

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4492

BY DELEGATES MOORE AND LANE

[Introduced February 12, 2018; Referred
to the Committee on Banking and Insurance then the
Judiciary.]

1 A BILL to repeal §33-6A-4a and §33-6A-4b of the Code of West Virginia, 1931, as amended, and
 2 to amend and reenact §33-6A-4 of said code, all relating to the renewal of automobile
 3 insurance policies in West Virginia.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 6A. CANCELLATION OR NONRENEWAL OF AUTOMOBILE LIABILITY
 POLICIES.**

**§33-6A-4a. Alternative method for nonrenewal for automobile liability and physical damage
 insurance.**

1 [Repealed]

§33-6A-4b. Manner of making election relating to nonrenewals.

1 [Repealed]

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

1 (a) No insurer ~~shall~~ may fail to renew an outstanding automobile liability or physical
 2 damage insurance policy unless the nonrenewal is preceded by at least 45 days advance notice
 3 to the named insured of the insurer's election not to renew the policy: *Provided*, That subject to
 4 this section, nothing contained in this article ~~shall~~ may be construed to prevent an insurer from
 5 refusing to issue an automobile liability or physical damage insurance policy upon application to
 6 the insurer, nor ~~shall~~ may any provision of this article be construed to prevent an insurer from
 7 refusing to renew a policy upon expiration, except as to the notice requirements of this section,
 8 and except further as to those applicants lawfully submitted pursuant to the West Virginia
 9 assigned risk plan.

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

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

15 ~~(2) The policy is obtained through material misrepresentation;~~

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

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

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

20 ~~or~~

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

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

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

28 ~~(B) Negligent homicide arising out of the operation of a motor vehicle;~~

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

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

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

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

35 ~~(6) The named insured or any other operator, either residing in the same household or~~
36 ~~who customarily operates an automobile insured under the policy, is convicted of or forfeits bail~~
37 ~~during the policy period for two or more moving traffic violations committed within a period of~~
38 ~~twelve months, each of which results in three or more points being assessed on the driver's record~~

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

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

65 subsection shall be mailed to the named insured either during the current policy period or during
66 the first full policy period following the date of the second accident; or

67 ~~(8) The insurer ceases writing automobile liability or physical damage insurance policies~~
68 ~~throughout the state after submission to and approval by the commissioner of a withdrawal plan~~
69 ~~or discontinues operations within the state pursuant to a withdrawal plan approved by the~~
70 ~~commissioner.~~

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

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

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

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

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

98 (b) Notwithstanding any other provisions in this section, race, religion, nationality, ethnic
99 group, age, sex, marital status, or other reason prohibited by the provisions of this chapter may
100 not be considered as a reason for nonrenewal.

101 (c) The commissioner shall propose rules for legislative approval pursuant to §29A-1-1 et
102 seq. of this code to implement the provisions of this section.

103 (d) An insurer may nonrenew an automobile liability or physical damage insurance policy
104 for any reason which is consistent with its underwriting standards.

105 (e) A notice issued pursuant to this section shall state the reason or reasons for refusal to
106 renew and shall advise the named insured that nonrenewal of the policy for any reason is subject
107 to a hearing and review as provided for in §33-6A-5 of this code: *Provided,* That the hearing shall
108 relate to whether the nonrenewal of the policy was issued for a discriminatory reason, was based
109 upon inadequate notice, or an underwriting standard by the commissioner found to be in violation
110 of this chapter. Cost of the hearing shall be assessed against the losing party but shall not exceed
111 \$75. The notice shall also advise the insured of possible eligibility for insurance through the West
112 Virginia assigned risk plan.

113 (f) Any licensed insurer that has elected to participate in the nonrenewal system previously
114 established by §33-6A-4b of this code shall be relieved of that election upon the effective date of
115 this section.

NOTE: The purpose of this bill is to modify the requirements for renewal of automobile insurance policies.

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