

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2617

BY DELEGATE WESTFALL

[Introduced February 21, 2017; referred
to the Committee on Banking and Insurance then the
Judiciary.]

1 A BILL to amend and reenact §33-6-31d of the Code of West Virginia, 1931, as amended, relating
 2 to outlining the process by which certain insurance agencies may place the insured with
 3 an affiliate of the insurer.

Be it enacted by the Legislature of West Virginia:

1 That §33-6-31d of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 6. THE INSURANCE POLICY.

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

1 (a) Optional limits of uninsured motor vehicle coverage and underinsured motor vehicle
 2 coverage required by section thirty-one of this article shall be made available to the named insured
 3 at the time of initial application for liability coverage and upon any request of the named insured
 4 on a form prepared and made available by the Insurance Commissioner. The contents of the form
 5 shall be as prescribed by the commissioner and shall specifically inform the named insured of the
 6 coverage offered and the rate calculation therefor, including, but not limited to, all levels and
 7 amounts of such coverage available and the number of vehicles which will be subject to the
 8 coverage. The form shall be made available for use on or before the effective date of this section.
 9 The form shall allow any named insured to waive any or all of the coverage offered.

10 (b) Any insurer who issues a motor vehicle insurance policy in this state shall provide the
 11 form to each person who applies for the issuance of such policy by delivering the form to the
 12 applicant or by mailing the form to the applicant together with the applicant's initial premium notice.
 13 The applicant shall complete, date and sign the form and return the form to the insurer within thirty
 14 days after receipt thereof. No insurer or agent thereof is liable for payment of any damages
 15 applicable under any optional uninsured or underinsured coverage authorized by section thirty-
 16 one of this article for any incident which occurs from the date the form was mailed or delivered to
 17 the applicant until the insurer receives the form and accepts payment of the appropriate premium
 18 for the coverage requested therein from the applicant: *Provided*, That if prior to the insurer's

19 receipt of the executed form the insurer issues a policy to the applicant which provides for such
20 optional uninsured or underinsured coverage, the insurer is liable for payment of claims against
21 such optional coverage up to the limits provided therefor in such policy. The contents of a form
22 described in this section which has been signed by an applicant creates a presumption that such
23 applicant and all named insureds received an effective offer of the optional coverages described
24 in this section and that such applicant exercised a knowing and intelligent election or rejection, as
25 the case may be, of such offer as specified in the form. Such election or rejection is binding on all
26 persons insured under the policy.

27 (c) Any insurer who has issued a motor vehicle insurance policy in this state which is in
28 effect on the effective date of this section shall mail or otherwise deliver the form to any person
29 who is designated in the policy as a named insured. A named insured shall complete, date and
30 sign the form and return the form to the insurer within thirty days after receipt thereof. No insurer
31 or agent thereof is liable for payment of any damages in any amount greater than any limits of
32 such coverage, if any, provided by the policy in effect on the date the form was mailed or delivered
33 to such named insured for any incident which occurs from the date the form was mailed or
34 delivered to such named insured until the insurer receives the form and accepts payment of the
35 appropriate premium for the coverage requested therein from the applicant. The contents of a
36 form described in this section which has been signed by any named insured creates a
37 presumption that all named insureds under the policy received an effective offer of the optional
38 coverages described in this section and that all such named insured exercised a knowing and
39 intelligent election or rejection, as the case may be, of such offer as specified in the form. Such
40 election or rejection is binding on all persons insured under the policy.

41 (d) Failure of the applicant or a named insured to return the form described in this section
42 to the insurer as required by this section within the time periods specified in this section creates
43 a presumption that such person received an effective offer of the optional coverages described in
44 this section and that such person exercised a knowing and intelligent rejection of such offer. Such

45 rejection is binding on all persons insured under the policy.

46 (e) The insurer shall make such forms available to any named insured who requests
47 different coverage limits on or after the effective date of this section. No insurer is required to
48 make such form available or notify any person of the availability of such optional coverages
49 authorized by this section except as required by this section.

50 (f) Notwithstanding any of the provisions of article six of this chapter to the contrary,
51 including section thirty-one-f, for insurance policies in effect on December 31, 2015, insurers are
52 not required to offer or obtain new uninsured or underinsured motorist coverage offer forms as
53 described in this section on any insurance policy to comply with the amount of the minimum
54 required financial responsibility limits set forth in subsection (b), section two, article four, chapter
55 seventeen-d of this code. All such offer forms that were executed prior to January 1, 2016, shall
56 remain in full force and effect.

57 (g) If an insurer offers to place an insured with an affiliate of the insurer, the insurer shall
58 make available a new uninsured and underinsured motorist coverage offer form, in the manner
59 provided by and pursuant to subsections (a) and (b) of this section. A named insured shall
60 complete, date and sign the form as provided by (b) above and return the form to the insurer
61 within thirty days after receipt thereof. If an insured does not return the form within thirty days,
62 then there shall be a presumption of an effective offer and an intelligent rejection of such offer as
63 provided in (d) of this section.

NOTE: The purpose of this bill is to outline the process by which certain insurance agencies may place the insured with an affiliate of the insurer.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.