



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 for insurance other than  
115 insurance covered by Subsection (5), an insurer may not fail to renew an insurance policy as a  
116 result of a telephone call or other inquiry that:

117 (i) references a policy coverage; and

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

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

120 (5) Notwithstanding Subsections (2) and (4), an insurer may not cancel or fail to renew

121 an insurance policy solely on the basis of:

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

123 (i) a claim from the insured that results from an accident in which the insured is not at  
124 fault;

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

126 (A) is a violation of a speed limit under Title 41, Chapter 6, Traffic Rules and  
127 Regulations;

128 (B) is not a school zone traffic violation under Section 41-6-48.5; and

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

130 (iii) a telephone call or other inquiry by an insured of a loss if the loss did not result in  
131 the insured requesting payment of a claim; or

132 (iv) a claim for damage that:

133 (A) results solely from:

134 (I) wind;

135 (II) hail;

136 (III) lightning; or

137 (IV) an earthquake; and

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

139 (b) in the case of residential dwelling liability insurance policy:

140 (i) a telephone call or other inquiry by an insured of a loss if the loss did not result in  
141 the insured requesting payment of a claim; or

142 (ii) a claim by the insured that is for damage that:

143 (A) results solely from:

144 (I) wind;

145 (II) hail; or

146 (III) lightning; and

147 (B) is not preventable by the exercise of reasonable care.

148 ~~[(5)]~~ (6) (a) (i) Subject to Subsection ~~[(5)]~~ (6)(b), if the insurer offers or purports to  
149 renew the policy, but on less favorable terms or at higher rates, the new terms or rates take  
150 effect on the renewal date if the insurer delivered or sent by first-class mail to the policyholder  
151 notice of the new terms or rates at least 30 days prior to the expiration date of the prior policy.

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

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

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

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

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

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

165 [~~(6)~~] (7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not  
166 state with reasonable precision the facts on which the insurer's decision is based, the insurer  
167 shall send by first-class mail or deliver that information within ten working days after receipt of  
168 a written request by the policyholder.

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

171 [~~(7)~~] (8) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage  
172 provided by the insurance being cancelled or nonrenewed, a notice of cancellation or  
173 nonrenewal required under Subsection (2)(c) or (4)(b)(i) may not be effective unless it contains  
174 instructions to the policyholder for applying for insurance through the available risk-sharing  
175 plan.

176 [~~(8)~~] (9) There is no liability on the part of, and no cause of action against, any insurer,  
177 its authorized representatives, agents, employees, or any other person furnishing to the insurer  
178 information relating to the reasons for cancellation or nonrenewal or for any statement made or  
179 information given by them in complying or enabling the insurer to comply with this section  
180 unless actual malice is proved by clear and convincing evidence.

181 [~~(9)~~] (10) This section does not alter any common law right of contract rescission for  
182 material misrepresentation.

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**Legislative Review Note**  
**as of 1-18-05 4:20 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**