WEST VIRGINIA CODE CHAPTER 33 ARTICLE 6B

WV Legislature

§33-6B-1. Purpose of article.

The purpose of this article is to regulate the declination of automobile liability policies.

WV Legislature

§33-6B-2. Definitions.

"Declination" means either the refusal of an insurer to issue an automobile liability insurance policy upon receipt of a written nonbinding application or written request for coverage from its agent or an applicant. For the purposes of this article, the offering of insurance coverage with a company within an insurance group which is different from the company requested on the nonbinding application or written request for coverage, or the offering of policy coverage or rates substantially less favorable than requested in the nonbinding application or written request for coverage, shall not be considered a declination. Further, for the purposes of this article "declination" shall include the cancellation of an automobile liability policy which has been in effect less than sixty days and the nonrenewal of an automobile liability policy which has been in effect less than two years.

WV Legislature

§33-6B-3. Declinations; prohibited reasons.

The declination of an application for a private passenger policy of automobile liability insurance by an insurer, agent or broker is prohibited if the declination is:

(a) Based upon the race, religion, nationality or ethnic group, of the applicant or named insured;

(b) Based solely upon the lawful occupation or profession of the applicant or named insured, unless the decision is for a business purpose that is not a mere pretext for unfair discrimination: Provided, That this provision does not apply to any insurer, agent or broker that limits its market to one lawful occupation or profession or to several related lawful occupations or professions;

(c) Based upon the principal location of the insured motor vehicle unless the decision is for a business purpose which is not a mere pretext for unfair discrimination;

(d) Based solely upon the age, sex or marital status of an applicant or an insured, except that this subsection does not prohibit rating differentials based on age, sex or marital status;

(e) Based upon the fact that the applicant has previously obtained insurance coverage with a substandard insurance carrier;

(f) Based upon the fact that the applicant has not previously been insured;

(g) Based upon the fact that the applicant did not have insurance coverage for a period of time prior to the application;

(h) Based upon the fact that the applicant or named insured previously obtained insurance coverage through a residual market insurance mechanism;

(i) Based upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured;

(j) Based solely upon an adverse credit report or adverse credit scoring.

Nothing in this section may be construed to prohibit an insurer, agent or broker from using legitimate, documented, underwriting data in making their own independent risk assessment of an applicant for insurance.

WV Legislature

§33-6B-4. Notification.

In the event of a declination, the insurer shall, within thirty days of the receipt of the written nonbinding application or written request for coverage provide the applicant reasons for such declination.

WV Legislature

§33-6B-5. Hearings and administrative procedure.

Hearings for the violation of any provision of this article, and the administrative procedure prior to, during, and following these hearings shall be conducted in accordance with the provisions of article two of this chapter.

WV Legislature

§33-6B-6. Sanctions.

If the commissioner determines in a final order that:

(a) An insurer has violated section three or four of this article, he may require the insurer to:

(1) Accept the application or written request for insurance coverage at a rate and on the same terms and conditions as are available to its other risks with similar characteristics; or

(2) Reinstate insurance coverage to the end of the policy period; or

(3) Continue insurance coverage at a rate and on the same terms and conditions as are available to its other risks with similar characteristics.

(b) Any person has violated any provision of this article, he may:

(1) Issue a cease and desist order to restrain the person from engaging in practices which violate this article;

(2) Assess a penalty against the person of up to $5,000 for each willful and knowing violation of this article.

WV Legislature

§33-6B-7. Severability.

If any provision of this article or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the article and the application of such provision to other persons or circumstances shall not be affected thereby.

WV Legislature