

Article - Insurance

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§12–106.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Material risk factor” means a risk factor that:

1. was incorrectly recorded or not disclosed by the insured in an application for insurance;

2. was in existence on the date of the application; and

3. modifies the premium charged on the policy or binder in accordance with the rates and supplementary rating information filed by the insurer under Title 11, Subtitle 3 of this article.

(ii) “Material risk factor” does not include:

1. information that constitutes a material misrepresentation;

or

2. a change initiated by an insured, including any request by the insured that results in a change in coverage, change in deductible, or other change to a policy.

(3) “Personal insurance” means property insurance or casualty insurance issued to an individual, trust, estate, or similar entity that is intended to insure against loss arising principally from the personal, noncommercial activities of the insured.

(b) This section applies only to a binder or policy, other than a renewal policy, of personal insurance, commercial property insurance, and commercial liability insurance.

(c) A binder or policy is subject to a 45–day underwriting period beginning on the effective date of coverage.

(d) (1) An insurer may cancel a binder or policy during the underwriting period if the risk does not meet the underwriting standards of the insurer.

(2) If the insurer discovers a material risk factor during the underwriting period, the insurer shall recalculate the premium for the policy or binder based on the material risk factor as long as the risk continues to meet the underwriting standards of the insurer in accordance with the rates and supplementary rating information filed by the insurer under Title 11, Subtitle 3 of this article.

(3) An insurer that recalculates a premium under paragraph (2) of this

subsection shall provide a written notice to the insured on a form approved by the Commissioner that states:

- (i) the amount of the recalculated premium;
- (ii) the reason for the increase or reduction in the premium; and
- (iii) the insured's right to terminate the policy.

(e) If applicable, at the time of application or when a binder or policy is issued, an insurer shall provide written notice of its ability to cancel a binder or policy or recalculate the premium from the effective date of the policy during the underwriting period.

(f) (1) Except as provided in paragraph (2) of this subsection, a notice of cancellation under this section shall:

- (i) be in writing;
- (ii) have an effective date not less than 15 days after mailing;
- (iii) state clearly and specifically the insurer's actual reason for the cancellation; and
- (iv) be sent by a first-class mail tracking method to the named insured's last known address.

(2) A notice of cancellation under this section for nonpayment of premium shall:

- (i) be in writing;
- (ii) have an effective date of not less than 10 days after mailing;
- (iii) state the insurer's intent to cancel for nonpayment of premium; and
- (iv) be sent by a first-class mail tracking method to the named insured's last known address.

(g) A binder or other contract for temporary insurance:

- (1) may be made orally or in writing; and
 - (2) except as superseded by the clear and express terms of the binder, is considered to include:
 - (i) all the usual terms of the policy as to which the binder was given;
- and

(ii) the applicable endorsements designated in the binder.

(h) A binder is no longer valid after the policy as to which it was given is issued.

(i) (1) If a binder is given to a consumer borrower to satisfy a lender's requirement that the borrower obtain property insurance or credit loss insurance as a condition of making a loan secured by a first mortgage or first deed of trust on an interest in owner-occupied residential real property, the insurer or its insurance producer shall include in or with the binder:

(i) the name and address of the insured consumer borrower;

(ii) the name and address of the lender;

(iii) a description of the insured residential real property;

(iv) a provision that the binder may not be canceled within the term of the binder unless the lender and the insured borrower receive written notice at least 15 days before the cancellation;

(v) except in the case of the renewal of a policy after the closing of a loan, a paid receipt for the full amount of the applicable premium; and

(vi) the amount of coverage.

(2) With respect to a binder given under this subsection, an insurer:

(i) if the binder is to be canceled, shall give the lender and the insured consumer borrower at least 15 days' written notice before the cancellation; and

(ii) within 45 days after the date the binder was given, shall issue a policy of insurance or provide the required notice of cancellation of the binder.

(j) (1) Subject to paragraph (2) of this subsection, an insurer may rescind a policy or binder of personal automobile insurance if:

(i) the applicant's initial premium payment for the policy or binder is made by a check or other remittance that is not honored on presentation to the financial institution where the check or other remittance is drawn; and

(ii) the insurer has disclosed to the applicant at the time of application that no coverage will be in effect if the initial premium payment is not honored on presentation to the financial institution.

(2) An insurer shall continue or reinstate a policy or binder under paragraph (1) of this subsection without a lapse in coverage if:

(i) 1. the financial institution erroneously failed to honor the check or other remittance; and

2. the applicant:

A. promptly notifies the insurer of the error; and

B. provides documentation of the error to the insurer as it becomes available and on request of the insurer; or

(ii) the applicant or any secured creditor pays the insurer the amount of the initial premium within 5 business days after the insurer has sent notice, as provided in paragraph (3) of this subsection, to the applicant and any secured creditor that the check or other remittance for the initial premium payment was not honored.

(3) To rescind a policy or binder, an insurer shall send, immediately or the next business day after receipt of a notice that the check or other remittance for the initial premium payment was not honored on presentation to the financial institution, written notice to the applicant and any secured creditor, by a first-class mail tracking method and, if available, by electronic mail or other electronic means, to the applicant's and any secured creditor's last known address, stating that:

(i) 1. the policy or binder is rescinded as of its proposed effective date because the applicant's check or other remittance for the initial premium payment was not honored on presentation to the financial institution; and

2. no coverage is in effect under the policy or binder; but

(ii) the insurer shall continue or reinstate the policy or binder without a lapse in coverage if:

1. the financial institution erroneously failed to honor the check or other remittance and the applicant:

A. promptly notifies the insurer of the error; and

B. provides documentation of the financial institution's error to the insurer as it becomes available and on request of the insurer; or

2. the applicant or any secured creditor pays the insurer the amount of the initial premium within 5 business days after the insurer has sent notice to the applicant and any secured creditor that the check or other remittance for the initial premium payment was not honored.

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