

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Committee Substitute**

**for**

**Senate Bill 485**

SENATOR AZINGER, *original sponsor*

[Originating in the Committee on Banking and  
Insurance; Reported on February 20, 2019]



1 A BILL to amend and reenact §33-17A-3 and §33-17A-4 of the Code of West Virginia, 1931, as  
2 amended, all relating to clarifying notification requirements for property insurance  
3 purposes.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 17A. PROPERTY INSURANCE DECLINATION, TERMINATION, AND  
DISCLOSURE.**

**§33-17A-3. Definitions.**

1 (a) "Declination" is the refusal of an insurer to issue a property insurance policy on a written  
2 application or written request for coverage. For the purposes of this article, the offering of  
3 insurance coverage with a company within an insurance group which is different from the  
4 company requested on the application or written request for coverage, or the offering of insurance  
5 upon different terms than requested in the application or written request for coverage, is not  
6 considered a declination if such offering of such insurance is based upon any valid underwriting  
7 reason which involves a substantial increase in the risk. Each company or groups of companies  
8 instituting such transfer shall give notice in the manner provided in §33-17A-4(c) of this code to  
9 the insured as to the reasons for such transfer.

10 (b) "Nonpayment of premium" means the failure of the named insured to discharge any  
11 obligation in connection with the payment of premiums on policies of property insurance, subject  
12 to this article, whether the payments are directly payable to the insurer or its agent or indirectly  
13 payable to the insurer or its agent or indirectly payable under a premium finance plan or extension  
14 of credit. "Nonpayment of premium" includes the failure to pay dues or fees where payment of  
15 dues or fees is a prerequisite to obtaining or continuing property insurance coverage.

16 (c) "Renewal" or "to renew" means the issuance and delivery by an insurer at the end of a  
17 policy period of a policy superseding a policy previously issued and delivered by the same insurer,  
18 or the issuance and delivery of a certificate or notice extending the term of an existing policy

19 beyond its policy period or term. For the purpose of this article, any policy period or term of less  
20 than six months is considered a policy period or term of six months, and any policy period or term  
21 of more than one year or any policy with no fixed expiration date is considered a policy period or  
22 term of one year.

23 (d) "Termination" means either a cancellation or nonrenewal of property insurance  
24 coverage in whole or in part. A cancellation occurs during the policy term. A nonrenewal occurs  
25 at the end of the policy term as set forth in §33-17A-3(c) of this code.

26 (1) For purposes of this article, the transfer of a policyholder between companies within  
27 the same insurance group is not considered a termination, if such transfer is based upon any valid  
28 underwriting reason which involves a substantial increase in the risk. ~~Each company or group of~~  
29 ~~companies instituting such transfer shall give notice in the manner provided in §33-17A-4(c) of~~  
30 ~~this code to the insured as to the reasons for such transfer.~~

31 (2) Requiring a reasonable deductible, reasonable changes in the amount of insurance,  
32 or reasonable reductions in policy limits or coverage is not considered a termination if the  
33 requirements are directly related to the hazard involved and are made on the renewal date of the  
34 policy.

**§33-17A-4. Notification and reasons for a transfer, declination, ~~or termination,~~ or renewal  
with reduction in coverage.**

1 (a) Upon declining to insure any real or personal property, subject to this article, the insurer  
2 making a declination shall provide the insurance applicant with a written explanation of the specific  
3 reason or reasons for the declination at the time of the declination. The provision of such  
4 insurance application form by an insurer shall create no right to coverage on ~~the~~ behalf of the  
5 insured to which the insured is not otherwise entitled.

6 (b) A notice of cancellation of property insurance coverage by an insurer shall be in writing,  
7 shall be delivered to the named insured or sent by first class mail to the named insured at the last

8 known address of the named insured, shall state the effective date of the cancellation, and shall  
9 be accompanied by a written explanation of the specific reason or reasons for the cancellation.

10 (c) At least 30 days before the end of a policy period, as described in §33-17A-3(c) of this  
11 code, an insurer shall deliver or send by first class mail to the named insured at the last known  
12 address of the named insured, notice of its intention regarding the renewal of the property  
13 insurance policy.

14 (1) Notice of an intention not to renew a property insurance policy shall be accompanied  
15 by an explanation of the specific reasons for the nonrenewal: *Provided*, That no insurer shall fail  
16 to renew an outstanding property insurance policy which has been in existence for four years or  
17 longer except for the reasons as set forth in §33-17A-5 of this code, or for other valid underwriting  
18 reasons which involve a substantial increase in the risk: *Provided, however*, That notwithstanding  
19 any other provision of this article, no property insurance coverage policy in force for at least four  
20 years, may be denied renewal or canceled solely as a result of:

21 (4) (A) A single first party property damage claim within the previous 36 months and that  
22 arose from wind, hail, lightning, wildfire, snow, or ice, unless the insurer has evidence that the  
23 insured unreasonably failed to maintain the property and that failure to maintain the property  
24 contributed to the loss; or

25 (2) (B) Two first party property damage claims within the previous 12 months, both of  
26 which arose from claims solely due to an event for which a state of emergency is declared for the  
27 county in which the insured property is located, unless the insurer has evidence that the insured  
28 unreasonably failed to maintain the property and that failure to maintain the property contributed  
29 to the loss. "State of emergency" means the situation existing after the occurrence of a disaster  
30 in which a state of emergency has been declared by the Governor or by the Legislature pursuant  
31 to the provisions of §15-5-6 of this code or in which a major disaster declaration or emergency  
32 declaration has been issued by the President of the United States pursuant to the provisions of  
33 42 U. S. C. §5122.

34           (2) Notice of an intention to transfer a policyholder between companies within the same  
35 insurance group as provided in §33-17A-3(d)(1) of this code shall be given by each company or  
36 group of companies instituting such transfer and shall be accompanied by an explanation of the  
37 reasons for such transfer.

38           (3) Notice of an intention to renew a property insurance policy with a new policy that  
39 includes changes made by the insurer, which result in a removal of coverage, diminution in the  
40 scope or reduction in coverage, change in deductible, or addition of an exclusion, shall be  
41 accompanied by an explanation of the changes made by the insurer. This subdivision does not  
42 apply to any change, reduction, or elimination of coverage made at the request of the insured,  
43 any correction of typographical or scrivener's errors, or the application of mandated legislative  
44 changes.

NOTE: The purpose of this bill is to clarify notification requirements for property insurance purposes.

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