

CHAPTER 15

INSURANCE

HOUSE BILL 06-1030

BY REPRESENTATIVE(S) Coleman, Carroll M., Cerbo, Borodkin, Frangas, and Marshall;
also SENATOR(S) Veiga, Bacon, Fitz-Gerald, Groff, Hagedorn, Sandoval, Shaffer, Williams, and Windels.

AN ACT

**CONCERNING THE REQUIREMENT THAT AN INSURER MAKE CERTAIN DISCLOSURES TO CONSUMERS
REGARDING THE CONTENT OF AUTOMOBILE INSURANCE POLICIES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 10-4-111 (1), Colorado Revised Statutes, is amended, and the said 10-4-111 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

10-4-111. Summary disclosure forms required. (1) Every insurer issuing policies of dwelling fire insurance, homeowners insurance, or automobile insurance subject to the provisions of ~~parts 6 and 7~~ PART 6 of this article shall, as a condition of doing business in this state, have on file for public inspection at the division ~~of insurance~~, a summary disclosure form ~~which~~ THAT contains a simple explanation of the major coverages and exclusions of such policies of insurance together with a recitation of general factors considered in cancellation, nonrenewal, and increase in premium situations. Each summary disclosure form shall provide notice in bold face letters that the policyholder should read the policy for complete details, and such disclosure form shall not be construed to replace any provision of the policy itself. In the event of any conflict between the policy and the disclosure form, the provisions of the policy shall prevail.

(5) IN ADDITION TO THE DISCLOSURE REQUIREMENTS IN THIS SECTION, EVERY INSURER OR PRODUCER WHO ISSUES AUTOMOBILE INSURANCE POLICIES PURSUANT TO PART 6 OF THIS ARTICLE SHALL COMPLY WITH THE DISCLOSURE REQUIREMENTS IN SECTION 10-4-636.

SECTION 2. Repeal. 10-4-610 (2), Colorado Revised Statutes, is repealed as follows:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

10-4-610. Property damage protection against uninsured motorists. (2) ~~The provisions of section 10-4-111, including those requiring filing of a summary disclosure form with the division of insurance and availability of a summary disclosure form from the insurer's agents, which form contains a simple explanation of the policy's major coverages and exclusions and factors concerning cancellation and nonrenewal, apply to policies delivered or issued for delivery under subsection (1) of this section.~~

SECTION 3. Repeal. 10-4-635 (2), Colorado Revised Statutes, is repealed as follows:

10-4-635. Medical payments coverage. (2) (a) ~~The general assembly hereby finds, determines, and declares that individuals who purchase motor vehicle insurance are faced with decisions concerning purchasing medical payments coverage and the significance of this purchase. Further, if a consumer purchases medical payments coverage, the consumer may not appreciate the significance that the coverage is primary to other coverages and applies to the payment of coinsurance or deductibles. Therefore, the general assembly declares that it is in the best interest of insurance consumers to have clear and understandable disclosures concerning the significance of purchasing medical payments coverage.~~

~~(b) Every insurer issuing automobile insurance policies that include medical payments coverage shall include in the summary disclosure form required by section 10-4-111 a disclosure specifying that:~~

~~(i) Medical payments coverage pays for reasonable health care expenses incurred for bodily injury caused by an automobile accident, regardless of fault, up to the policy limits chosen by the insured;~~

~~(ii) Medical payments coverage is primary to any health insurance coverage available to an insured when injured in an automobile accident;~~

~~(iii) Medical payments coverage applies to any coinsurance or deductible amount required to be paid by the person's health coverage plan, as defined in section 10-16-102 (22.5);~~

~~(iv) An insured who is injured in an automobile accident will not receive benefits from medical payments coverage for any medical expenses incurred as a result of an accident that is the fault of the insured unless medical payments coverage is purchased.~~

~~(c) The disclosures required by this subsection (2) shall not apply to commercial automobile insurance policies, as defined by the commissioner in rules adopted pursuant to section 10-4-641 (1).~~

SECTION 4. 10-4-636, Colorado Revised Statutes, is amended to read:

10-4-636. Disclosure requirements for automobile insurance products offered - rules. (1) (a) AN INSURER OR PRODUCER ISSUING AUTOMOBILE INSURANCE POLICIES SHALL, AS A CONDITION OF DOING BUSINESS IN THIS STATE,

HAVE ON FILE FOR PUBLIC INSPECTION AT THE DIVISION A SUMMARY DISCLOSURE FORM THAT CONTAINS AN EXPLANATION OF THE MAJOR COVERAGES AND EXCLUSIONS OF SUCH POLICIES OF INSURANCE TOGETHER WITH A RECITATION OF GENERAL FACTORS CONSIDERED IN CANCELLATION, NONRENEWAL, AND INCREASE-IN-PREMIUM SITUATIONS. EACH SUMMARY DISCLOSURE FORM SHALL PROVIDE NOTICE IN BOLD FACE LETTERS THAT THE POLICYHOLDER SHOULD READ THE POLICY FOR COMPLETE DETAILS, AND SUCH DISCLOSURE FORM SHALL NOT BE CONSTRUED TO REPLACE ANY PROVISION OF THE POLICY ITSELF.

(b) EVERY INSURER AND PRODUCER SHALL UPDATE DISCLOSURE FORMS PERIODICALLY TO REFLECT CHANGES IN MAJOR COVERAGES AND EXCLUSIONS OF SUCH POLICIES OF INSURANCE AND CHANGES IN FACTORS CONSIDERED IN CANCELLATION, NONRENEWAL, AND INCREASE-IN-PREMIUM SITUATIONS.

(c) EVERY INSURER AND PRODUCER OR HIS OR HER DESIGNATED AGENT SHALL FURNISH THE REQUIRED DISCLOSURE FORM TO APPLICANTS FOR INSURANCE COVERAGE AT THE TIME OF THE INITIAL INSURANCE PURCHASE AND THEREAFTER ON ANY RENEWAL WHEN THERE ARE CHANGES IN MAJOR COVERAGES AND EXCLUSIONS OR CHANGES IN FACTORS CONSIDERED IN CANCELLATION, NONRENEWAL, AND INCREASE-IN-PREMIUM SITUATIONS.

(d) AN INSURER OR PRODUCER WHO VIOLATES THIS SECTION SHALL BE DEEMED TO HAVE ENGAGED IN UNFAIR OR DECEPTIVE ACTS OR PRACTICES PROHIBITED BY SECTION 10-3-1104 (1) (a) (I) AND SHALL BE SUBJECT TO THE PENALTIES PROVIDED IN SECTIONS 10-3-1108 AND 10-3-1109.

(2) IN ADDITION TO THE DISCLOSURE REQUIRED BY SUBSECTION (1) OF THIS SECTION, ANY INSURER OR PRODUCER OFFERING MOTOR VEHICLE COVERAGE PURSUANT TO THIS PART 6 SHALL PROVIDE A CLEAR EXPLANATION TO THE INSURED REGARDING THE PRODUCTS PURCHASED, THE AMOUNT OF COVERAGE PURCHASED, AND THE APPLICABILITY OF THE COVERAGE DEPENDING ON THE DETERMINATION OF FAULT OF THE INSURED IN AN AUTOMOBILE ACCIDENT.

~~(1)(a)~~ (3) (a) An insurer or producer offering motor vehicle coverage pursuant to this part 6 shall not automatically add optional or enhanced coverages that will result in an increased premium to an insured's policy without the express consent of the insured. Such consent may be in the same medium in which the policy is offered. The insurer or producer, for three years, shall maintain adequate evidence of the insured's consent, and such evidence shall be subject to review by the commissioner. The insurer or producer shall record:

(I) Whether optional or enhanced coverage added for an increased premium to an insured's policy was requested by the insured or was recommended by the insurer or producer and consented to by the insured; and

(II) To the extent practicable, an explanation of why such coverage was changed.

(b) For the purposes of this section, "adequate evidence" means:

(I) Written notes or other memorializations of any oral or written communication with the insured kept within the normal course of business; or

(II) A declaration page indicating which coverages are not mandatory after payment of the premium is made unless the insured disputes such coverage within a reasonable time.

(c) This section shall not apply to changes in coverages mandated by law or to amended policy forms that are changed at renewal.

(4) THE DISCLOSURE FORM REQUIRED BY SUBSECTION (1) OF THIS SECTION SHALL INCLUDE A DISCLOSURE SPECIFYING THAT:

(a) MEDICAL PAYMENTS COVERAGE PAYS FOR REASONABLE HEALTH CARE EXPENSES INCURRED FOR BODILY INJURY CAUSED BY AN AUTOMOBILE ACCIDENT, REGARDLESS OF FAULT, UP TO THE POLICY LIMITS CHOSEN BY THE INSURED;

(b) MEDICAL PAYMENTS COVERAGE IS PRIMARY TO ANY HEALTH INSURANCE COVERAGE AVAILABLE TO AN INSURED WHEN INJURED IN AN AUTOMOBILE ACCIDENT;

(c) MEDICAL PAYMENTS COVERAGE APPLIES TO ANY COINSURANCE OR DEDUCTIBLE AMOUNT REQUIRED TO BE PAID BY THE PERSON'S HEALTH COVERAGE PLAN, AS DEFINED IN SECTION 10-16-102 (22.5); AND

(d) AN INSURED WHO IS INJURED IN AN AUTOMOBILE ACCIDENT WILL NOT RECEIVE BENEFITS FROM MEDICAL PAYMENTS COVERAGE FOR ANY MEDICAL EXPENSES INCURRED AS A RESULT OF AN ACCIDENT THAT IS THE FAULT OF THE INSURED UNLESS MEDICAL PAYMENTS COVERAGE IS PURCHASED.

(5) THE DISCLOSURE REQUIRED BY SUBSECTION (1) OF THIS SECTION SHALL INCLUDE A DISCLOSURE OF ANY COVERAGES DELIVERED OR ISSUED PURSUANT TO SECTION 10-4-610.

~~(6)~~ (6) (a) The commissioner may promulgate rules to address the suitability of coverages for insureds, including, but not limited to, administrative remedies against an insurer or producer for automatically adding optional or enhanced coverages that increase the insured's premium without the insured's consent, which additions may include, but are not limited to, remedies for violations of section 10-3-1104 (1) (j).

(b) THE COMMISSIONER SHALL PROMULGATE BY RULE A UNIFORM DISCLOSURE FORM THAT REFLECTS THE REQUIREMENTS OF THIS SECTION. SUCH UNIFORM DISCLOSURE FORM SHALL BE USED BY INSURERS AND PRODUCERS IN THIS STATE IN ORDER TO COMPLY WITH THIS SECTION.

~~(7)~~ (7) Nothing in this section shall be construed to create a private right of action for damages by an insured.

(8) THE DISCLOSURES REQUIRED BY THIS SECTION SHALL NOT APPLY TO COMMERCIAL AUTOMOBILE INSURANCE POLICIES, AS DEFINED BY THE COMMISSIONER IN RULES ADOPTED PURSUANT TO SECTION 10-4-641 (1).

SECTION 5. 10-4-641 (1), Colorado Revised Statutes, is amended to read:

10-4-641. Rules - medical payments coverage. (1) The commissioner shall promulgate any necessary rules for the administration of medical payments coverage and coordination of benefits and the implementation of section ~~10-4-635 (2)~~ 10-4-636 (4) concerning disclosures required to be made regarding medical payments coverage and the definition of commercial automobile insurance policies for purposes of the exception allowed in section ~~10-4-635 (2) (c)~~ 10-4-636 (8). Medical payments coverage shall be primary to any health insurance benefit of a person injured in a motor vehicle accident, and medical payments coverage shall apply to any coinsurance or deductible amount required by the injured person's health coverage plan, as defined in section 10-16-102 (22.5).

SECTION 6. Effective date - applicability. (1) This act shall take effect January 1, 2007.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to policies issued or renewed on or after the applicable effective date of this act.

Approved: March 17, 2006