



SPONSOR: Rep. Bush & Sen. Paradee  
Reps. Dorsey Walker, Matthews; Sens. Ennis, Sokola

HOUSE OF REPRESENTATIVES  
151st GENERAL ASSEMBLY

HOUSE BILL NO. 41

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO AUTOMOBILE INSURANCE POLICIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 3903, Title 18 of the Delaware Code by making insertions as shown by underline and  
2 deletions as shown by strike through as follows:

3           § 3903 Cancellation or nonrenewal of automobile policy; definitions; scope.

4           (d) Where an insurer either fails to renew a policy or cancels a policy based solely upon the reason of nonpayment  
5 of premium, the insurer shall renew or reinstate the policy if the insured tenders to the insurer or its agent the full amount  
6 due within 30 days after the end of the policy period or cancellation date. The renewed or reinstated policy shall contain the  
7 same conditions at the same rates or premiums had he or she paid his or her premium on the due date. The effective date of  
8 such renewed or reinstated policy shall be the date of actual receipt by the insurer or its agent of the full premium payment  
9 due. The renewed or reinstated policy shall not cover and the insurer shall not be liable for any losses occurring or claims  
10 which were sustained during the period from the end of the policy period or cancellation date until the date the full  
11 premium payment was actually received by the insurer or its agent, regardless of whether or not such a loss or claim would  
12 otherwise fit within the coverage of such a policy.

13           Section 2. Amend § 3905, Title 18, of the Delaware Code by making insertions as shown by underline and  
14 deletions as shown by strike through as follows:

15           § 3905 Cancellation or nonrenewal of automobile policy – Notice of cancellation or intention not to renew; notice  
16 of reasons

17           (e) Each notice of cancellation, except as provided in § 3903(b), or nonrenewal of a policy shall contain or be  
18 accompanied by a notice of the named insured's right to apply to the Commissioner for ~~a hearing thereon~~ an appeal  
19 therefrom.

20           Section 3. Amend § 3906, Title 18, of the Delaware Code by making insertions as shown by underline and  
21 deletions as shown by strike through as follows:

22           § 3906 Cancellation or nonrenewal of automobile policy – ~~Hearing before~~ Appeal to the Commissioner; order.

(a) A named insured who wishes to contest the reason or reasons for a cancellation or nonrenewal to which § 3904 of this title is applicable shall not less than ~~15~~ 20 days prior to the effective date of cancellation or nonrenewal mail or deliver to the Commissioner a request for ~~a hearing~~ a review, which shall state clearly the basis for the appeal. The Commissioner's review of a named insured's appeal shall be on the papers. This subsection shall not apply to cancellation for nonpayment of premium. A cancellation or nonrenewal which is subject to the provisions of § 3904 of this title shall be deemed effective, unless the Commissioner determines otherwise in accordance with the provisions of such section.

(b) ~~Within 3 working days after receipt of a timely request for a hearing, the Commissioner shall set a hearing date to be held not less than 10 days prior to the effective date of the cancellation or nonrenewal.~~ Within 2 working days after receipt of a timely request for an appeal, the Commissioner shall forward a copy of the insured's request to the insurer. Within 5 working days of its receipt of the appeal, the insurer shall submit to the Commissioner all documentation supporting the insurer's statutory authority to cancel or nonrenew the policy. The Commissioner may, where he or she finds that an unfairness will result to the insured because of delays or other circumstances beyond his or her control, extend the effective date of cancellation or nonrenewal for a period not to exceed 4 days from the date the notice of cancellation or nonrenewal was received by the insured. Each insurer authorized to transact automobile insurance in this State shall maintain a file with the Commissioner of the name and address of the person authorized to receive notices pursuant to this section on behalf of the insurer.

(c) The Commissioner, ~~at the conclusion of any hearing provided for under subsection (b) of this section above or not later than 2 days thereafter~~ based on the documents submitted by the parties and at least 5 days prior to the effective date of the cancellation or nonrenewal, shall issue his or her written findings to the parties and, if he or she finds for the named insured, the Commissioner shall either order the insurer to rescind its notice of cancellation or nonrenewal or, if the date cancellation or nonrenewal is to be effective has lapsed, order the policy reinstated. Such order shall operate retroactively only to cover a period not to exceed 15 days from the date cancellation or nonrenewal otherwise would have been effective and prospectively from the date on which the order was issued, except that no policy shall be reinstated while the named insured is in arrears in payment of premium on the policy. If the Commissioner finds for the insurer, the Commissioner's written order shall so state. Reinstatement of a policy under this subsection shall not operate in any way to extend the expiration, termination or anniversary date provided in the policy.

Section 4. Amend § 3907, Title 18, of the Delaware Code by making insertions as shown by underline and deletions as shown by strike through as follows:

§ 3907 Cancellation or nonrenewal of automobile policy – Nonliability as to information; statements.

52           There shall be no liability on the part of and no cause of action of any nature shall arise against the Commissioner  
53 or the insurer, its authorized representative, its agents, its employees or any firm, person or corporation furnishing to the  
54 insurer information as to reasons for cancellation or refusal to renew any policy under §§ 3903-3906 of this title, for any  
55 statement made by any of them in any written notice or explanation of cancellation or refusal to renew, for the providing of  
56 information pertaining thereto, or for statements made or evidence submitted ~~at the hearings~~ during an appeal conducted in  
57 connection therewith.

58           Section 5. Amend § 3917, Title 18, of the Delaware Code by making deletions as shown by strike through and  
59 insertions as shown by underline and deletions as follows:

60           § 3917 Military deployment as a factor in automobile insurance rates.

61           (a) An insurer shall not use a lapse in an insured's automobile insurance coverage as a factor in determining a new  
62 automobile insurance policy rate if the lapse was due to the cancellation or nonrenewal of the policy by the insurer, the  
63 cancellation of the policy by the insured, or by the insured's failure to pay the policy renewal premium, ~~during or within 48~~  
64 ~~hours of~~ as a result of the insured's deployment, whether inside or outside the continental United States or its waters, as a  
65 member of the military, military reserve, or National Guard. An insurer may require the insured to provide reasonable  
66 documentation to verify the insured's deployment. As used in this section, the term "deployment" does not include a  
67 permanent change of station within the United States.

68           (b) The spouse of an insured protected by subsection (a) of this section shall be similarly protected if that spouse  
69 accompanies an insured on the deployment.

#### SYNOPSIS

Section 1 of this Act clarifies that the reinstatement obligations of insurers under Section 3903(d) apply in instances of both nonrenewals and cancellations of policies due to nonpayment of premiums. Sections 2 through 4 of this Act revise the method by which an insured may contest or appeal a nonrenewal or cancellation of an automobile policy from a hearing process to a review by the Commissioner on the papers, which reflects the Department's prior practices in handling these appeals and provides a more streamlined and efficient process for timely reviewing a consumer's appeal. Section 5 of this Act extends the protections against unfair automobile insurance rating practices related to a service member's deployment to deployments both within and outside of the U.S. and its waters.