

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 755

S. P. 258

In Senate, February 12, 1973

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Tanous of Penobscot.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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AN ACT Relating to the Maine Automobile Insurance Cancellation Control Act.

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Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 24-A, c. 39, sub-c. II, additional. Chapter 39 of Title 24-A of the Revised Statutes, as enacted by section 1 of chapter 132 of the public laws of 1969 and as amended, is further amended by adding a new subchapter II to read as follows:

SUBCHAPTER II

AUTOMOBILE INSURANCE CANCELLATION CONTROL ACT

§ 2911. Title

This subchapter shall be known as the "Maine Automobile Insurance Cancellation Control Act."

§ 2912. Definitions

As used in this subchapter, unless otherwise required by the context, the following words shall have the following meanings.

1. Policy. "Policy" means an automobile insurance policy providing bodily injury liability, property damage liability, medical payments, uninsured motorist coverage, physical damage coverage, or any combination thereof, delivery or issued for delivery in this State, insuring a single individual or one or more related individuals resident in the same household, as named insured and insuring vehicles of the following types only:

A. Motor vehicles of the private passenger or station wagon type which are not used as public conveyances nor rented to others;

B. Any other 4-wheel motor vehicles with a load capacity of 1,500 pounds or less which are not used in the business or professions of the insured.

2. Renewal or renew. "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the previous policy term a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the coverage of the policy beyond its original term. Any renewal policy, other than a replacement policy for an unfinished term, with a term of 6 months or less shall be considered written, for the purposes of this subchapter, for a term of 6 months.

Any policy written for a term longer than one year or with no fixed expiration date shall be considered written for successive policy terms of one year.

3. Nonpayment of premium. "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premium on the policy, or any installment of a premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

#### § 2913. When not applicable

This subchapter shall not apply to any policy:

1. Insured under an automobile assigned risk plan;
2. Covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards;
3. Insuring more than 4 automobiles;
4. Issued principally to cover personal or premises liability of an insured even though such insurance may also provide some incidental coverage for liability arising out of the ownership, maintenance or use of a motor vehicle on the premises of such insured or on the ways immediately adjoining the premises.

#### § 2914. Notice of cancellation—reasons

No policy may be cancelled except by notice to the insured and any other person mentioned in the loss payable clause of an automobile physical damage policy, as provided in this subchapter.

No notice of cancellation of a policy shall be effective unless it is based on one or more of the following reasons:

1. Nonpayment of premium;
2. Fraud or material misrepresentation affecting the policy or the presentation of a claim;
3. Violation of terms or conditions of the policy;

4. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has his driver's license suspended or revoked during the policy term or, if the policy is a renewal, during its term or the 180 days immediately preceding its effective date.

This section shall not apply to any policy or coverage which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy. This section shall not apply to the nonrenewal of a policy.

During the policy period no modification of automobile physical damage coverage, except coverage for loss caused by collision, whereby provision is made for the application of a deductible amount not exceeding \$100, shall be deemed a cancellation of the coverage or of the policy.

#### § 2915. Delivery of notice

No notice of cancellation of a policy shall be effective unless mailed or delivered by the insurer to the named insured at least 20 days prior to the effective date of cancellation, or, where the cancellation is for nonpayment of premium, at least 10 days prior to the date of cancellation. In the event the policy is an automobile physical damage policy, like notice of cancellation shall also be given to any other person mentioned in the loss payable clause. A post-office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of cancellation, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than 15 days prior to the date of cancellation, the insurer will state the reason for cancellation, together with notification of the right to a hearing before the commissioner within 15 days as provided.

When the reason does not accompany the notice of cancellation, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for cancellation. A statement of reason shall be mailed or delivered to the named insured within 5 days after receipt of a request.

#### § 2916. Automobile insurance, cancellation, nonrenewal and certain changes because of age, prohibited

No insurance company authorized to transact business in this State shall cancel, reduce liability limits, refuse to renew or increase the premium of any automobile insurance policy of any kind whatsoever for the sole reason that the person to whom such policy has been issued has reached a certain age.

#### § 2917. Notice of intent

No insurer shall fail to renew a policy except by notice to the insured as provided in this subchapter. A notice of intention not to renew shall not be effective unless mailed or delivered by the insurer to the named insured at least 30 days prior to the expiration date of the policy. A post-office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accom-

panies the notice of intent not to renew, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than 20 days prior to the expiration date of the policy, the insurer will state the reason for nonrenewal.

When the reason does not accompany the notice of intent not to renew, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for nonrenewal, together with notification of the right to a hearing before the commissioner within 15 days as provided. A statement of reason shall be mailed or delivered to the named insured within 10 days after receipt of a request.

This section shall not apply:

1. If the insurer has manifested its willingness to renew;
2. If the insured fails to pay any premium due or any advance premium required by the insurer for renewal.

#### § 2918. Duplicate coverage

If an insured obtains a 2nd policy which provides equal or more extensive coverage for any vehicle designated in both policies, the first policy's coverage of such vehicle may be terminated by failure to renew as of the effective time and date of the 2nd policy, whether or not the first policy insurer complies with all provisions of section 2917.

#### § 2919. Renewal not a waiver or estoppel

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of renewal.

#### § 2920. Hearing before commissioner

Any named insured who has received a statement of reason for cancellation, or of reason for an insurer's intent not to renew a policy, may, within 15 days of the receipt or delivery of a statement of reason, request a hearing before the Insurance Commissioner. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence used by the insurer in its reason for cancellation or intent not to renew. The burden of proof of the reason for cancellation or intent not to renew shall be upon the insurer. The Insurance Commissioner shall adopt rules and regulations for carrying out this section.

#### § 2921. Insured told of alternate coverage

When automobile bodily injury and property damage liability coverage is cancelled or not renewed, other than for nonpayment of premium, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance through the Maine Automobile Insurance Plan. Such notice shall accompany the notice of cancellation or intent not to renew.

#### § 2922. Immunity of liability

There shall be no liability on the part of, and no cause of action of any nature shall arise against the Insurance Commissioner or any employee of the

Insurance Department of Maine or against any insurer, its authorized representatives, its agents, its employees, or against any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or intent not to renew, for any statement made by any of them in any written notice of cancellation or notice of intent not to renew or in any other communication, oral or written, specifying the reasons for cancellation or intent not to renew or for any information provided or evidence submitted at any hearings conducted in connection with reasons for cancellation or intent not to renew.

Sec. 2. R. S., T. 24-A, §§ 2905 and 2906, repealed. Section 2905, as enacted by section 1 of chapter 132 of the public laws of 1969, and section 2906, as enacted by chapter 160 and as amended by section 79 of chapter 622, both of the public laws of 1971, of Title 24-A of the Revised Statutes, are repealed.

#### STATEMENT OF FACT

The purpose of this bill is to limit a company's right to cancel certain policies covering motor vehicles of the private passenger type and to contractually obligate a company to give proper notice of nonrenewal and to furnish reasons for any termination of the contract.