

WEST VIRGINIA CODE: §33-29-5

§33-29-5. Minimum policy language simplification standards.

(a) In addition to any other requirements of law, no policy forms, except as stated in section four of this article, shall be delivered or issued for delivery in this state on or after the dates such forms must be approved under this article unless:

- (1) The text achieves a minimum score of forty on the Flesch reading ease test or an equivalent score on any other comparable test as provided in subsection (c) of this section;
- (2) It is printed, except for specification pages, schedules and tables, in not less than ten point type, one point leaded;
- (3) The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text of the policy or to any endorsements or riders; and
- (4) It contains a table of contents or an index of the principal sections of the policy, if the policy has more than three thousand words printed on three or fewer pages of text, or if the policy has more than three pages regardless of the number of words.

(b) For the purposes of this section, a Flesch reading ease test score shall be measured by the following method:

- (1) For policy forms containing ten thousand words or less of text, the entire form shall be analyzed. For policy forms containing more than ten thousand words, the readability of two two-hundred word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least twenty printed lines;
- (2) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of one and fifteen one-thousandths;
- (3) The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of eighty-four and six-tenths;
- (4) The sum of the figures computed under subdivisions (2) and (3), subsection (b) of this section, subtracted from two hundred six and eight hundred thirty-five one-thousandths equals the Flesch reading ease score for the policy form;

(5) For purposes of subdivisions (2), (3) and (4), subsection (b) of this section, the following procedures shall be used:

(A) A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word;

(B) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and

(C) A syllable means a unit of spoken language consisting of one or more letters of a word as defined by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

(6) The term "text" as used in this section shall include all printed matter except the following:

(A) The name and address of the insurer; the name, number or title of the policy; the table of contents or index; captions and subcaptions; specification pages, schedules or tables; and

(B) Any policy language which is drafted to conform to the requirements of any federal law, regulation or agency interpretation; any policy language required by any collectively bargained agreement; any medical terminology; any words which are defined in the policy; and any policy language required by law or regulation: Provided, That the insurer identifies the language or terminology excepted by this paragraph and certifies, in writing, that the language or terminology is entitled to be excepted by this paragraph.

(c) Any other reading test may be approved by the commissioner for use as an alternative to the Flesch reading ease test if it is comparable in result to the Flesch reading ease test.

(d) Filings subject to this section shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score on the test used or stating that the score is lower than the minimum required but should be approved in accordance with section seven of this article. To confirm the accuracy of any certification, the commissioner may require the submission of further information to verify the certification in question.

(e) At the option of the insurer, riders, endorsements, applications, and other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used.