

Representative James A. Dunnigan proposes the following substitute bill:

INSURANCE RENEWAL AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends the Insurance Code regarding the cancellation of insurance policies.

Highlighted Provisions:

This bill:

- ▶ amends provisions regarding cancellation of a commercial lines insurance policy for nonpayment of premium; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

31A-21-303, as last amended by Laws of Utah 2015, Chapter 385

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

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

31A-21-303. Cancellation, issuance, renewal.



26 (1) (a) Except as otherwise provided in this section, other statutes, or by rule under
27 Subsection (1)(c), this section applies to all policies of insurance:

28 (i) except for:

29 (A) life insurance;

30 (B) accident and health insurance; and

31 (C) annuities; and

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

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

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

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

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

41 (i) material misrepresentation;

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

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

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

48 (v) in the case of motor vehicle insurance, revocation or suspension of the driver's
49 license of:

50 (A) the named insured; or

51 (B) any other person who customarily drives the motor vehicle.

52 (b) (i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection

53 (2)(b)(ii) ~~or (iii)~~ are met, an insurance policy may not be canceled by the insurer before
53a the

54 earlier of:

55 (A) the expiration of the agreed term; or

56 (B) one year from the effective date of the policy or renewal.

57 (ii) Notwithstanding Subsection (2)(b)(i), an insurance policy may be canceled by the
58 insurer for:

59 (A) nonpayment of a premium when due; or

60 (B) on grounds defined in Subsection (2)(a).

61 (c) (i) The cancellation provided by Subsection (2)(b), except cancellation for
62 nonpayment of premium, is effective no sooner than 30 days after the delivery or first-class
63 mailing of a written notice to the policyholder.

64 (ii) Cancellation for nonpayment of premium of a personal lines policy is effective no
65 sooner than 10 days after delivery or [~~first-class~~] first-class mailing of a written notice to the
66 policyholder.

67 (iii) Cancellation for nonpayment of premium of a commercial lines policy is effective
68 no sooner than 10 days after delivery or first-class mailing of a written notice to:

69 (A) the policyholder;

70 (B) ~~Ĥ→~~ [each agent of record of the policyholder in accordance with Subsection (2)(c)(iv);

71 ~~(C)]~~ ~~←Ĥ~~ each assignee of the policyholder, if the assignee is named in the policy; and

72 ~~Ĥ→~~ ~~[(D)]~~ ~~(C)~~ ~~←Ĥ~~ each loss payee or mortgagee or lienholder under property insurance of
72a the
73 policyholder, if the loss payee, mortgagee, or lienholder is named in the policy.

74 (iv) An insurer shall ~~Ĥ→~~ [provide] deliver or send by first-class mail a copy of ~~←Ĥ~~ the
74a notice of cancellation for nonpayment of premium ~~Ĥ→~~ described in Subsection (2)(c)(iii) ~~←Ĥ~~ to
75 an agent of record ~~Ĥ→~~ [as required under Subsection (2)(c)(iii)] of the policyholder ~~←Ĥ~~ on or
75a before the day on which the
76 insurer provides the notice to the policyholder.

77 (d) (i) Notice of cancellation for nonpayment of premium shall include a statement of
78 the reason for cancellation.

79 (ii) Subsection (7) applies to the notice required for grounds of cancellation other than
80 nonpayment of premium.

81 (e) (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has not
82 been previously renewed if the contract has been in effect less than 60 days [~~when~~] on the day
83 on which the written notice of cancellation is mailed or delivered.

84 (ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10
85 days after the [~~delivery to the insured of~~] day on which a written notice of cancellation is
86 delivered to the insured.

87 (iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage

88 prepaid, to the insured at the insured's last-known address, delivery is considered accomplished
89 after the passing, since the mailing date, of the mailing time specified in the Utah Rules of
90 Civil Procedure.

91 (iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the
92 procedures described in Subsection (7).

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

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

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

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

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

102 (b) Except as provided in Subsections (4)(c) and (5), the right to renewal under
103 Subsection (4)(a) is extinguished if:

104 (i) at least 30 days before the ~~[policy expiration]~~ day on which the policy expires or
105 completes an anniversary [date], the insurer delivers or sends by first-class mail a notice of
106 intention not to renew the policy beyond the agreed expiration or anniversary date ~~[is delivered~~
107 ~~or sent by first-class mail by the insurer]~~ to the policyholder at the policyholder's last-known
108 address;

109 (ii) not more than 45 nor less than 14 days before the ~~[due date of]~~ day on which the
110 renewal premium is due, the insurer delivers or sends by first-class mail a notice to the
111 policyholder at the policyholder's last-known address, clearly stating:

112 (A) the renewal premium;

113 (B) how the renewal premium may be paid, including the due date for payment of the
114 renewal premium;

115 (C) that failure to pay the renewal premium extinguishes the policyholder's right to
116 renewal; and

117 (D) subject to Subsection (4)(e), that the extinguishment of the right to renew for
118 nonpayment of premium is effective no sooner than at least 10 days after delivery or ~~[first~~

119 ~~class]~~ first-class mailing of a written notice to the policyholder that the policyholder has failed
 120 to pay the premium when due;

121 (iii) the policyholder has:

122 (A) accepted replacement coverage; or

123 (B) requested or agreed to nonrenewal; or

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

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

127 (i) references a policy coverage; and

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

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

130 (e) (i) ~~[During]~~ (A) If the policy is a personal lines policy, during the period that
 131 begins when an insurer delivers or sends by first-class mail the notice described in Subsection
 132 (4)(b)(ii)(D) [is delivered or mailed] and ends when the premium is paid, coverage exists and
 133 premiums are due.

134 (B) If the policy is a commercial lines policy, during the period that begins when an
 135 insurer delivers or sends by first-class mail the notice described in Subsection (2)(c)(iii) and
 136 ends when the premium is paid, coverage exists and premiums are due.

137 (ii) (A) If after receiving the notice required by Subsection (4)(b)(ii)(D) a personal
 138 lines policyholder fails to pay the renewal premium, the coverage is extinguished as of the date
 139 the renewal premium is originally due.

140 (B) If after receiving the notice required under Subsection (2)(c)(iii), a commercial
 141 lines policyholder fails to pay the renewal premium within the 10 days before the day on which
 142 cancellation for nonpayment is effective, the coverage is extinguished as of the day on which
 143 the renewal premium is originally due.

144 (iii) Delivery of the notice required by Subsection (2)(c)(iii) ~~is~~ **→ (2)(c)(iv), ←** ~~or~~
 144a (4)(b)(ii)(D) includes
 145 electronic delivery in accordance with Section 31A-21-316.

146 (iv) An insurer is not subject to Subsection (4)(b)(ii)(D) if [it]:

147 (A) the insurer provides notice of the extinguishment of the right to renew for failure to
 148 pay premium at least 15 days, but no longer than 45 days, before the day on which the renewal
 149 payment is due[-]; and

150 (B) the policy is a personal lines policy.
151 (v) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for 30
152 days or less.
153 (5) Notwithstanding Subsection (4), an insurer may not fail to renew the following
154 personal lines insurance policies solely on the basis of:
155 (a) in the case of a motor vehicle insurance policy:
156 (i) a claim from the insured that:
157 (A) results from an accident in which:
158 (I) the insured is not at fault; and
159 (II) the driver of the motor vehicle that is covered by the motor vehicle insurance
160 policy is 21 years of age or older; and
161 (B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a
162 36-month period;
163 (ii) a single traffic violation by an insured that:
164 (A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;
165 (B) is not in excess of 10 miles per hour over the speed limit;
166 (C) is not a traffic violation under:
167 (I) Section 41-6a-601;
168 (II) Section 41-6a-604; or
169 (III) Section 41-6a-605;
170 (D) is not a violation by an insured driver who is younger than 21 years of age; and
171 (E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A) through
172 (D) within a 36-month period; or
173 (iii) a claim for damage that:
174 (A) results solely from:
175 (I) wind;
176 (II) hail;
177 (III) lightning; or
178 (IV) an earthquake;
179 (B) is not preventable by the exercise of reasonable care; and
180 (C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B)

181 within a 36-month period; and

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

184 (i) results solely from:

185 (A) wind;

186 (B) hail; or

187 (C) lightning;

188 (ii) is not preventable by the exercise of reasonable care; and

189 (iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a
190 36-month period.

191 (6) (a) (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the
192 policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the
193 renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the
194 new terms or rates at least 30 days ~~[prior to the expiration date of the prior policy]~~ before the
195 day on which the previous policy expires.

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

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

203 (b) Subsection (6)(a) does not apply if the only change in terms that is adverse to the
204 policyholder is:

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

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

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

210 (7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state
211 with reasonable precision the facts on which the insurer's decision is based, the insurer shall

212 send by first-class mail or deliver that information within 10 working days after receipt of a
213 written request by the policyholder.

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

216 (8) (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a
217 motor vehicle insurance policy issued in accordance with the requirements of Chapter 22, Part
218 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide notice of nonrenewal
219 or cancellation to a lienholder if the insurer has been provided the name and mailing address of
220 the lienholder.

221 (b) ~~[The]~~ An insurer shall provide the notice described in Subsection (8)(a) ~~[shall be~~
222 ~~provided]~~ to the lienholder by ~~[first-class]~~ first-class mail or, if agreed by the parties, any
223 electronic means of communication.

224 (c) A lienholder shall provide a current physical address of notification or an electronic
225 address of notification to an insurer that is required to make a notification under Subsection
226 (8)(a).

227 (9) If a risk-sharing plan under Section [31A-2-214](#) exists for the kind of coverage
228 provided by the insurance being cancelled or nonrenewed, a notice of cancellation or
229 nonrenewal required under Subsection (2)(c) or (4)(b)(i) may not be effective unless ~~[it]~~ the
230 notice contains instructions to the policyholder for applying for insurance through the available
231 risk-sharing plan.

232 (10) There is no liability on the part of, and no cause of action against, any insurer, its
233 authorized representatives, agents, employees, or any other person furnishing to the insurer
234 information relating to the reasons for cancellation or nonrenewal or for any statement made or
235 information given by them in complying or enabling the insurer to comply with this section
236 unless actual malice is proved by clear and convincing evidence.

237 (11) This section does not alter any common law right of contract rescission for
238 material misrepresentation.

239 (12) If a person is required to pay a premium in accordance with this section:

240 (a) the person may make the payment using:

241 (i) the United States Postal Service;

242 (ii) a delivery service the commissioner describes or designates by rule made in

243 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

244 (iii) electronic means; and

245 (b) the payment is considered to be made:

246 (i) for a payment that is mailed using the method described in Subsection (12)(a)(i), on

247 the date on which the payment is postmarked;

248 (ii) for a payment that is delivered using the method described in Subsection (12)(a)(ii),

249 on the date on which the delivery service records or marks the payment as having been received

250 by the delivery service; or

251 (iii) for a payment that is made using the method described in Subsection (12)(a)(iii),

252 on the date on which the payment is made electronically.

253 Section 2. **Effective date.**

254 This bill takes effect on July 1, ~~H~~→ [2020] 2021 ←~~H~~ .