

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 353*

Short Title: Workers' Comp. Cancellations and Renewals-AB. (Public)

Sponsors: Representatives Dockham and Hurley (Primary Sponsors).

Referred to: Insurance.

March 1, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR GUIDELINES, RIGHTS, AND OBLIGATIONS IN
WORKERS' COMPENSATION INSURANCE POLICY CANCELLATIONS AND
NONRENEWALS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 97-99 reads as rewritten:

**"§ 97-99. Law written into each insurance policy; form of policy to be approved by
Commissioner of Insurance; ~~cancellation~~; single catastrophe hazards.**

(a) Every policy for the insurance of the compensation ~~herein provided, in this~~
Article, or against liability therefor, shall be deemed to be made subject to the
provisions of this Article. No corporation, association or organization shall enter into
any such policy of insurance unless its form ~~shall have~~ has been approved by the
Commissioner of Insurance. ~~No policy form shall be approved unless the same shall~~
~~provide a 30 day prior notice of an intention to cancel same by the carrier to the insured~~
~~by registered mail or certified mail. This shall not apply to the expiration date shown in~~
~~the policy. The carrier may cancel the policy for nonpayment of premium on 10 days'~~
~~written notice to the insured, and the insured may cancel the policy on 10 days' written~~
~~notice to the carrier. Whenever notice of intention to cancel is required to be given by~~
~~registered or certified mail, no cancellation by the insurer shall be effective unless and~~
~~until such method is employed and completed.~~

(b) This Article shall not apply to policies of insurance against loss from
explosion of boilers or flywheels or other similar single catastrophe hazards: Provided,
that nothing ~~herein contained shall be construed to relieve the~~ in this Article relieves an
employer from liability for injury or death of an employee as a result of such an
explosion or catastrophe."

SECTION 2. Article 36 of Chapter 58 of the General Statutes is amended by
adding two new sections to read:

1 "§ 58-36-105. Certain workers' compensation insurance policy cancellations
2 prohibited.

3 (a) No policy of workers' compensation insurance or employers' liability
4 insurance written in connection with a policy of workers' compensation insurance shall
5 be cancelled by the insurer before the expiration of the term or anniversary date stated
6 in the policy and without the prior written consent of the insured, except for any one of
7 the following reasons:

- 8 (1) Nonpayment of premium in accordance with the policy terms.
9 (2) An act or omission by the insured or the insured's representative that
10 constitutes material misrepresentation or nondisclosure of a material
11 fact in obtaining the policy, continuing the policy, or presenting a
12 claim under the policy.
13 (3) Increased hazard or material change in the risk assumed that could not
14 have been reasonably contemplated by the parties at the time of
15 assumption of the risk.
16 (4) Substantial breach of contractual duties, conditions, or warranties that
17 materially affects the insurability of the risk.
18 (5) A fraudulent act against the company by the insured or the insured's
19 representative that materially affects the insurability of the risk.
20 (6) Willful failure by the insured or the insured's representative to institute
21 reasonable loss control measures that materially affect the insurability
22 of the risk after written notice by the insurer.
23 (7) Loss of facultative reinsurance or loss of or substantial changes in
24 applicable reinsurance as provided in G.S. 58-41-30.
25 (8) Conviction of the insured of a crime arising out of acts that materially
26 affect the insurability of the risk.
27 (9) A determination by the Commissioner that the continuation of the
28 policy would place the insurer in violation of the laws of this State.
29 (10) The named insured fails to meet the requirements contained in the
30 corporate charter, articles of incorporation, or bylaws of the insurer,
31 when the insurer is a company organized for the sole purpose of
32 providing members of an organization with insurance coverage in this
33 State.

34 (b) Any cancellation permitted by subsection (a) of this section is not effective
35 unless written notice of cancellation has been delivered or mailed to the insured, not less
36 than 15 days before the proposed effective date of cancellation. The notice shall be
37 given or mailed to the insured and any other person designated in the policy to receive
38 notice of cancellation at their addresses shown in the policy or, if not indicated in the
39 policy, at their last known addresses. The notice shall state the precise reason for
40 cancellation. Proof of mailing is sufficient proof of notice. Failure to send this notice to
41 any other person designated in the policy to receive notice of cancellation invalidates
42 the cancellation only as to that other person's interest.

43 (c) This section does not apply to any policy that has been in effect for fewer
44 than 60 days and is not a renewal of a policy. That policy may be cancelled for any

1 reason by furnishing to the insured at least 30 days' prior written notice of and reasons
2 for cancellation.

3 (d) Cancellation for nonpayment of premium is not effective if the amount due is
4 paid before the effective date set forth in the notice of cancellation.

5 (e) Copies of the notice required by this section shall also be sent to the agent or
6 broker of record though failure to send copies of the notice to those persons shall not
7 invalidate the cancellation.

8 **"§ 58-36-110. Notice of nonrenewal, premium rate increase, or change in workers'**
9 **compensation insurance coverage required.**

10 (a) No insurer shall refuse to renew a policy of workers' compensation insurance
11 or employers' liability insurance written in connection with a policy of workers'
12 compensation insurance except in accordance with the provisions of this section, and
13 any nonrenewal attempted or made that is not in compliance with this section is not
14 effective. This section does not apply if the policyholder has obtained insurance
15 elsewhere, has accepted replacement coverage, or has requested or agreed to
16 nonrenewal.

17 (b) An insurer may refuse to renew a policy that has been written for a term of
18 one year or less at the policy's expiration date by giving or mailing written notice of
19 nonrenewal to the insured not less than 45 days prior to the expiration date of the policy.

20 (c) An insurer may refuse to renew a policy that has been written for a term of
21 more than one year or for an indefinite term at the policy anniversary date by giving or
22 mailing written notice of nonrenewal to the insured not less than 45 days prior to the
23 anniversary date of the policy.

24 (d) Whenever an insurer lowers coverage limits or raises deductibles or premium
25 rates other than at the request of the policyholder, the insurer shall give the policyholder
26 written notice of the change at least 30 days in advance of the effective date of the
27 change.

28 (e) The notice required by this section shall be given or mailed to the insured and
29 any other person designated in the policy to receive this notice at their addresses shown
30 in the policy or, if not indicated in the policy, at their last known addresses. Proof of
31 mailing is sufficient proof of notice. The notice of nonrenewal shall state the precise
32 reason for nonrenewal. Failure to send this notice to any other person designated in the
33 policy to receive this notice invalidates the nonrenewal only as to that other person's
34 interest.

35 (f) Copies of the notice required by this section shall also be sent to the agent or
36 broker of record though failure to send copies of the notice to such persons shall not
37 invalidate the nonrenewal."

38 **SECTION 3.** This act becomes effective October 1, 2001, and applies to
39 policies issued, renewed, or amended on or after that date.