

SENATE BILL NO. 530

INTRODUCED BY S. MORIGEAU

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING INSURANCE LAWS RELATING TO NONRENEWALS AND CANCELLATIONS OF INSURANCE POLICIES; REQUIRING THE INSURER TO PROVIDE THE REASONS FOR NONRENEWAL; AMENDING NOTICE TIMELINES FOR AN INSURER TO SEND NOTICE OF CANCELLATION OR NONRENEWAL; AND AMENDING SECTIONS 33-15-1104, 33-15-1105, 33-15-1106, 33-15-1107, 33-23-212, 33-23-213, 33-23-214, AND 33-23-401, MCA."

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 45-90 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 45-90 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 the intention not to renew and provide the reasons for nonrenewal as provided in 33-15-1107. The insurer shall also mail or deliver a copy to the insured's insurance producer.

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

1 (c) Following notification of nonrenewal, an insured has a right to cure any reasons for nonrenewal
 2 that are identified by the nonrenewing insurer within the notice timeframe. The insured may send proof of
 3 curative actions taken, and the insurer shall consider whether the actions allow the insurer to renew the policy.

4 (2) An insurer shall give notice of premium due not more than 60 days or less than 30 days before
 5 the due date of a renewal premium. The notice must clearly state the effect of nonpayment of the premium on
 6 or before the due date.

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

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

10 (b) the policy is expressly designated as nonrenewable.

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

15 (5) (a) For the purposes of this subsection (5), the following definitions apply:

16 (i) "Claim" means a contact with an insurer by an insured or third party for the purpose of seeking
 17 payment. An inquiry into coverage on a property and casualty insurance policy is not claim activity unless:

18 (A) a payment is made;

19 (B) a reserve is established or loss adjustment expenses are incurred; or

20 (C) a written, formal denial of the claim is issued to the insured or claimant.

21 (ii) "Inquiry" means a request for information regarding the terms, conditions, or coverages offered
 22 under a property and casualty insurance policy that does not result in a claim.

23 (b) An insurer may not use a direct or indirect inquiry as the basis for declining or not renewing
 24 insurance coverage or a binder of insurance coverage or for increasing the insurance premium.

25 (c) An inquiry may not be considered a claim under 33-18-201.

26 (d) An insurer may not submit to any insurance-support organization or consumer reporting agency
 27 an insured's name if the insured made an inquiry about terms or coverage of an insurance policy."
 28

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

2 **"33-15-1106. Renewal with altered terms.** (1) If an insurer offers or purports to renew a policy but on
3 less favorable terms, at a higher rate, or at a higher rating plan, the new terms, rate, or rating plan take effect
4 on the policy renewal date only if the insurer has mailed or delivered notice of the new terms, rate, or rating
5 plan to the insured at least 45-90 days before the expiration date.

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

8

9 **Section 4.** Section 33-15-1107, MCA, is amended to read:

10 **"33-15-1107. Information about grounds for nonrenewal.** (1) ~~If the insurer or insurance producer~~
11 ~~receives a written request from an insured within 60 business days from the date on which the insurer mailed a~~
12 ~~notice of cancellation or nonrenewal to the insured, the insurer or insurance producer shall, within 21 days of~~
13 ~~receiving the insured's written request, The insurer or insurance producer shall~~ furnish the insured the
14 information that the insurer or insurance producer used to make its decision when sending its notice of
15 cancellation or nonrenewal to the insured. A notice is not effective unless it contains adequate information
16 about the insured's right to make the request relating to the insurer's decision to cancel or not renew the policy.
17 An insured may take actions to cure the issues in the nonrenewal notice after receiving the notice. The insurer
18 shall consider the insured's curative actions and the insurer's nonrenewal of the policy.

19 (2) This section does not apply if the ground for cancellation or nonrenewal is nonpayment of the
20 premium and the reason is stated in the notice."

21

22 **Section 5.** Section 33-23-212, MCA, is amended to read:

23 **"33-23-212. Notice required for cancellation -- statement that insurer will specify reason upon**
24 **request-- exception.** (1) A cancellation by an insurer of a motor vehicle liability insurance policy is not
25 effective prior to the mailing or delivery to the named insured, at the address shown in the policy, of a written
26 notice of the cancellation stating the date on which, not less than 45-90 days after the date of the mailing or
27 delivery, the cancellation becomes effective. Other provisions of this code may not be construed as affecting
28 the requirements provided in this subsection (1).

1 (2) A notice of cancellation of a policy to which 33-23-211 applies is not effective unless mailed or
 2 delivered by the insurer to the named insured at least ~~45~~90 days prior to the effective date of cancellation.
 3 However, if cancellation is for nonpayment of premium, at least 10 days' notice of cancellation accompanied by
 4 the reason must be given. ~~Unless the reason accompanies or is included in the notice of cancellation, the~~ The
 5 notice of cancellation must state or be accompanied by a statement that ~~upon written request of the named~~
 6 ~~insured, mailed or delivered to the insurer not less than 21 days prior to the effective date of cancellation, the~~
 7 ~~insurer shall specify the reason for the cancellation~~ specifies the reason for the cancellation. An insured has the
 8 right to cure any reasons identified in a notice of cancellation and inform the nonrenewing insurer within the
 9 timeframe provided in this section. The insurer shall consider the insured's curative actions and the insurer's
 10 nonrenewal of the policy.

11 (3) Subsection (2) does not apply to nonrenewal."
 12

13 **Section 6.** Section 33-23-213, MCA, is amended to read:

14 **"33-23-213. Notice to insured of ground for cancellation -- commissioner to ensure**
 15 **compliance.** (1) Whenever an insurer gives notice of cancellation of a motor vehicle liability policy, ~~upon~~
 16 ~~request of the insured, the insurer, within 15 days of receipt of the request, the insurer~~ shall furnish to the
 17 insured a statement setting forth the ground or grounds ~~upon~~on which the notice of cancellation is based.

18 (2) If the insurer fails to comply with the provisions of this section, the insured may apply to the
 19 commissioner for a certificate of the facts or information desired.

20 (3) The commissioner shall exercise any power conferred ~~upon~~on the commissioner by law that
 21 may be necessary to ensure compliance with this section."
 22

23 **Section 7.** Section 33-23-214, MCA, is amended to read:

24 **"33-23-214. Advance notice required for nonrenewal -- exceptions.** (1) An insurer shall renew a
 25 motor vehicle liability policy unless it mails or delivers to the named insured, at the address shown in the policy,
 26 at least ~~45~~90 days' advance notice of its intention not to renew. The notice must contain or be accompanied by
 27 a statement that ~~upon written request made not later than 1 month following the termination date of the policy of~~
 28 ~~the named insured mailed or delivered to the insurer, the insurer will notify the insured in writing, within 15 days~~

1 of the insured's request, notifies the insured of the reason or reasons for the nonrenewal.

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

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

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

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

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

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

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

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

20

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

22 **"33-23-401. Written notice required for cancellation or nonrenewal of insurance policies on**
23 **homes.** An insurer may not cancel or refuse to renew any policy insuring private residences, including but not
24 limited to fire, home owner, theft, or liability insurance on any home occupied by the insured as a domicile,
25 without first giving to the insured ~~45~~90 days' notice in writing, including in the notice a statement of the specific
26 reason or reasons for canceling or not renewing the policy, except that a policy may be canceled for
27 nonpayment of premiums, in which case, the notice to the insured may not be less than 20 days. An insured
28 has the right to cure any deficiencies contained in the insurer's reasons for nonrenewal within the timeframes

1 provided in this section. The insurer must consider the insured's curative acts and reconsider the insurer's
2 nonrenewal of the policy."

3 - END -