WEST VIRGINIA CODE: §33-6-31d

§33-6-31d. Form for making offer of optional uninsured and underinsured coverage.

(a) Optional limits of uninsured motor vehicle coverage and underinsured motor vehicle coverage required by §33-6-31 of this code shall be made available to the named insured at the time of initial application for liability coverage and upon any request of the named insured on a form prepared and made available by the Insurance Commissioner. The contents of the form shall be prescribed by the commissioner and shall specifically inform the named insured of the coverage offered and the rate calculation for the coverage, including, but not limited to, levels and amounts of the coverage available and the number of vehicles which will be subject to the coverage. The commissioner shall provide for the use of electronic means of delivery and electronic signing when issuing the prescribed form. The form shall allow any named insured to waive any or all of the coverage offered.

(b) Any insurer who issues a motor vehicle insurance policy in this state shall provide the form to each person who applies for the issuance of a policy by delivering the form to the applicant or by mailing the form to the applicant. Insurers may deliver the form by electronic means. Delivery by "electronic means" includes delivery of the form to an electronic mail address at which an applicant or policyholder has consented to receive notices or documents, by posting on an electronic network or site accessible via the Internet, electronic device, or mobile application, at or from which the applicant or policyholder has consented to receive delivery, or by any other delivery method that has been consented to by the applicant or policyholder. Any document delivered electronically satisfies any font, size, color, spacing, or other format requirements that are established for printed documents, provided that the format in the document delivered electronically has reasonably similar proportions or emphasis for the characters relative to the rest of the electronic document. The applicant shall complete, date, and sign the form and return the form to the insurer within 30 days after receipt of the form. Any signature executed in conformity with the Uniform Electronic Transactions Act in §39A-1-1 et seq. of this code is enforceable as provided by that act. An insurer or agent of the insurer is not liable for payment of any damages applicable under any optional uninsured or underinsured coverage authorized by §33-6-31 of this code for any incident which occurs from the date the form was mailed or delivered to the applicant until the insurer receives the form and accepts payment of the appropriate premium for the coverage requested in the form from the applicant: Provided, That if prior to the insurer’s receipt of the executed form the insurer issues a policy to the applicant which provides for optional uninsured or underinsured coverage, the insurer is liable for payment of claims against the optional coverage up to the limits provided in the policy. The contents of a form described in this section which has been signed by an applicant creates a presumption that the applicant and all named insureds received an effective offer of the optional coverages described in this section and that the applicant exercised a knowing and intelligent election or rejection of the offer as specified in the form. The election or rejection is binding on all persons insured under the policy.

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(c) Failure of the applicant or a 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 the person received an effective offer of the optional coverages described in this section and that the person exercised a knowing and intelligent rejection of the offer. The rejection is binding on all persons insured under the policy.

(d) The insurer shall make the forms available to any named insured who requests different coverage limits on or after the effective date of this section. An insurer is not required to make the form available or notify any person of the availability of the optional coverages authorized by this section except as required by this section.

(e) Notwithstanding any of the provisions of this article to the contrary, including §33-6-31f of this code, for insurance policies in effect on December 31, 2015, insurers are not required to offer or obtain new uninsured or underinsured motorist coverage offer forms as described in this section on any insurance policy to comply with the amount of the minimum required financial responsibility limits set forth in §17D-4-2(b) of this code. All offer forms that were executed prior to January 1, 2016, shall remain in full force and effect.

(f) If an insurer offers to place an insured with an affiliate of the insurer, the insurer shall make available a new uninsured and underinsured motorist coverage offer form, in the manner provided by and pursuant to subsections (a) and (b) of this section. A named insured shall complete, date, and sign the form as provided by subsection (b) of this section and return the form to the insurer within 30 days after receipt of the form. If an insured does not return the form within 30 days, then the last form previously signed by the insured for the insurer or any affiliate governs the amount of uninsured and underinsured motorist coverage provided by the newly issuing insurer and remains binding on all persons insured under the policy.

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