

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2001-241
SENATE BILL 468**

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:

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

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

- (1) Nonpayment of premium in accordance with the policy terms.
- (2) An act or omission by the insured or the insured's representative that constitutes material misrepresentation or nondisclosure of a material fact in obtaining the policy, continuing the policy, or presenting a claim under the policy.
- (3) Increased hazard or material change in the risk assumed that could not have been reasonably contemplated by the parties at the time of assumption of the risk.
- (4) Substantial breach of contractual duties, conditions, or warranties that materially affects the insurability of the risk.

- (5) A fraudulent act against the company by the insured or the insured's representative that materially affects the insurability of the risk.
- (6) Willful failure by the insured or the insured's representative to institute reasonable loss control measures that materially affect the insurability of the risk after written notice by the insurer.
- (7) Loss of facultative reinsurance or loss of or substantial changes in applicable reinsurance as provided in G.S. 58-41-30.
- (8) Conviction of the insured of a crime arising out of acts that materially affect the insurability of the risk.
- (9) A determination by the Commissioner that the continuation of the policy would place the insurer in violation of the laws of this State.
- (10) The named insured fails to meet the requirements contained in the corporate charter, articles of incorporation, or bylaws of the insurer, when the insurer is a company organized for the sole purpose of providing members of an organization with insurance coverage in this State.

(b) Any cancellation permitted by subsection (a) of this section is not effective unless written notice of cancellation has been given by registered or certified mail, return receipt requested, to the insured not less than 15 days before the proposed effective date of cancellation. The notice shall be given by registered or certified mail, return receipt requested, to the insured and any other person designated in the policy to receive notice of cancellation at their addresses shown in the policy or, if not indicated in the policy, at their last known addresses. The notice shall state the precise reason for cancellation. 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. Failure to send this notice, as provided in this section, to any other person designated in the policy to receive notice of cancellation invalidates the cancellation only as to that other person's interest.

(c) This section does not apply to any policy that has been in effect for fewer than 60 days and is not a renewal of a policy. That policy may be cancelled for any reason by giving at least 30 days' prior written notice of and reasons for cancellation to the insured by registered or certified mail, return receipt requested.

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

(e) Copies of the notice required by this section shall also be sent to the agent or broker of record though failure to send copies of the notice to those persons shall not invalidate the cancellation. Mailing copies of the notice by regular first-class mail to the agent or broker of record satisfies the requirements of this subsection.

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

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

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

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

(d) Whenever an insurer lowers coverage limits, raises deductibles, or raises premium rates for reasons within the exclusive control of the insurer or other than at the request of the policyholder, the insurer shall mail to the policyholder written notice of the change at least 30 days in advance of the effective date of the change. As used in this subsection, the phrase, "reasons within the exclusive control of the insurer" does not mean experience modification changes, exposure changes, or loss cost rate changes.

(e) The notice required by this section shall be given by mail to the insured and any other person designated in the policy to receive this notice at their addresses shown in the policy or, if not indicated in the policy, at their last known addresses. The notice of nonrenewal shall state the precise reason for nonrenewal. Failure to send this notice, as provided in this section, to any other person designated in the policy to receive this notice invalidates the nonrenewal only as to that other person's interest.

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

(g) Mailing copies of the notice by regular first-class mail satisfies the notice requirements of this section."

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

In the General Assembly read three times and ratified this the 13th day of June, 2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:07 p.m. this 23rd day of June, 2001