

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 an insurance policy for nonpayment of premium; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

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.

(1) (a) Except as otherwise provided in this section, other statutes, or by rule under 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) are met, an insurance policy may not be canceled by the insurer before the earlier of:
- 54 (A) the expiration of the agreed term; or
- 55 (B) one year from the effective date of the policy or renewal.
- 56 (ii) Notwithstanding Subsection (2)(b)(i), an insurance policy may be canceled by the
- 57 insurer for:
- 58 (A) nonpayment of a premium when due; or

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

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

63 (ii) Cancellation for nonpayment of premium is effective no sooner than 10 days after
64 delivery or first class mailing of a written notice to:

65 (A) the policyholder[-];

66 (B) each known agent of the policyholder;

67 (C) each known assignee of the policyholder; and

68 (D) each known loss payee or mortgagee or lienholder under property insurance of the
69 policyholder.

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

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

74 (e) (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has not
75 been previously renewed if the contract has been in effect less than 60 days when the written
76 notice of cancellation is mailed or delivered.

77 (ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10
78 days after the delivery to the insured of a written notice of cancellation.

79 (iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage
80 prepaid, to the insured at the insured's last-known address, delivery is considered accomplished
81 after the passing, since the mailing date, of the mailing time specified in the Utah Rules of
82 Civil Procedure.

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

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

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

90 (i) on the terms then being applied by the insurer to similar risks; and
91 (ii) (A) for an additional period of time equivalent to the expiring term if the agreed
92 term is one year or less; or
93 (B) for one year if the agreed term is longer than one year.
94 (b) Except as provided in Subsections (4)(c) and (5), the right to renewal under
95 Subsection (4)(a) is extinguished if:
96 (i) at least 30 days before the policy expiration or anniversary date a notice of intention
97 not to renew the policy beyond the agreed expiration or anniversary date is delivered or sent by
98 first-class mail by the insurer to the policyholder at the policyholder's last-known address;
99 (ii) not more than 45 nor less than 14 days before the due date of the renewal premium,
100 the insurer delivers or sends by first-class mail a notice to the policyholder at the policyholder's
101 last-known address, clearly stating:
102 (A) the renewal premium;
103 (B) how the renewal premium may be paid, including the due date for payment of the
104 renewal premium;
105 (C) that failure to pay the renewal premium extinguishes the policyholder's right to
106 renewal; and
107 (D) [~~subject to Subsection (4)(c);~~] that the extinguishment of the right to renew for
108 nonpayment of premium is effective no sooner than at least 10 days after delivery or first class
109 mailing of [a] the written notice [to the policyholder], required under Subsection (2)(c)(ii), that
110 the policyholder has failed to pay the premium when due;
111 (iii) the policyholder has:
112 (A) accepted replacement coverage; or
113 (B) requested or agreed to nonrenewal; or
114 (iv) the policy is expressly designated as nonrenewable.
115 (c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail
116 to renew an insurance policy as a 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 (e) (i) During the period that begins when the notice described in Subsection

121 ~~[(4)(b)(ii)(D)]~~ (2)(c)(ii) is delivered or ~~[mailed]~~ sent by first-class mail and ends when the
 122 premium is paid, coverage exists and premiums are due.

123 (ii) If after receiving the notice required by Subsection ~~[(4)(b)(ii)(D)]~~ (2)(c)(ii) a
 124 policyholder fails to pay the renewal premium within the 10 days before the cancellation for
 125 nonpayment is effective, the coverage is extinguished as of the date the renewal premium is
 126 originally due.

127 (iii) Delivery of the notice required by Subsection ~~[(4)(b)(ii)(D)]~~ (2)(c)(ii) includes
 128 electronic delivery in accordance with Section 31A-21-316.

129 ~~[(iv) An insurer is not subject to Subsection (4)(b)(ii)(D) if it provides notice of the~~
 130 ~~extinguishment of the right to renew for failure to pay premium at least 15 days, but no longer~~
 131 ~~than 45 days, before the day the renewal payment is due.]~~

132 ~~[(v)]~~ (iv) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for
 133 30 days or less.

134 (5) Notwithstanding Subsection (4), an insurer may not fail to renew the following
 135 personal lines insurance policies solely on the basis of:

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

137 (i) a claim from the insured that:

138 (A) results from an accident in which:

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

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

142 (B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a
 143 36-month period;

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

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

146 (B) is not in excess of 10 miles per hour over the speed limit;

147 (C) is not a traffic violation under:

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

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

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

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

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

154 (iii) a claim for damage that:

155 (A) results solely from:

156 (I) wind;

157 (II) hail;

158 (III) lightning; or

159 (IV) an earthquake;

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

161 (C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B)

162 within a 36-month period; and

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

165 (i) results solely from:

166 (A) wind;

167 (B) hail; or

168 (C) lightning;

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

170 (iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a
171 36-month period.

172 (6) (a) (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the
173 policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the
174 renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the
175 new terms or rates at least 30 days prior to the expiration date of the prior policy.

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

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

182 (b) Subsection (6)(a) does not apply if the only change in terms that is adverse to the

183 policyholder is:

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

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

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

189 (7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state
190 with reasonable precision the facts on which the insurer's decision is based, the insurer shall
191 send by first-class mail or deliver that information within 10 working days after receipt of a
192 written request by the policyholder.

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

195 (8) (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a
196 motor vehicle insurance policy issued in accordance with the requirements of Chapter 22, Part
197 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide notice of nonrenewal
198 or cancellation to a lienholder if the insurer has been provided the name and mailing address of
199 the lienholder.

200 (b) The notice described in Subsection (8)(a) shall be provided to the lienholder by first
201 class mail or, if agreed by the parties, any electronic means of communication.

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

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

210 (10) There is no liability on the part of, and no cause of action against, any insurer, its
211 authorized representatives, agents, employees, or any other person furnishing to the insurer
212 information relating to the reasons for cancellation or nonrenewal or for any statement made or
213 information given by them in complying or enabling the insurer to comply with this section

214 unless actual malice is proved by clear and convincing evidence.

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

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

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

219 (i) the United States Postal Service;

220 (ii) a delivery service the commissioner describes or designates by rule made in
221 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

222 (iii) electronic means; and

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

224 (i) for a payment that is mailed using the method described in Subsection (12)(a)(i), on
225 the date the payment is postmarked;

226 (ii) for a payment that is delivered using the method described in Subsection (12)(a)(ii),
227 on the date the delivery service records or marks the payment as having been received by the
228 delivery service; or

229 (iii) for a payment that is made using the method described in Subsection (12)(a)(iii),
230 on the date the payment is made electronically.