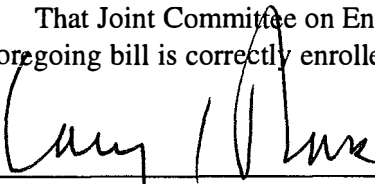
15 (c) Offers of optional uninsured and underinsured motor  
16 vehicle coverage required by subsection (a) of this section shall be  
17 made to the named insured by delivering the form at the time of  
18 initial application for insurance policies described in subparagraph  
19 (a) of this section or by mailing the form to the named insured  
20 along with the initial premium notice. The named insured shall  
21 complete, date, sign, and return the form to the insurer within  
22 thirty days after receipt thereof. No insurer or agent thereof is  
23 liable for payment of any damages applicable under any optional  
24 uninsured or underinsured coverage described in this section  
25 which occurs from the date the form was mailed or delivered to  
26 the named insured until the insurer receives the form and accepts  
27 payment of the premium for the coverage requested therein from  
28 the named insured: *Provided,* That if prior to the insurer's receipt  
29 of the executed form, the insurer issues a policy described in this  
30 section to the named insured which provides for such optional  
31 uninsured or underinsured coverage, the insurer shall be liable for  
32 payment of claims against such optional coverage up to the limits  
33 provided in such policy. The contents of a form described in this  
34 section which has been signed by a named insured shall create a  
35 presumption that such named insured and all named insureds  
36 received an effective offer of the optional coverages described in  
37 this section and that such named insured exercised a knowing and  
38 intelligent election or rejection, as the case may be, of such offer

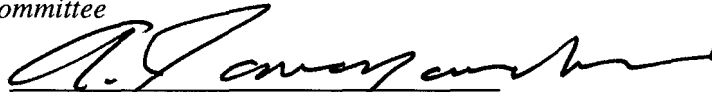
39 specified in the form. Such election or rejection shall be binding  
40 on all persons insured under the policy.

41 (d) Failure of the named insured to return the form described  
42 in this section to the insurer as required by this section within the  
43 time periods specified in this section creates a presumption that  
44 such person received an effective offer of the optional coverages  
45 described in this section and that such person exercised a knowing  
46 and intelligent rejection of such offer. Such rejection is binding on  
47 all persons insured under the policy.

48 (e) The insurer shall make such forms available to any named  
49 insured who requests different coverage limits on or after the  
50 effective date of this section. No insurer is required to make forms  
51 described herein available or notify any person of the availability  
52 of such optional coverages authorized by this section except as  
53 required by this section.

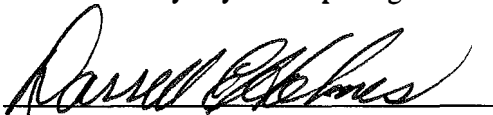
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

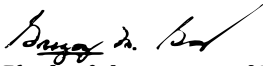
  
\_\_\_\_\_  
Chairman Senate Committee

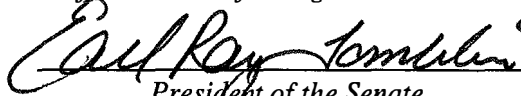
  
\_\_\_\_\_  
Chairman House Committee


Originating in the House.

In effect ninety days from passage.

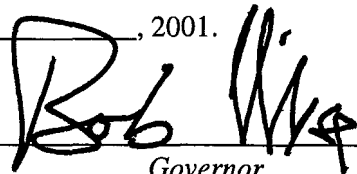
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within approved this the 7<sup>th</sup> NA  
day of May, 2001.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE

GOVERNOR

Date

4/26/01

Time

5:25 pm