WEST VIRGINIA CODE: §33-6-31F

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

(a) Notwithstanding any other provisions of this article, insurers issuing or providing liability policies that are of an excess or umbrella type and which are written to cover automobile liability shall offer uninsured and underinsured motor vehicle coverage on such policies in an amount not less than the amount of liability insurance purchased by the named insured: Provided, That the named insured may decline any or all of the coverage offered under the excess or umbrella type policy.

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

(c) Offers of optional uninsured and underinsured motor vehicle coverage required by subsection (a) of this section shall be made to the named insured by delivering the form at the time of initial application for insurance policies described in subsection (a) of this section or by mailing the form to the named insured along with the initial premium notice. The named insured shall complete, date, sign, and return the form to the insurer within thirty days after receipt thereof. No insurer or agent thereof is liable for payment of any damages applicable under any optional uninsured or underinsured coverage described in this section which occurs from the date the form was mailed or delivered to the named insured until the insurer receives the form and accepts payment of the premium for the coverage requested therein from the named insured: Provided, That if prior to the insurer's receipt of the executed form, the insurer issues a policy described in this section to the named insured which provides for such optional uninsured or underinsured coverage, the insurer shall be liable for payment of claims against such optional coverage up to the limits provided in such policy. The contents of a form described in this section which has been signed by a named insured shall create a presumption that such named insured and all named insureds received an effective offer of the optional coverages described in this section and that such named insured exercised a knowing and intelligent election or rejection, as the case may be, of such offer specified in the form. Such election or rejection shall be binding on all persons insured under the policy.

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

(e) The insurer shall make such forms available to any named insured who requests different

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coverage limits on or after the effective date of this section. No insurer is required to make forms described herein available or notify any person of the availability of such optional coverages authorized by this section except as required by this section.

WV Legislature