

PROPERTY AND CASUALTY INSURANCE - NOTICE OF RATE INCREASES

Act of Jul. 3, 1986, P.L. 396, No. 86

CL. 40

AN ACT

Requiring notice of rate increases, policy cancellations and nonrenewals by property and casualty insurers.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Notice of increase in premium.

Notwithstanding any other provision of law, a policy of insurance covering commercial property or casualty risks in this Commonwealth shall provide for not less than 30 days' advance notice to the named insured of an increase in renewal premium. This section shall not apply to policies written on a retrospective rating plan.

(1 amended June 13, 1995, P.L.60, No.10)

Section 2. Grounds for cancellation.

Canceling in midterm a policy of insurance covering commercial property and casualty risks is prohibited for any reason other than the following:

(1) A condition, factor or loss experience material to insurability has changed substantially or a substantial condition, factor or loss experience material to insurability has become known during the policy term.

(2) Loss of reinsurance or a substantial decrease in reinsurance has occurred, which loss or decrease shall, at the time of cancellation, be certified to the Insurance Commissioner as directly affecting in-force policies.

(3) The insured has made a material misrepresentation which affects the insurability of the risk.

(4) The policy was obtained through fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company.

(5) The insured has failed to pay a premium when due, whether the premium is payable directly to the company or its agents or indirectly under a premium finance plan or extension of credit.

(6) The insured has requested cancellation.

(7) Material failure to comply with policy terms, conditions or contractual duties.

(8) Other reasons that the Insurance Commissioner may approve.

Section 3. Notice requirements for midterm cancellations and nonrenewals.

(a) Requirements.--Notices of midterm cancellation and nonrenewal shall meet the following requirements:

(1) The midterm cancellation or nonrenewal notice shall be forwarded by registered or first class mail or delivered by the insurance company directly to the named insured or insureds.

(2) Written notice of nonrenewal in the manner prescribed in this section must be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of termination.

(3) Written notice of cancellation in the manner prescribed in this section must be forwarded directly to the named insured or insureds at least 60 days in advance of the effective date of termination unless one or more of the following exist:

(i) The insured has made a material misrepresentation which affects the insurability of the risk, in which case the prescribed written notice of cancellation shall be forwarded directly to the named insured at least 15 days in advance of the effective date of termination.

(ii) The insured has failed to pay a premium when due, whether the premium is payable directly to the company or its agents or indirectly under a premium finance plan or extension of credit, in which case the prescribed written notice of cancellation shall be forwarded directly to the named insured at least 15 days in advance of the effective date of termination.

(iii) The policy was canceled by the named insured, in which case written notice of cancellation shall not be required and coverage shall be terminated on the date requested by the insured.

Nothing in this paragraph shall restrict the insurer's right to rescind an insurance policy ab initio upon discovery that the policy was obtained through fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company.

(4) The notice shall be clearly labeled "Notice of Cancellation" or "Notice of Nonrenewal."

(5) A midterm cancellation or nonrenewal notice shall state the specific reasons for the cancellation or nonrenewal. The reasons shall identify the condition, factor or loss experience which caused the midterm cancellation or nonrenewal. The notice shall provide sufficient information or data for the insured to correct the deficiency.

(6) A midterm cancellation or nonrenewal notice shall state that, at the insured's request, the insurer shall provide loss information to the insured for at least three years or the period of time during which the insurer has provided coverage to the insured, whichever is less. Loss information on the insured shall consist of the following:

(i) Information on closed claims, including date and description of occurrence, and amount of payments, if any.

(ii) Information on open claims, including date and description of occurrence, amount of payment, if any, and amount of reserves, if any.

(iii) Information on notices of occurrence, including date and description of occurrence and amount of reserves, if any.

(7) The insured's written request for loss information must be made within ten days of the insured's receipt of the

midterm cancellation or nonrenewal notice. The insurer shall have 30 days from the date of receipt of the insured's written request to provide the requested information.

(b) Effective notice.--Until an insurer issues a nonrenewal or cancellation notice that complies with the provisions set forth in this act, insurance coverage will remain in effect. However, if the insured obtains replacement coverage, the noncomplying insurer's obligation to continue coverage ceases. Section 4. Return of unearned premium.

(a) Cancellation initiated by insurer.--Unearned premium must be returned to the insured not later than ten business days after the effective date of termination where commercial property or casualty risks are canceled in midterm by the insurer.

(b) Cancellation initiated by insured.--Unearned premium must be returned to the insured not later than 30 days after the effective date of termination where commercial property or casualty risks are canceled in midterm by the insured.

(c) Repayment on estimated basis.--Where the amount of premium to be returned cannot be calculated precisely within the required time period for return of premium because:

(1) the policy was written on the basis of an estimated premium; or

(2) the policy was issued subject to a premium audit; the unearned premium shall be returned to the insured on an estimated basis. Upon the insurer's completion of computation of the exact premium to be returned, an additional return premium or charge shall be made to the named insured or insureds within 15 days of the final computation.

(d) Applicability to retrospective rating plans.--This section shall not apply to policies written on a retrospective rating plan.

(e) Liability for fine.--For a period of 60 days from the effective date of this act, insurers failing to comply with subsection (a) shall not be subject to any fine under section 8(2).

Section 5. Extended reporting endorsement.

Insurers must provide a 60-day period, after cancellation or nonrenewal of a claims-made policy is effective, during which time the insured may purchase an extended reporting coverage endorsement, also referred to as tail coverage. If the insured purchases the extended reporting coverage endorsement at any time within the 60-day period following cancellation or nonrenewal of a claims-made policy, the extended reporting coverage shall become effective as of the date the claims-made policy terminated.

Section 6. Compliance.

Policy form filings received by the Insurance Department on or after the effective date of this act shall conform to the requirements set forth in this act. Amendatory endorsements shall be submitted to the Insurance Department for approval not more than 60 days after the date this act becomes effective.

Section 7. Applicability.

(a) General rule.--This act applies to insurance policies, exclusive of reinsurance policies, covering commercial property and casualty risks located in this Commonwealth.

(b) Limited applicability in certain areas.--Workmen's compensation policies and medical malpractice policies subject to the act of October 15, 1975 (P.L.390, No.111), known as the Health Care Services Malpractice Act, are not subject to the cancellation provisions set forth in this act.

(c) Exceptions.--This act does not apply to commercial property and casualty insurance policies that are in effect less than 60 days, unless they are renewals. An insurer may cancel the policy provided it gives at least 30 days' notice of the termination and provided it gives notice no later than the 60th day, unless the policy provides for a longer period of notification.

Section 8. Penalties.

Upon satisfactory evidence of a violation of this act by an insurer subject to its terms, the Insurance Commissioner may pursue one or more of the following causes of action:

(1) Order that the insurer cease and desist from the violation.

(2) Impose a fine of not more than \$5,000 for each violation.

Section 9. Rulemaking authority.

The Insurance Commissioner shall promulgate rules and regulations necessary for the administration of this act.

Section 10. Effective date.

This act shall take effect immediately.