

Representative Curtis Oda proposes the following substitute bill:

**INSURANCE CANCELLATION AND
NONRENEWAL RESTRICTIONS**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Patrice M. Arent

LONG TITLE

General Description:

This bill modifies the Insurance Code governing termination or nonrenewal of insurance policies by insurers.

Highlighted Provisions:

This bill:

- ▶ clarifies references to motor vehicle insurance;
- ▶ prohibits cancellation or nonrenewal of certain insurance policies based solely upon:
 - a claim from an accident that is not the insured's fault for motor vehicle insurance subject to certain conditions;
 - a single speeding ticket not in excess of ten miles per hour over the speed limit for motor vehicle insurance subject to certain conditions; or
 - a claim due to damage from specified natural causes subject to certain conditions; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **31A-21-303**, as last amended by Chapter 266, Laws of Utah 2004



30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **31A-21-303** is amended to read:

32 **31A-21-303. Termination of insurance policies by insurers.**

33 (1) (a) Except as otherwise provided in this section, [in] other statutes, or by rule under
34 Subsection (1)(c), this section applies to all policies of insurance [other than]:

35 (i) except for:

36 (A) life[;] insurance;

37 (B) accident and health insurance[;]; and

38 (C) annuities[;]; and

39 (ii) if the policies of insurance are issued on forms that are subject to filing and
40 approval under Subsection 31A-21-201(1).

41 (b) A policy may provide terms more favorable to insureds than this section requires.

42 (c) The commissioner may by rule totally or partially exempt from this section classes
43 of insurance policies in which the insureds do not need protection against arbitrary or
44 unannounced termination.

45 (d) The rights provided by this section are in addition to and do not prejudice any other
46 rights the insureds may have at common law or under other statutes.

47 (2) (a) As used in this Subsection (2), "grounds" means:

48 (i) material misrepresentation;

49 (ii) substantial change in the risk assumed, unless the insurer should reasonably have
50 foreseen the change or contemplated the risk when entering into the contract;

51 (iii) substantial breaches of contractual duties, conditions, or warranties;

52 (iv) attainment of the age specified as the terminal age for coverage, in which case the
53 insurer may cancel by notice under Subsection (2)(c), accompanied by a tender of proportional
54 return of premium; or

55 (v) in the case of [automobile] motor vehicle insurance, revocation or suspension of the
56 driver's license of:

- 57 (A) the named insured; or
- 58 (B) any other person who customarily drives the [ear] motor vehicle.
- 59 (b) (i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection
- 60 (2)(b)(ii) are met, an insurance policy may not be canceled by the insurer before the earlier of:
- 61 (A) the expiration of the agreed term; or
- 62 (B) one year from the effective date of the policy or renewal.
- 63 (ii) Notwithstanding Subsection (2)(b)(i), an insurance policy may be canceled by the
- 64 insurer for:
- 65 (A) nonpayment of a premium when due; or
- 66 (B) on grounds defined in Subsection (2)(a).
- 67 (c) (i) The cancellation provided by Subsection (2)(b), except cancellation for
- 68 nonpayment of premium, is effective no sooner than 30 days after the delivery or first-class
- 69 mailing of a written notice to the policyholder.
- 70 (ii) Cancellation for nonpayment of premium is effective no sooner than ten days after
- 71 delivery or first class mailing of a written notice to the policyholder.
- 72 (d) (i) Notice of cancellation for nonpayment of premium shall include a statement of
- 73 the reason for cancellation.
- 74 (ii) Subsection [~~6~~] (7) applies to the notice required for grounds of cancellation other
- 75 than nonpayment of premium.
- 76 (e) (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has not
- 77 been previously renewed if the contract has been in effect less than 60 days when the written
- 78 notice of cancellation is mailed or delivered.
- 79 (ii) A cancellation under this Subsection (2)(e) may not be effective until at least ten
- 80 days after the delivery to the insured of a written notice of cancellation.
- 81 (iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage
- 82 prepaid, to the insured at the insured's last-known address, delivery is considered accomplished
- 83 after the passing, since the mailing date, of the mailing time specified in the Utah Rules of
- 84 Civil Procedure.
- 85 (iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the
- 86 procedures described in Subsection [~~6~~] (7).
- 87 (f) Cancellation under this Subsection (2) is subject to Subsection (5).

88 (3) A policy may be issued for a term longer than one year or for an indefinite term if
89 the policy includes a clause providing for cancellation by the insurer by giving notice as
90 provided in Subsection (4)(b)(i) 30 days prior to any anniversary date.

91 (4) (a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the
92 policy renewed:

93 (i) on the terms then being applied by the insurer to similar risks; and

94 (ii) (A) for an additional period of time equivalent to the expiring term if the agreed
95 term is one year or less; or

96 (B) for one year if the agreed term is longer than one year.

97 (b) Except as provided in [~~Subsection~~] Subsections (4)(c) and (5), the right to renewal
98 under Subsection (4)(a) is extinguished if:

99 (i) at least 30 days prior to the policy expiration or anniversary date a notice of
100 intention not to renew the policy beyond the agreed expiration or anniversary date is delivered
101 or sent by first-class mail by the insurer to the policyholder at the policyholder's last-known
102 address;

103 (ii) not more than 45 nor less than 14 days prior to the due date of the renewal
104 premium, the insurer delivers or sends by first-class mail a notice to the policyholder at the
105 policyholder's last-known address, clearly stating:

106 (A) the renewal premium;

107 (B) how the renewal premium may be paid; and

108 (C) that failure to pay the renewal premium by the due date extinguishes the
109 policyholder's right to renewal;

110 (iii) the policyholder has:

111 (A) accepted replacement coverage; or

112 (B) requested or agreed to nonrenewal; or

113 (iv) the policy is expressly designated as nonrenewable.

114 (c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail
115 to renew an insurance policy as a result of a telephone call or other inquiry that:

116 (i) references a policy coverage; and

117 (ii) does not result in the insured requesting payment of a claim.

118 (d) Failure to renew under this Subsection (4) is subject to Subsection (5).

119 (5) Notwithstanding Subsections (2) and (4), an insurer may not cancel or fail to renew
120 the following personal lines insurance policies solely on the basis of:

121 (a) in the case of a motor vehicle insurance policy:

122 (i) a claim from the insured that:

123 (A) results from an accident in which:

124 (I) the insured is not at fault; and

125 (II) the driver of the motor vehicle that is covered by the motor vehicle insurance
126 policy is 21 years of age or older; and

127 (B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a
128 36-month period;

129 (ii) a single traffic violation by an insured that:

130 (A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;

131 (B) is not in excess of ten miles per hour over the speed limit;

132 (C) is not a traffic violation under:

133 (I) Section 41-6a-601;

134 (II) Section 41-6a-604; or

135 (III) Section 41-6a-605;

136 (D) is not a violation by an insured driver who is younger than 21 years of age; and

137 (E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A) through
138 (D) within a 36-month period; or

139 (iii) a claim for damage that:

140 (A) results solely from:

141 (I) wind;

142 (II) hail;

143 (III) lightning; or

144 (IV) an earthquake;

145 (B) is not preventable by the exercise of reasonable care; and

146 (C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B)
147 within a 36-month period; and

148 (b) in the case of a homeowner's insurance policy, a claim by the insured that is for
149 damage that:

150 (i) results solely from:
151 (A) wind;
152 (B) hail; or
153 (C) lightning;
154 (ii) is not preventable by the exercise of reasonable care; and
155 (iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a
156 36-month period.

157 ~~[(5)]~~ (6) (a) (i) Subject to Subsection ~~[(5)]~~ (6)(b), if the insurer offers or purports to
158 renew the policy, but on less favorable terms or at higher rates, the new terms or rates take
159 effect on the renewal date if the insurer delivered or sent by first-class mail to the policyholder
160 notice of the new terms or rates at least 30 days prior to the expiration date of the prior policy.

161 (ii) If the insurer did not give the prior notification described in Subsection ~~[(5)]~~
162 (6)(a)(i) to the policyholder, the new terms or rates do not take effect until 30 days after the
163 notice is delivered or sent by first-class mail, in which case the policyholder may elect to cancel
164 the renewal policy at any time during the 30-day period.

165 (iii) Return premiums or additional premium charges shall be calculated
166 proportionately on the basis that the old rates apply.

167 (b) Subsection ~~[(5)]~~ (6)(a) does not apply if the only change in terms that is adverse to
168 the policyholder is:

169 (i) a rate increase generally applicable to the class of business to which the policy
170 belongs;

171 (ii) a rate increase resulting from a classification change based on the altered nature or
172 extent of the risk insured against; or

173 (iii) a policy form change made to make the form consistent with Utah law.

174 ~~[(6)]~~ (7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not
175 state with reasonable precision the facts on which the insurer's decision is based, the insurer
176 shall send by first-class mail or deliver that information within ten working days after receipt of
177 a written request by the policyholder.

178 (b) A notice under Subsection (2)(c) is not effective unless it contains information
179 about the policyholder's right to make the request.

180 ~~[(7)]~~ (8) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage

181 provided by the insurance being cancelled or nonrenewed, a notice of cancellation or
182 nonrenewal required under Subsection (2)(c) or (4)(b)(i) may not be effective unless it contains
183 instructions to the policyholder for applying for insurance through the available risk-sharing
184 plan.

185 ~~[(8)]~~ (9) There is no liability on the part of, and no cause of action against, any insurer,
186 its authorized representatives, agents, employees, or any other person furnishing to the insurer
187 information relating to the reasons for cancellation or nonrenewal or for any statement made or
188 information given by them in complying or enabling the insurer to comply with this section
189 unless actual malice is proved by clear and convincing evidence.

190 ~~[(9)]~~ (10) This section does not alter any common law right of contract rescission for
191 material misrepresentation.

Fiscal Note
Bill Number SB0048s02

Insurance Cancellation and Nonrenewal Restrictions

23-Feb-05

11:12 AM

HOUSE SUBSTITUTE

State Impact

No fiscal impact.

Individual and Business Impact

Insurance companies cost to change and file policy forms should be minimal. The bill may affect insurers' underwriting rules and risks. Some individuals will benefit by not having their insurance cancelled.

Office of the Legislative Fiscal Analyst