

CHAPTER 26.1-30.1

CANCELLATION AND NONRENEWAL OF COMMERCIAL INSURANCE

26.1-30.1-01. Application.

This chapter applies to policies primarily insuring risks arising from the conduct of a commercial or industrial enterprise except workforce safety and insurance policies, private passenger automobile policies, inland marine policies, excess umbrella liability policies, errors and omissions policies, and officers and directors liability policies.

26.1-30.1-01.1. Unlawful grounds for declination.

The declination or termination of a commercial insurance policy subject to sections 26.1-30.1-01 through 26.1-30.1-08 by an insurer or insurance producer is prohibited if the declination or termination is based solely upon any of the following reasons:

1. The race, religion, nationality, ethnic group, disability, age, sex, or marital status of the applicant or named insured, except this subsection does not prohibit rating differentials based upon age, sex, or marital status.
2. The lawful occupation or profession of the applicant or named insured, except that this provision does not apply to an insurer or insurance producer that limits its market to one lawful occupation or profession or to several related occupations or professions.
3. The age or location of the property of the applicant or named insured, unless the decision is for a business purpose that is not a mere pretext for unfair discrimination.
4. The principal location of the insured motor vehicle, unless the decision is for a business purpose which is not a mere pretext for unfair discrimination.
5. The fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured.
6. The fact that the applicant or named insured previously obtained insurance coverage through a residual market insurance mechanism or an insurance company that insures substandard risks.

26.1-30.1-01.2. Policy transfer.

1. A policy transferred to an insurer within the same insurance holding company system is not subject to sections 26.1-30.1-02, 26.1-30.1-03, 26.1-30.1-03.1, and 26.1-30.1-06.
2. The transferring insurer shall give notice to the policyholder of the policy transfer.

26.1-30.1-02. Midterm cancellation of commercial insurance.

No insurer may cancel a policy of commercial insurance during the term of the policy, except for one or more of the following reasons:

1. Nonpayment of premiums;
2. Misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or in pursuing a claim under the policy;
3. Actions by the insured that have substantially increased or substantially changed the risk insured;
4. Refusal of the insured to eliminate known conditions that increase the potential for loss after notification by the insurer that the condition must be removed;
5. Substantial change in the risk assumed, except to the extent that the insurer should reasonably have foreseen the change or contemplated the risk in writing the contract;
6. Loss of reinsurance by the insurer which provided coverage to the insurer for a significant amount of the underlying risk insured. Any notice of cancellation pursuant to this subsection must advise the policyholder that the policyholder has ten days from the date of receipt of the notice to appeal the cancellation to the insurance commissioner and that the commissioner will render a decision as to whether the cancellation is justified because of the loss of reinsurance within five business days after receipt of the appeal;

7. A determination by the insurance commissioner that the continuation of the policy could place the insurer in violation of the insurance laws of this state;
8. Nonpayment of dues to an association or organization, other than an insurance association or organization, when payment of dues is a prerequisite to obtaining or continuing such insurance; except this provision for cancellation for failure to pay dues does not apply to persons who are retired at sixty-two years of age or older or to any person who is disabled according to social security standards; or
9. A violation of any local fire, health, safety, building, or construction regulation or ordinance with respect to any insured property or the occupancy thereof which substantially increases any hazard insured against.

26.1-30.1-03. Notice.

Cancellation under subsections 2 through 9 of section 26.1-30.1-02 is not effective prior to thirty days after notice to the policyholder. The notice of cancellation must contain a specific reason for cancellation as provided in section 26.1-30.1-02. A policy may not be canceled for nonpayment of premium pursuant to subsection 1 of section 26.1-30.1-02 unless the insurer, at least ten days prior to the effective cancellation date, has given notice to the policyholder of the amount of premium due and the due date. The notice must state the effect of nonpayment by the due date. No cancellation for nonpayment of premium is effective if payment of the amount due is made prior to the effective date set forth in the notice.

26.1-30.1-03.1. Five-day notice exception for cancellation.

Policies subject to this chapter may be canceled upon five days' written notice to the named insureds if one or more of the following conditions exist:

1. Buildings with at least sixty-five percent of the rental units in the building unoccupied.
2. Buildings that have been damaged by a peril insured against and the insured has stated or such time has elapsed as clearly indicates that the damage will not be repaired.
3. Buildings to which, following a fire, permanent repairs have not commenced within sixty days following satisfactory adjustment of loss.
4. Buildings that have been unoccupied sixty consecutive days, except buildings that have a seasonal occupancy, and buildings actually in the course of construction or repair and reconstruction which are properly secured against unauthorized entry.
5. Buildings that are in danger of collapse because of serious structural conditions or those buildings subject to extremely hazardous conditions not contemplated in filed rating plans such as those buildings that are in a state of disrepair as to be dilapidated.
6. Buildings on which, because of their physical condition, there is an outstanding order to vacate or an outstanding demolition order, or which have been declared unsafe in accordance with applicable law.
7. Buildings from which fixed and salvageable items have been or are being removed and the insured can give no reasonable explanation for the removal.
8. Buildings on which there is reasonable knowledge and belief that the property is endangered and is not reasonably protected from possible arson for the purpose of defrauding an insurer.
9. Buildings with any of the following conditions:
 - a. Failure to furnish heat, water, sewer service, or public lighting for thirty consecutive days or more.
 - b. Failure to correct conditions dangerous to life, health, or safety.
 - c. Failure to maintain the building in accordance with applicable law.
 - d. Failure to pay property taxes for more than one year.
10. Buildings that have characteristics of ownership condition, occupancy, or maintenance which are violative of law or public policy.

26.1-30.1-04. New policies.

Sections 26.1-30.1-02 and 26.1-30.1-03 do not apply to insurance policies which have been in effect less than ninety days at the time the notice of cancellation is mailed or delivered. No cancellation under this section is effective until at least ten days after the written notice to the policyholder.

26.1-30.1-05. Longer term policies.

A policy may be issued for a term longer than one year or for an indefinite term with a clause providing for cancellation by the insurer for the reasons stated in section 26.1-30.1-02 by giving a notice as required by section 26.1-30.1-03 at least thirty days prior to any anniversary date.

26.1-30.1-06. Nonrenewal of commercial insurance policies - Notice required - Exceptions.

1. An insurer shall renew the policy, unless at least sixty days prior to the date of expiration provided in the policy, a notice of intention not to renew the policy beyond the agreed expiration date is made to the policyholder. The insurer shall include a statement of the reasons for a nonrenewal with the notice.
2. This section does not apply if the policyholder has insured elsewhere, has accepted replacement coverage, or has requested or agreed to nonrenewal.

26.1-30.1-07. Renewal of insurance with altered rates.

1. Subject to subsection 2, if the insurer offers or purports to renew a policy at less favorable terms as to the dollar amount of coverage or deductibles or increases the rates in excess of fifteen percent, the new terms and new rates may take effect on the renewal date if the insurer has sent to the policyholder notice of the new terms and rates at least ten days prior to the expiration date. If the insurer has not so notified the policyholder, the policyholder may elect to cancel the renewal policy within the ten-day period after receipt of the notice. Earned premium for the period of coverage, if any, must be calculated on a pro rata basis and the rates must be based on the previous policy term.
2. Subsection 1 does not apply if the change relates to guide "A" rates or excess rates also known as "consent to rate".

26.1-30.1-08. Penalties.

1. A violation of any of the provisions of sections 26.1-30.1-01 through 26.1-30.1-07 must be deemed an unfair trade practice in the business of insurance and subject the violator to a penalty as determined by the commissioner not exceeding one thousand dollars for each and every act or violation. After three violations of any of the provisions of sections 26.1-30.1-01 through 26.1-30.1-07 within a twelve-month period, and after a hearing upon fifteen days' notice, the commissioner may revoke the license to transact business in this state of any insurance organization that committed such violations.
2. All notices required by this chapter must be made by first-class mail addressed to the policyholder's last-known address as stated in the policy. Notice by first-class mail is effective upon deposit in the United States mail. In addition to giving notice to the policyholder, the insurer shall also give notice to the agent of record, if any, in the manner specified for the policyholder.