

**CHAPTER 59. REASONS FOR CANCELLATIONS AND REFUSAL
TO RENEW; NOTICE AND APPEAL PROCEDURES**

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Authority

The provisions of this Chapter 59 issued under section 320 of The Insurance Company Law of 1921 (40 P. S. § 443); sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411, and 412); act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. §§ 1008.1—1008.11); and section 5 of the Unfair Insurance Practices Act (40 P. S. § 1171.5); unless otherwise noted.

Source

The provisions of this Chapter 59 adopted January 31, 1975, effective February 1, 1975, 5 Pa.B. 186, unless otherwise noted.

§ 59.1. Purpose.

This chapter implements section 5(9) of The Unfair Insurance Practices Act (40 P. S. §§ 1171.5(9)).

§ 59.2. Applicability.

This chapter applies to policies of insurance covering owner-occupied private residential properties or personal property owned by individuals that have been in force for 60 days or more, excluding automobiles covered under the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. §§ 1008.1—1008.11).

§ 59.3. Definitions.

The following terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise.

Policies covering owner-occupied dwellings—Policies covering a residential structure consisting of four or less household units, one of which is occupied by the owner of such structure.

Policies covering personal property owned by individuals—Policies covering a natural person against loss, theft, damage or destruction of personal property,

including liability arising out of the ownership or use thereof except policies of automobile insurance covered under the act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. §§ 1008.1—1008.11).

Authority

The provisions of this § 59.3 issued under The Insurance Company Law of 1921 (40 P. S. §§ 1—321); The Insurance Department Act of 1921 (40 P. S. §§ 344—991); The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412); act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. §§ 1008.1—1008.11); and section 5(a)(9) of the Unfair Insurance Practices Act (40 P. S. § 1171.5(a)(9)).

Source

The provisions of this § 59.3 adopted January 31, 1975, 5 Pa.B. 186; amended October 29, 1982, effective October 30, 1982, 12 Pa.B. 3818. Immediately preceding text appears at serial page (48082).

§ 59.4. Separate insurers.

Each member of a group of affiliated insurers shall be considered a separate insurer for purposes of the act. Therefore, if one insurer, which is a member of a group of affiliated insurers, cancels or refuses to renew a particular policy but at the time offers to arrange insurance for the applicant or insured with another member of the same group, there will be deemed to have been a cancellation or refusal to renew by the first insurer.

§ 59.4a. Reasons for cancellation of insurance policies.

In addition to the statutorily permitted bases for cancellation of a policy of insurance found at section 5(a)(9) of the Unfair Insurance Practices Act (40 P. S. § 1171.5(a)(9)), an insurer may cancel any policy other than a policy insuring farm risks when the property insured would not meet the eligibility requirements for insurance of the Insurance Placement Facility of Pennsylvania (Fair Plan) then in effect.

Authority

The provisions of this § 59.4a issued under The Insurance Company Law of 1921 (40 P. S. §§ 1—321); The Insurance Department Act of 1921 (40 P. S. §§ 344—991); The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411, and 412); act of June 5, 1968 (P. L. 140, No. 78) (40 P. S. §§ 1008.1—1008.11); and section 5(a)(9) of the Unfair Insurance Practices Act (40 P. S. § 1171.5(a)(9)).

Source

The provisions of this § 59.4a adopted October 29, 1982, effective October 30, 1982, 12 Pa.B. 3818.

§ 59.5. Notice of cancellation or refusal to renew.

Forms of notices of cancellation or refusal to renew shall be filed with and approved by the Insurance Commissioner prior to use.

§ 59.6. Notice of cancellation or refusal to renew; requirements.

Notices of cancellation or refusal to renew shall meet the following requirements:

- (1) The form shall be clearly labeled: "Notice of Cancellation or Refusal to Renew."
- (2) The form shall be given to the insured in duplicate.
- (3) The date, not less than 30 days after the date of delivery or mailing, on which such cancellation or refusal to renew is to become effective shall be clearly indicated.
- (4) Space must be provided for the insurer to provide the specific reason or reasons for the cancellation or refusal to renew.
- (5) The reasons given for cancellation or refusal to renew shall be clear and complete. If the reason is a material misrepresentation, fraudulent statement, omission or concealment of fact material to the acceptance of the risk, or to the hazard assumed by the company, made by the insured, the insurer shall specify what statements, omissions or concealments it relied on for its action.
- (6) If the reason is a substantial change or increase in the hazard, the insurer shall specify the changes or increased hazards it relied on for its actions. If the reason is the failure to pay a premium, the insurer shall specify the amount due, and the date when it was due.
- (7) The form shall include that advice that the insured has a right to request review of the insurer's action as provided in § 59.7 (relating to appeal procedure), within ten days of receipt of the notice. In so doing the notice shall include:
 - (i) Advice that review may be requested by signing a copy of the form in a space provided and sending it to one of the regional offices of the Insurance Department.
 - (ii) The addresses of the four regional offices of the Insurance Department.
- (8) The form shall include advice to the insured that he or she may be eligible for insurance under the Pennsylvania Fair Plan Act or the Pennsylvania Auto Insurance Plan.
- (9) Each provision of the notice shall be set forth in clear and understandable terms. To assure adequate notice, the form label shall be set at the top of the form in roman type no smaller than 14 point modern type, all capitals. The

remainder of the notice shall be set in roman type no smaller than ten point modern type, two points leaded.

(10) A recommended form of notice which would meet the requirements of the foregoing provisions is given in Appendix A.

Cross References

This section cited in 31 Pa. Code § 59.13 (relating to foreign language requirement).

§ 59.7. Appeal procedure.

(a) An insured may request review by the Insurance Commissioner of the action of the insurer in cancelling or refusing to renew his or her policy by making written request therefor. This may be done by signing a copy of the "Notice of Cancellation or Refusal to Renew," and sending it to one of the regional offices of the Insurance Department at one of the addresses given on the notice.

(b) Upon receipt of such request, both the insured and the insurer will be notified that an investigation has been undertaken and they may be contacted to secure additional information as required.

(c) Upon completion of the investigation, a copy of the investigative report will be supplied to both the insured and the insurer. Within ten days of receipt of the report either party may submit written comments for consideration by the Insurance Commissioner.

(d) If either insurer or insured desires a formal administrative hearing, such request shall be made at the time written comments are submitted. If so, a hearing will be scheduled as soon as possible. If not, the matter will be decided on the basis of the written comments and investigative report.

(e) Hearings will be held in accordance with the following procedures:

(1) Upon receipt of a request for a formal administrative hearing, notice of the time and place of such hearing will be sent by certified mail to the insurer and insured, not less than five days prior to the hearing.

(2) The hearing will be recorded on tape with a stenographer. The tape and stenographer's notes must be prepared such that a full verbatim transcription may thereafter be made. Such tape will be retained for a period of 90 days following issuance of the Insurance Commissioner's final order in the case.

(3) Parties will be afforded a reasonable time following the hearing to submit written briefs in support of their position.

(4) All relevant evidence of reasonable probative value will be admitted into the record of the proceeding and reasonable examination and cross-examination shall be permitted.

(5) The regulations in 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) may be used where conducive to speedy and fair proceedings.

(f) Upon completion of a hearing, if held, or upon receipt of the written comments, the Insurance Commissioner will issue an Order in conformance with his findings.

Source

The provisions of this § 59.7 amended January 16, 1976, 6 Pa.B. 78. Immediately preceding text appears at serial page (19072).

Cross References

This section cited in 31 Pa. Code § 59.6 (relating to notice of cancellation or refusal to renew requirements); and 31 Pa.B. § 59.13 (relating to foreign or language requirement).

§ 59.8. Residence.

If an insurer determines not to renew a policy of insurance because the insured no longer resides in this Commonwealth, the insurer shall not be required to comply with the requirement of section 5(a)(9) of The Unfair Insurance Practices Act (40 P. S. § 1171.5).

§ 59.9. Nonapplicability of the Acts.

(a) Some insurers affect a renewal of their outstanding policies of insurance merely by sending a renewal premium notice to the insured in advance of the expiration date of his policy. The insured need only make a timely payment of the premium due in order to keep his policy in force. In such a situation the mailing by the insurer of the renewal premium notice does constitute such a manifestation of willingness by the insurer to renew as to come within the purview of section 5(c)(1) of The Unfair Insurance Practices Act (40 P. S. § 1171.5(c)(1)) if mailed not less than 30 days in advance of the expiration date of the policy. If the insurer has manifested its willingness to renew by mailing a renewal notice or issuing a renewal policy and the insured fails to pay the renewal premium when due, the policy shall terminate in accordance with its terms. No further notice to the insured by the insurer of an intention not to renew for nonpayment of premium shall be necessary.

(b) The period of 60 days referred to in section 5(a)(9) and (c)(3) of The Unfair Insurance Practices Act (40 P. S. § 1171.5(a)(9) and (c)(3)) is intended to provide to insurers a reasonable period of time, if desired, to investigate thoroughly a particular risk while extending coverage during the period of investigation. An insurer may cancel the policy provided it gives at least 30 days notice of the termination and provided it gives notice no later than the 60th day. The insurer's decision to cancel during this 60-day period must not violate section 5(a)(7)(iii) of The Unfair Insurance Practices Act (40 P. S. § 1171.5(a)(7)(iii)).

(c) Insurers are reminded, however, that a regulation of the U.S. Department of Housing and Urban Development as set forth in 24 CFR § 1905.9. (relating to notice of cancellation or nonrenewal) further limits the right of insurers to cancel or nonrenew policies of property insurance on properties eligible for coverage under the Pennsylvania FAIR Plan.

(d) The pertinent provisions of this regulation provide that:

(a) Except in cases of owner or occupant incendiary, material misrepresentation or nonpayment of premium, each plan shall require its participating insurers to give, and each such insurer shall give, property owners no less than 30 days prior written notice of any cancellation or nonrenewal of coverage initiated by the insurer with respect to any eligible risk, whether or not such risk is then insured under the Plan, in order to allow the affected property owner sufficient time to apply for an inspection and to obtain coverage under the Plan if necessary.

(b) For the purposes of this § 1905.9, the term cancellation or nonrenewal shall include (1) reductions in amounts of insurance and adverse modifications in coverage initiated by the insurer with respect to any owner individually, and (2) refusals by the insurer or its agents to renew any expiring coverage in any line of essential property insurance previously provided to the property owner.

This requirement, therefore, allows insurers to cancel or nonrenew such policies only if the insured is given 30 days notice of both the cancellation and of the possible availability of coverage under the Pennsylvania FAIR Plan: This applies to such policies both during and after the first 60 days of their issue.

Authority

The provisions of this § 59.9 issued under the Unfair Insurance Practices Act §§ 1—15 (40 P. S. §§ 1171.1—1171.15).

Source

The provisions of this § 59.9 amended July 3, 1980, effective July 5, 1980, 10 Pa.B. 2876. Immediately preceding text appears at serial page (24944).

Notes of Decisions

Denial of Application

An insurance company could not assert that it was denying the insured's application for fire insurance and the subsequent claim for fire damage to her house based upon a previous loss suffered because the insurance company's agent advised the insured that the house was covered from the moment of payment and the insurance company failed to provide 30 days' notice of termination as required for policies in force for less than 60 days. *Pennsylvania National Mutual Casualty Insurance Company v. Insurance Commissioner*, 551 A.2d 368 (Pa. Cmwlth. 1988); appeal denied 559 A.2d 41 (Pa. 1989).

§ 59.10. Notice of representative.

Each insurer shall file within 30 days of the effective date of this Chapter, with the Department, the names of its representatives who are to be notified in the event that an insured or an applicant requests the Insurance Department to review a cancellation or refusal to renew, involving that insurer.

§ 59.11. Records; cancellation, refusal to write or renew.

Each insurer shall maintain records of the numbers of cancellations and refusals to renew policies and the reasons therefor. These records shall be made available to the Insurance Commissioner upon his request.

§ 59.12. Records; complaints.

Each insurer shall maintain records of the number of complaints received during the previous four years in conformance with section 5(a)(11) of The Unfair Insurance Practices Act (40 P. S. § 1171.5(a)(11)).

§ 59.13. Foreign language requirement.

Each insurer shall assure that the notice required by § 59.6 (relating to notice of cancellation or refusal to renew; requirements) shall be given to each policyholder affected. In the event the insurer, or its agent, knows or has reason to believe that any policyholder will be unable to read such notice, the insurer shall assure that the notice is communicated to the policyholder by an appropriate foreign language equivalent or oral communication in a language understood by the policyholder.

APPENDIX A

***NOTICE OF CANCELLATION OR NON-RENEWAL OF INSURANCE BECAUSE THE _____ * INSURANCE COMPANY HAS DECIDED (to cancel) (not to renew) YOUR POLICY. PENNSYLVANIA LAW REQUIRES THAT YOU BE GIVEN A COPY OF THIS NOTICE. READ IT CAREFULLY.

(Name and Address of Insured)*

Your _____ *insurance policy, (specify type of policy; fire, etc.) policy number _____ *, (is being cancelled) (will not be renewed) by the _____ Insurance Company.

***THIS (cancellation) (non-renewal) MEANS THAT THIS POLICY WILL NO LONGER BE IN FORCE ON _____ *. (date)

YOU HAVE, THEREFORE, AT LEAST 30 DAYS TO GET NEW COVERAGE IF YOU WANT TO DO SO.

***THE REASON FOR THIS (cancellation) (non-renewal) IS:

***YOU HAVE THE RIGHT TO REQUEST THE PENNSYLVANIA INSURANCE COMMISSIONER TO REVIEW THIS ACTION BY THE _____ * INSURANCE COMPANY. TO DO THIS, SIGN AND SEND A COPY OF THIS FORM WITHIN TEN DAYS TO THE PENNSYLVANIA INSURANCE COMMISSIONER AT THIS OFFICE:

PA Insurance Department
Bureau of Consumer Services
1209 Strawberry Square
Harrisburg, PA 17120
Toll Free: (877) 881-6388
Fax: (717) 787-8585

I request the Pennsylvania Insurance Commissioner review the (cancellation) (non-renewal) of this insurance policy.

(Signature of Insured)

**IF YOU HAVE ANY TROUBLE GETTING NEW INSURANCE, ANY INSURANCE AGENT OR BROKER MAY GET THIS INSURANCE FOR YOU THROUGH THE PENNSYLVANIA FAIR PLAN OR THE PENNSYLVANIA AUTOMOBILE INSURANCE PLAN (WHICH HANDLES ASSIGNED RISKS) IF YOU ARE ELIGIBLE FOR IT.

NOTE: *This information must be supplied by the insurer sending the notice.

**Must be printed in at least 10 point type, all capitals.

***Must be printed in roman type no smaller or less legible than 14 point modern type, 2 points leaded, all capitals.

Source

Immediately preceding text appears at serial pages (329225) to (329226).

[Next page is 61-1.]