WEST VIRGINIA CODE: §33-6A-4

§33-6A-4. Advance notice of nonrenewal required; assigned risk policies; reasons for nonrenewal; hearing and review after nonrenewal.

(a) No insurer shall fail to renew an outstanding automobile liability or physical damage insurance policy unless the nonrenewal is preceded by at least forty-five days advance notice to the named insured of the insurer's election not to renew the policy: *Provided*, That subject to this section, nothing contained in this article shall be construed to prevent an insurer from refusing to issue an automobile liability or physical damage insurance policy upon application to the insurer, nor shall any provision of this article be construed to prevent an insurer from refusing to renew a policy upon expiration, except as to the notice requirements of this section, and except further as to those applicants lawfully submitted pursuant to the West Virginia assigned risk plan.

(b) An insurer may not fail to renew an outstanding automobile liability or physical damage insurance policy which has been in existence for two consecutive years or longer except for the following reasons:

(1) The named insured fails to make payments of premium for the policy or any installment of the premium when due;

(2) The policy is obtained through material misrepresentation;

(3) The insured violates any of the material terms and conditions of the policy;

(4) The named insured or any other operator, either residing in the same household or who customarily operates an automobile insured under the policy:

(A) Has had his or her operator's license suspended or revoked during the policy period; or

(B) Is or becomes subject to a physical or mental condition that prevents the insured from operating a motor vehicle, and the individual cannot produce a certificate from a physician testifying to his or her ability to operate a motor vehicle;

(5) The named insured or any other operator, either residing in the same household or who customarily operates an automobile insured under the policy, is convicted of or forfeits bail during the policy period for any of the following reasons:

(A) Any felony or assault, involving the use of a motor vehicle;

(B) Any offense contained within §17C-5-1 of this code;

(C) Operating a motor vehicle while under the influence of intoxicating liquor or of any narcotic drug;

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(D) Leaving the scene of a motor vehicle accident in which the insured is involved without reporting it as required by law;

(E) Theft of a motor vehicle or the unlawful taking of a motor vehicle; or

(F) Making false statements in an application for a motor vehicle operator's license;

(6) The named insured or any other operator, either residing in the same household or who customarily operates an automobile insured under the policy, is convicted of or forfeits bail during the policy period for two or more moving traffic violations committed within a period of twelve months, each of which results in three or more points being assessed on the driver's record by the Division of Motor Vehicles, whether or not the insurer renewed the policy without knowledge of all of the violations: *Provided*, That an insurer that makes an election pursuant to section four-b of this article to issue all nonrenewal notices pursuant to this section, may nonrenew an automobile liability or physical damage insurance policy if the named insured, or any other operator, either residing in the same household or who customarily operates an automobile insured under the policy is convicted of or forfeits bail during the policy period for two or more moving traffic violations committed within a period of twenty-four months, each of which occurs on or after July 1, 2004, and after the date that the insurer makes an election pursuant to section four-b of this article, and results in three or more points being assessed on the driver's record by the Division of Motor Vehicles, whether or not the insurer renewed the policy without knowledge of all of the violations. Notice of any nonrenewal made pursuant to this subdivision shall be mailed to the named insured either during the current policy period or during the first full policy period following the date that the second moving traffic violation is recorded by the Division of Motor Vehicles;

(7) The named insured or any other operator either residing in the same household or who customarily operates an automobile insured under the policy has had a second at-fault motor vehicle accident within a period of twelve months, whether or not the insurer renewed the policy without knowledge of all of the accidents: *Provided*, That an insurer that makes an election pursuant to section four-b of this article to issue all nonrenewal notices pursuant to this section, may nonrenew an automobile liability or physical damage insurance policy under this subsection if the named insured or any other operator either residing in the same household or who customarily operates an automobile insured under such policy has had two at-fault motor vehicle accidents within a period of thirty-six months, each of which occurs after July 1, 2004, and after the date that the insurer makes an election pursuant to section four-b of this article, and results in a claim paid by the insurer for each accident, whether or not the insurer renewed the policy without knowledge of all of the accidents. Notice of any nonrenewal made pursuant to this subsection shall be mailed to the named insured either during the current policy period or during the first full policy period following the date of the second accident; or

(8) The insurer ceases writing automobile liability or physical damage insurance policies throughout the state after submission to and approval by the commissioner of a withdrawal

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plan or discontinues operations within the state pursuant to a withdrawal plan approved by the commissioner.

(c) An insurer that makes an election pursuant to section four-b of this article to issue all nonrenewal notices pursuant to this section shall not fail to renew an automobile liability or physical damage insurance policy when an operator other than the named insured has violated the provisions of subdivision (6) or (7), subsection (b) of this section, if the named insured, by restrictive endorsement, specifically excludes the operator who violated the provision. An insurer issuing a nonrenewal notice informing the named insured that the policy will be nonrenewed for the reason that an operator has violated the provisions of subdivision (6) or (7), subsection (b) of this section, shall at that time inform the named insured of his or her option to specifically exclude the operator by restrictive endorsement and shall further inform the named insured that upon obtaining the restrictive endorsement, the insurer will renew the policy or rescind the nonrenewal absent the existence of any other basis for nonrenewal set forth in this section.

(d) A notice provided under this section shall state the specific reason or reasons for nonrenewal and shall advise the named insured that nonrenewal of the policy for any reason is subject to a hearing and review as provided for in section five of this article. Cost of the hearing shall be assessed against the losing party but shall not exceed $75. The notice must also advise the insured of possible eligibility for insurance through the West Virginia assigned risk plan.

(e) Notwithstanding the provisions of subsection (a) of this section, the insurer shall reinstate any automobile liability or physical damage insurance policy that has not been renewed due to the insured's failure to pay the renewal premium when due if:

(1) None of the other grounds for nonrenewal as set forth in this section exist; and

(2) The insured makes an application for reinstatement within forty-five days of the original expiration date of the policy. If a policy is reinstated as provided for in this paragraph, then the coverage afforded shall not be retroactive to the original expiration date of the policy: *Provided*, That such policy shall be effective on the reinstatement date at the current premium levels offered by the company and shall not be afforded the protections of this section relating to renewal of an outstanding automobile liability or physical damage insurance policy that has been in existence for at least two consecutive years.

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