

INSURANCE MODIFICATIONS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies insurance provisions related to payments.

Highlighted Provisions:

This bill:

▶ for certain payments made by mail, modifies the date on which the payment is considered made to the date the payment is received.

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:

(i) except for:



- 28 (A) life insurance;
- 29 (B) accident and health insurance; and
- 30 (C) annuities; and
- 31 (ii) if the policies of insurance are issued on forms that are subject to filing under
- 32 Subsection 31A-21-201(1).
- 33 (b) A policy may provide terms more favorable to insureds than this section requires.
- 34 (c) The commissioner may by rule totally or partially exempt from this section classes
- 35 of insurance policies in which the insureds do not need protection against arbitrary or
- 36 unannounced termination.
- 37 (d) The rights provided by this section are in addition to and do not prejudice any other
- 38 rights the insureds may have at common law or under other statutes.
- 39 (2) (a) As used in this Subsection (2), "grounds" means:
- 40 (i) material misrepresentation;
- 41 (ii) substantial change in the risk assumed, unless the insurer should reasonably have
- 42 foreseen the change or contemplated the risk when entering into the contract;
- 43 (iii) substantial breaches of contractual duties, conditions, or warranties;
- 44 (iv) attainment of the age specified as the terminal age for coverage, in which case the
- 45 insurer may cancel by notice under Subsection (2)(c), accompanied by a tender of proportional
- 46 return of premium; or
- 47 (v) in the case of motor vehicle insurance, revocation or suspension of the driver's
- 48 license of:
- 49 (A) the named insured; or
- 50 (B) any other person who customarily drives the motor vehicle.
- 51 (b) (i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection
- 52 (2)(b)(ii) are met, an insurance policy may not be canceled by the insurer before the earlier of:
- 53 (A) the expiration of the agreed term; or
- 54 (B) one year from the effective date of the policy or renewal.
- 55 (ii) Notwithstanding Subsection (2)(b)(i), an insurance policy may be canceled by the
- 56 insurer for:
- 57 (A) nonpayment of a premium when due; or
- 58 (B) on grounds defined in Subsection (2)(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

96 (A) the renewal premium;

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

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

101 (D) subject to Subsection (4)(e), that the extinguishment of the right to renew for
102 nonpayment of premium is effective no sooner than at least 10 days after delivery or first class
103 mailing of a written notice to the policyholder that the policyholder has failed to pay the
104 premium when due;

105 (iii) the policyholder has:

106 (A) accepted replacement coverage; or

107 (B) requested or agreed to nonrenewal; or

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

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

111 (i) references a policy coverage; and

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

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

114 (e) (i) During the period that begins when the notice described in Subsection
115 (4)(b)(ii)(D) is delivered or mailed and ends when the premium is paid, coverage exists and
116 premiums are due.

117 (ii) If after receiving the notice required by Subsection (4)(b)(ii)(D) a policyholder fails
118 to pay the renewal premium, the coverage is extinguished as of the date the renewal premium is
119 originally due.

120 (iii) Delivery of the notice required by Subsection (4)(b)(ii)(D) includes electronic

121 delivery in accordance with Section 31A-21-316.

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

125 (v) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for 30
126 days or less.

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

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

130 (i) a claim from the insured that:

131 (A) results from an accident in which:

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

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

135 (B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a
136 36-month period;

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

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

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

140 (C) is not a traffic violation under:

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

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

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

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

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

147 (iii) a claim for damage that:

148 (A) results solely from:

149 (I) wind;

150 (II) hail;

151 (III) lightning; or

152 (IV) an earthquake;

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

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

155 within a 36-month period; and

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

157 damage that:

158 (i) results solely from:

159 (A) wind;

160 (B) hail; or

161 (C) lightning;

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

163 (iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a

164 36-month period.

165 (6) (a) (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the

166 policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the

167 renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the

168 new terms or rates at least 30 days prior to the expiration date of the prior policy.

169 (ii) If the insurer did not give the prior notification described in Subsection (6)(a)(i) to

170 the policyholder, the new terms or rates do not take effect until 30 days after the notice is

171 delivered or sent by first-class mail, in which case the policyholder may elect to cancel the

172 renewal policy at any time during the 30-day period.

173 (iii) Return premiums or additional premium charges shall be calculated

174 proportionately on the basis that the old rates apply.

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

176 policyholder is:

177 (i) a rate increase generally applicable to the class of business to which the policy

178 belongs;

179 (ii) a rate increase resulting from a classification change based on the altered nature or

180 extent of the risk insured against; or

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

182 (7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state

183 with reasonable precision the facts on which the insurer's decision is based, the insurer shall
184 send by first-class mail or deliver that information within 10 working days after receipt of a
185 written request by the policyholder.

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

188 (8) (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a
189 motor vehicle insurance policy issued in accordance with the requirements of Chapter 22, Part
190 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide notice of nonrenewal
191 or cancellation to a lienholder if the insurer has been provided the name and mailing address of
192 the lienholder.

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

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

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

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

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

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

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

212 (i) the United States Postal Service;

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

214 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
215 (iii) electronic means; and
216 (b) the payment is considered to be made:
217 (i) for a payment that is mailed using the method described in Subsection (12)(a)(i), on
218 the date the payment is [~~postmarked~~] received;
219 (ii) for a payment that is delivered using the method described in Subsection (12)(a)(ii),
220 on the date the delivery service records or marks the payment as having been received by the
221 delivery service; or
222 (iii) for a payment that is made using the method described in Subsection (12)(a)(iii),
223 on the date the payment is made electronically.

Legislative Review Note
Office of Legislative Research and General Counsel