

SENATE BILL NO. 341

INTRODUCED BY F. THOMAS, GRIMES

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING FROM 30 TO ~~60~~ 45 DAYS THE TIME REQUIRED FOR AN INSURER TO PROVIDE NOTICE TO A POLICYHOLDER OF A CANCELLATION, NONRENEWAL, OR RENEWAL WITH CHANGES OF PROPERTY OR CASUALTY INSURANCE, MOTOR VEHICLE LIABILITY INSURANCE, OR PRIVATE RESIDENCE INSURANCE; INCREASING THE NOTIFICATION REQUIREMENT FOR CANCELLATION, ~~ALTERATION, OR INCREASE IN PREMIUM RATES TO A~~ OR NONRENEWAL OF POLICIES ISSUED TO A SPECIFIC GROUP OF PROFESSIONAL LIABILITY ~~POLICYHOLDER~~ POLICYHOLDERS FROM 60 TO 120 DAYS; AMENDING SECTIONS 33-15-1104, 33-15-1105, 33-15-1106, 33-23-212, 33-23-214, 33-23-302, AND 33-23-401, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-15-1104, MCA, is amended to read:

"33-15-1104. Anniversary cancellation -- anniversary rate increases. (1) An insurer may issue a policy for a term longer than 1 year or for an indefinite term if the policy contains a clause that allows cancellation by the insurer if the insurer gives notice ~~30~~ 60 45 days prior to an anniversary date.

(2) If a policy has been issued for a term longer than 1 year and for additional premium consideration an annual premium has been guaranteed, the insurer may not increase the annual premium for the term of that policy."

Section 2. Section 33-15-1105, MCA, is amended to read:

"33-15-1105. Nonrenewal -- renewal premium. (1) (a) An insured has a right to reasonable notice of nonrenewal. Unless otherwise provided by statute or unless a longer term is provided in the policy, at least ~~30~~ 60 45 days prior to the expiration date provided in the policy, an insurer who does not intend to renew a policy beyond the agreed expiration date shall mail or deliver to the insured a notice of ~~such the~~ intention not to renew. The insurer shall also mail or deliver a copy to the insured's insurance producer.

(b) Notification or nonrenewal to the insured's insurance producer via electronic transfer of data or by electronic data retrieval device meets the requirement of a mailed or delivered copy.

(2) An insurer shall give notice of premium due not more than 60 days or less than 10 days before the

due date of a renewal premium. The notice must clearly state the effect of nonpayment of the premium on or before the due date.

(3) Subsections (1) and (2) do not apply if:

(a) the insured has obtained insurance elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal; or

(b) the policy is expressly designated as nonrenewable.

(4) An insurer may not refuse to renew a property and casualty insurance policy on the basis of a single loss occurring during the policy period unless the insurer has previously disclosed in writing to the insured, at the time that the insured applied for the insurance or prior to the insured's renewal, that a single loss is among the insurer's criteria for nonrenewal."

Section 3. Section 33-15-1106, MCA, is amended to read:

"33-15-1106. Renewal with altered terms. (1) If an insurer offers or purports to renew a policy but on less favorable terms, at a higher rate, or at a higher rating plan, the new terms, rate, or rating plan take effect on the policy renewal date only if the insurer has mailed or delivered notice of the new terms, rate, or rating plan to the insured at least ~~30~~ 60 ~~45~~ days before the expiration date.

(2) This section does not apply if the increase in the rate or the rating plan, or both, results from a classification change based on the altered nature or extent of the risk insured against."

Section 4. Section 33-23-212, MCA, is amended to read:

"33-23-212. Notice required for cancellation -- statement that insurer will specify reason upon request -- exception -- penalty. (1) Notwithstanding any other provision of this code, a cancellation by an insurer of a motor vehicle liability insurance policy ~~may is not be~~ effective prior to the mailing or delivery to the named insured, at the address shown in the policy, of a written notice of the cancellation stating the date on which, not less than ~~30~~ 60 ~~45~~ days after the date of ~~such the~~ mailing or delivery, the cancellation becomes effective.

(2) A notice of cancellation of a policy to which 33-23-211 applies ~~may is not be~~ effective unless mailed or delivered by the insurer to the named insured at least ~~30~~ 60 ~~45~~ days prior to the effective date of cancellation; ~~provided, however, that where~~. However, if cancellation is for nonpayment of premium, at least 10 days' notice of cancellation accompanied by the reason must be given. Unless the reason accompanies or is included in the notice of cancellation, the notice of cancellation must state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than 21 days prior to the effective date

of cancellation, the insurer shall specify the reason for the cancellation.

(3) Subsection (2) does not apply to nonrenewal.

(4) Any insurer willfully violating any provisions of subsection (2) of this section is guilty of a misdemeanor and is punishable by a fine not exceeding \$500 for each violation thereof."

Section 5. Section 33-23-214, MCA, is amended to read:

"33-23-214. Advance notice required for nonrenewal -- exceptions. (1) ~~No~~ An insurer ~~may fail to~~ shall renew a motor vehicle liability policy unless it mails or delivers to the named insured, at the address shown in the policy, at least ~~30~~ 60 45 days' advance notice of its intention not to renew. ~~Such~~ The notice must contain or be accompanied by a statement that upon written request made not later than 1 month following the termination date of the policy of the named insured mailed or delivered to the insurer, the insurer will notify the insured in writing, within 15 days of ~~his~~ the insured's request, of the reason or reasons for ~~such~~ the nonrenewal.

(2) Notwithstanding the failure of an insurer to comply with this section, the motor vehicle liability policy must terminate on the effective date of any other replacement or succeeding motor vehicle liability policy procured by the insured with respect to any motor vehicle designated in both policies.

(3) This section does not apply where the named insured has failed to discharge when due any of ~~his~~ the insured's obligations in connection with the payment of premiums for the policy or the renewal ~~thereof~~ of the policy or any installment payments ~~therefor~~ for the policy, whether payable directly to the insurer or its insurance producer or indirectly under any premium finance plan or extension of credit.

(4) This section does not apply in any of the following cases:

(a) if the insurer has manifested its willingness to renew;

(b) in case of nonpayment of premium; ~~provided that,~~ However, notwithstanding the failure of an insurer to comply with this section, the policy must terminate on the effective date of any other insurance policy with respect to any motor vehicle designated in both policies; ~~;~~

(c) if the insured's insurance producer or broker has secured other coverage acceptable to the insured at least 20 days prior to the anniversary date of the policy or termination of the policy period.

(5) Renewal of a motor vehicle liability policy does not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of ~~such~~ the renewal.

(6) A notice of nonrenewal of a motor vehicle liability policy under this section, ~~which~~ for a policy ~~that~~ has a term of less than 6 months, is effective only when based on one or more of the reasons listed in 33-23-211."

Section 6. Section 33-23-302, MCA, is amended to read:

"33-23-302. Cancellation or alteration of policy -- increase of premium rates -- ~~sixty days'~~ written notice required. Any insurer who insures a ~~physician and surgeon,~~ PERSON LICENSED IN THE PRACTICE OF MEDICINE, AS DEFINED IN 37-3-102, A dentist, registered nurse, nursing home administrator, registered physical therapist, podiatrist, licensed psychologist, osteopath, chiropractor, pharmacist, optometrist, or veterinarian, ~~and~~ any licensed under the laws of this state, or a licensed hospital or long-term care facility as the employer of any ~~such~~ person identified in this section against liability for error, omission, professional negligence, or performance of services without consent may not cancel or alter the policy insuring the person or increase the premium rates ~~thereon~~ on the policy without first providing the insured ~~60~~ 120 ~~60~~ 60 days' written notice of the insurer's intention to cancel or alter the policy or increase the premium rates."

NEW SECTION. SECTION 7. CANCELLATION OR NONRENEWAL OF ALL POLICIES. ANY INSURER INSURING A PERSON DESCRIBED IN 33-23-302 WHO ELECTS TO CANCEL OR NOT RENEW ALL POLICIES FOR ALL PERSONS IDENTIFIED IN 33-23-302 SHALL PROVIDE NOTICE OF THE DECISION TO CANCEL OR NOT RENEW COVERAGE TO ALL AFFECTED PERSONS DESCRIBED IN 33-23-302 AT LEAST 120 DAYS PRIOR TO CANCELLATION OR NONRENEWAL.

Section 8. Section 33-23-401, MCA, is amended to read:

"33-23-401. Written notice required for cancellation or nonrenewal of insurance policies on homes -- penalty. (1) ~~No~~ An insurer ~~shall~~ may not cancel or refuse to renew any policy insuring private residences, including but not limited to fire, homeowner, theft, or liability insurance on any home occupied by the insured as a domicile, without first giving to the insured ~~30~~ 60 ~~45~~ 45 days' notice in writing, including in the notice a statement of the specific reason or reasons for canceling or not renewing the policy.

(2) Violation of this section is punishable under 33-1-104."

NEW SECTION. SECTION 9. CODIFICATION INSTRUCTION. [SECTION 7] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 33, CHAPTER 23, PART 3, AND THE PROVISIONS OF TITLE 33, CHAPTER 23, PART 3, APPLY TO [SECTION 7].

NEW SECTION. Section 10. Applicability. [This act] applies to policies effective on or after October 1, 2003.

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