

CHAPTER 95

INSURANCE

HOUSE BILL 12-1289

BY REPRESENTATIVE(S) Nikkel, DelGrosso, Holbert, Labuda, Priola, Stephens, Todd, Waller, Wilson;
also SENATOR(S) Jahn, Cadman, Aguilar, King S.

AN ACT**CONCERNING COMPLAINTS TO THE DIVISION OF INSURANCE ON CERTAIN ADVERSE ACTIONS OF
AUTO INSURERS.**

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

SECTION 1. In Colorado Revised Statutes, 10-4-629, **amend** (2) introductory portion, (2) (f), and (9); and **repeal** (2) (g), (2) (h), (4), (5), (6), (7), and (8) as follows:

10-4-629. Cancellation - renewal - reclassification. (2) An insurer intending to take an action subject to ~~the provisions of~~ this section shall, on or before the thirtieth day before the ~~proposed~~ effective date of the INTENDED action, send written notice by ~~first-class~~ UNITED STATES mail of its intended action to the insured at the insured's last-known address. THE INSURER MAY INCLUDE THE NOTICE OF THE INTENDED ACTION IN THE RENEWAL DOCUMENTS, NONRENEWAL, OR CANCELLATION NOTICE PROVIDED TO THE POLICYHOLDER, AS APPLICABLE. The notice ~~shall be in triplicate and shall~~ MUST state in clear and specific terms, on a form ~~that has been certified by the insurer and~~ FOR WHICH the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

(f) ~~The right of the insured to protest the proposed action and request a hearing thereon before the commissioner by signing two copies of the notice and sending them to the commissioner within ten days after receipt of the notice~~ THE RIGHT OF THE INSURED TO FILE A COMPLAINT WITH THE DIVISION OF INSURANCE REGARDING THE ACTION THAT IS THE SUBJECT OF THE NOTICE.

(g) ~~That, if a protest is filed by the insured, the current insurance will remain in effect until a determination is made by the commissioner upon payment of any~~

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

lawful premium due or becoming due prior to the determination;

(h) ~~The authority of the commissioner to award reasonable counsel fees to the insured for services rendered to the insured in connection with any such hearing if the commissioner finds the proposed action of the insurer to be unjustified.~~

(4) ~~An insured shall have the right to protest the proposed action of the insurer by signing two copies of the notice and sending them to the commissioner within ten days after receipt of the notice. The commissioner shall, upon receipt of a protest, notify the insurer of the filing of the protest.~~

(5) ~~A protest duly filed shall stay the proposed action of the insurer pending a final determination thereof by the commissioner, and the insurer shall keep in full force and effect the same coverage and premium in effect on the day the notice of proposed change was sent until such final determination is made, if any lawful premium due or becoming due prior to such determination is paid.~~

(6) ~~If the commissioner finds from the notice and other evidence that the protest is with or without merit, the commissioner may grant or dismiss the protest without a hearing and shall, in that event, promptly notify the insurer and the insured in writing of such action. If the protest is dismissed without a hearing, the proposed action of the insurer shall become effective on its proposed effective date or twenty days after written notice of the action is given by the commissioner to the insured, whichever is later. If the notice of the proposed action does not comply with Colorado law, the commissioner shall disallow the action. In all other cases, the commissioner shall hold a hearing on the protest within forty-five days after receipt of the protest and shall give written notice of the time and place thereof to the insurer and the insured at least ten days prior to the scheduled date of the hearing. The insurer shall have the burden of proving its proposed action to be justified and, in doing so, may rely only upon the reasons set forth in its notice to the insured.~~

(7) ~~If the commissioner finds the proposed action to be justified, the commissioner shall dismiss the protest and allow the proposed action to be taken on its proposed effective date or twenty days after the date of the determination, whichever is later. If the commissioner finds the proposed action to be unjustified, the commissioner shall disallow the action and may, in addition, order the insurer to pay such reasonable counsel fees incurred by the insured for representation at the hearing as the commissioner may deem appropriate. The commissioner may delegate the duties and powers conferred in this section to one or more employees or to one or more administrative law judges appointed pursuant to part 10 of article 30 of title 24, C.R.S., subject to appropriations for such administrative law judges made to the department of personnel. Any hearing shall be conducted in accordance with the provisions of section 24-4-105, C.R.S.~~

(8) ~~Any final decision of the commissioner shall be subject to judicial review by the court of appeals pursuant to section 24-4-106 (11), C.R.S.~~

(9) ~~This section shall DOES not apply to any AN insurance policy or coverage that has been in effect less than sixty days at the time THE INSURER MAILS OR DELIVERS THE notice of cancellation, nonrenewal, or reclassification, is mailed or delivered by the insurer; unless it is a renewal policy.~~

SECTION 2. In Colorado Revised Statutes, 10-4-628, **amend** (3) as follows:

10-4-628. Refusal to write - changes in - cancellation - nonrenewal of policies prohibited. (3) An insured who believes ~~the provisions of~~ subsection (1) or (2) of this section have been violated ~~shall have~~ HAS the right to file a ~~protest~~ COMPLAINT with the ~~commissioner~~ DIVISION OF INSURANCE pursuant to section 10-4-629.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2012, if adjournment sine die is on May 9, 2012); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) The provisions of this act apply to complaints filed with the division of insurance on or after the applicable effective date of this act.

Approved: April 12, 2012