

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2960

By Delegates Burkhammer, Foster, and Keaton

[Introduced January 24, 2023; Referred to the
Committee on Banking and Insurance then the
Judiciary]

1 A BILL to amend and reenact §33-6F-2 of the Code of West Virginia, 1931, as amended; and to
 2 amend said code by adding thereto a new section, designated §33-6F-3, all relating to
 3 prohibiting disclosure of insurance policy limits prior to the filing of a lawsuit.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6F. DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION.

§33-6F-2. Disclosure of certain insurance information required.

1 Notwithstanding the provisions of section one of this article:

2 (a) Each insurer that provides personal lines liability insurance coverage, as that term is
 3 defined in section nine, article twelve of this chapter, to pay all or a portion of a claim asserted
 4 against an insurance policy insuring a motor vehicle shall provide, within thirty days of its receipt of
 5 a written request from a claimant's attorney who has ~~given written notice that he or she represents~~
 6 ~~the claimant~~ properly filed and served a civil action against the insured:

7 (1) A response providing the following information relating to each of the insurer's known
 8 policies of insurance, including excess or umbrella insurance, which does or may provide liability
 9 coverage for the claim:

10 (A) The name of the insurer;

11 (B) The name of each named insured of the subject policy; and

12 (2) The declarations page of any motor vehicle liability policy applicable at the time of the
 13 events that are the subject of the claim, appropriately redacted to comply with applicable privacy
 14 laws or rules;

15 (b) Any written request by the claimant's attorney under this section must include:

16 (1) The date and location of the events that are the subject of the claim;

17 (2) The name and, if known, the last known address of the insured;

18 (3) A copy of the accident or incident report, if any;

19 (4) The insurer's claim number;

20 (5) A good-faith estimate and documentation of all of the claimant's medical expenses if

21 any and any wage loss documentation as of the date of the request, if any; and

22 (6) Documentation as of the date of the request of any and all property damage.

23 (c) Disclosure of the information required by subsection (a) of this section is not an
24 admission that the alleged injury or damage is subject to the policy, nor does the disclosure waive
25 any reservation of rights an insurer may have.

26 (d) The information disclosed by any party pursuant to this section, by reason of the
27 disclosure, is not admissible as evidence at trial.

28 (e) An insurer's compliance with this section does not constitute a violation of this article, or
29 subsection (12), section four, article eleven of this chapter.

30 (f) An insurer that fails to comply with this section is subject to a penalty of \$500, plus
31 reasonable attorneys' fees and expenses incurred in obtaining disclosure of the information
32 required by subsection (a) of this section. This penalty is the sole and exclusive remedy for an
33 insurer's failure to comply with this section.

§33-6F-3. Disclosure of certain insurance information prohibited.

1 (a) Each insurer that provides business or personal lines liability insurance coverage,
2 casualty insurance, homeowners insurance, or any other line of insurance coverage permitted
3 under state law, as those terms are defined in §33-12-9 of this code, to pay all or a portion of a
4 claim asserted against an insurance policy insuring a motor vehicle shall provide, within thirty days
5 of its receipt of a written request from a claimant's attorney who has filed and served a civil action
6 against the insured:

7 (1) A response providing the following information relating to each of the insurer's known
8 policies of insurance, including excess or umbrella insurance, which does or may provide liability
9 coverage for the claim:

10 (A) The name of the insurer;

11 (B) The name of each named insured of the subject policy; and

12 (b) Any written request by the claimant's attorney under this section must include:

- 13 (1) The date and location of the events that are the subject of the claim;
- 14 (2) The name and, if known, the last known address of the insured;
- 15 (3) A copy of the accident or incident report, if any;
- 16 (4) The insurer's claim number;
- 17 (5) A good-faith estimate and documentation of all of the damages claimed, if any, as of the
18 date of the request.
- 19 (c) Disclosure of the information required by subsection (a) of this section is not an
20 admission that the alleged injury or damage is subject to the policy, nor does the disclosure waive
21 any reservation of rights an insurer may have.
- 22 (d) The information disclosed by any party pursuant to this section, by reason of the
23 disclosure, is not admissible as evidence at trial.
- 24 (e) An insurer's compliance with this section does not constitute a violation of this article, or
25 §33-11-4(12) of this code.
- 26 (f) An insurer that fails to comply with this section is subject to a penalty of \$500, plus
27 reasonable attorneys' fees and expenses incurred in obtaining disclosure of the information
28 required by subsection (a) of this section. This penalty is the sole and exclusive remedy for an
29 insurer's failure to comply with this section.

NOTE: The purpose of this bill is to prohibit insurance policy limits from being accessed prior to the filing of a lawsuit.

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