

FIRST REGULAR SESSION

SENATE BILL NO. 256

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLAND.

Read 1st time January 12, 1999, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

L0721 011

AN ACT

To repeal sections 375.001, 375.002, 375.003, 375.004, 375.005, 375.007, and 375.008, RSMo 1994, relating to cancellation of insurance policies, and to enact in lieu thereof six new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 375.001, 375.002, 375.003, 375.004, 375.005, 375.007, and 375.008, RSMo 1994, are repealed and six new sections enacted in lieu thereof, to be known as sections 375.001, 375.008, 1, 2, 3 and 4, to read as follows:

375.001. As used in sections 375.001 to 375.008 **and sections 1 to 4 of this act**, the following words and terms mean:

(1) **"Director", the director of the department of insurance or any person duly appointed to act on behalf of the director of the department of insurance;**

(2) **"Eligible person", a person who is either the owner of a dwelling or a tenant of a dwelling of any of the following types: a house, a condominium unit, a cooperative unit, a mobile home, a room, or an apartment; or a person who is the owner-occupant of a multiple unit dwelling of not more than four residential units. Eligible person does not include any of the following:**

(a) **A person who has been convicted, in the immediately preceding five-year period, of one or more of the following crimes:**

a. Arson or conspiracy to commit arson;

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

b. Robbery, burglary or stealing or conspiracy to commit robbery, burglary or stealing; or

c. A fraudulent insurance act or conspiracy to commit a fraudulent insurance act;

(b) A person who insures or seeks to insure a dwelling which is being used for an illegal or demonstrably hazardous purpose which is relevant to an insured peril;

(c) A person whose real property taxes, with respect to the dwelling insured or to be insured, have been and are delinquent for two or more years at the time of renewal of, or application for, a policy;

(d) A person who fails to pay the premium installment due in order to obtain, or continue, the insurance requested;

(e) A person who fails to adequately complete reasonable questions upon a written application;

(3) "Eligible property", residential property with less than four dwelling units and the personal property located within such units, subject to reasonable limitations as to coverage. Eligible property does not include any of the following:

(a) Property, the physical condition of which does not comply with the applicable provisions of a housing or safety code;

(b) Property, the physical condition of which, based upon an inspection by a qualified building inspector, presents a substantial likelihood of a significant loss pursuant to the liability coverages of a policy;

(c) Property which remains unoccupied for more than thirty days, if there is evidence of the intent of the applicant or insured to vacate or keep the premises unoccupied;

(d) Property adjacent to a physical hazard which presents a significant risk of loss directly related to the insured perils, or to be insured against, for which a rate surcharge is not applicable;

(e) When a replacement value policy is requested, property, the replacement value of which exceeds its market value by such an extent as to pose a moral hazard. Where an eligible person has requested a replacement value policy on property that would be eligible property except for its failure to meet the criterion listed in this paragraph, the insurer shall offer the eligible person a market value policy;

(4) "Insurer", all insurance companies, reciprocals, or interinsurance exchanges transacting the business of insurance in this state;

[(2)] (5) "Nonpayment of premium", failure of the named insured to discharge when due any of [his] the insured's obligations in connection with the payment of premiums on the policy, or any installment of the premium, whether the premium is payable directly to the insurer or its agent or indirectly [under] pursuant to any premium finance plan or extension of credit;

[(3)] **(6)** "Nonrenewal", the determination of an insurer not to issue or deliver a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer or a certificate or notice extending the term of a policy beyond its policy period or term;

[(4)] **(7)** "Policy", a contract of insurance providing fire and extended coverage insurance, whether separately or in combination with other coverages, [on owner-occupied habitational property not exceeding two families] **on residential property with less than four dwelling units or on personal property**. "Policy" does not include any insurance contracts issued [under] **pursuant to** a property insurance inspection and placement program ("FAIR" plan) or an assigned risk plan, or any insurance contracts insuring property not used predominantly for habitational purposes[, or an insurance contract insuring a mobile home];

(8) "Refuse to insure":

(a) Refusal by an insurance agent to submit an application on behalf of an applicant to any of the insurers represented by the agent;

(b) Refusal by an insurer to issue a policy to an applicant upon receipt of an application for a policy;

(c) Refusal by an insurer or agent to provide, upon the request of an applicant, an application form or other means of making an application or request for a policy;
or

(d) Cancellation or nonrenewal of an existing policy;

[(5)] **(9)** "Renewal" or "to renew", the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of the policy beyond its policy period or term. [Any policy with a policy period or term of less than six months shall for the purposes of sections 375.001 to 375.008 be considered as if written for a policy period or term of six months. Any policy written for a term longer than one year or any policy with no fixed expiration date, shall for the purpose of sections 375.001 to 375.008, be considered as if written for successive policy periods or terms of one year, and the policy may be terminated at the expiration of any annual period upon giving thirty days' notice of cancellation prior to the anniversary date, and the cancellation shall not be subject to any other provisions of sections 375.001 to 375.008.]

375.008. Sections 375.001 to 375.008 **and sections 1 to 4 of this act** do not apply to any insurer ordered by the director to restrict its writings of business [under] **pursuant to** the provisions of section 375.535, RSMo.

Section 1. 1. As a condition of maintaining its certificate of authority, an insurer shall not refuse to insure an eligible person who has an insurable interest in eligible property.

2. A duly licensed insurance agent licensed to represent one or more insurers

shall, as a condition of licensure:

(1) Provide each eligible person seeking a policy on eligible property premium quotations for the forms or types of insurance coverages which are offered by the insurers represented by the agent and which are sought by the eligible person; and

(2) Upon request, submit an application of the eligible person for a policy on eligible property to the insurer selected by the eligible person.

3. The premium quotation shall be accurate and in accordance with the rates and rating plans as filed by the insurer in accordance with section 379.321, RSMo. No insurer or agent shall deny an eligible person a written premium quotation on eligible property.

Section 2. 1. If any insurer refuses to renew a policy or cancels a policy, the insurer shall follow the procedures for notice of an explanation of cancellation of, or refusal to renew, a contract for private passenger automobile insurance as set forth in section 379.118, RSMo;

2. If any insurer refuses to write a policy, the insurer shall follow the procedures for notice of and explanation of refusal to write a contract for private passenger automobile insurance as set forth in section 379.120, RSMo;

Section 3. Where an eligible person has requested a policy on property that would be eligible property except for its failure to meet the criteria listed in paragraph (a), (b), (c) or (d) of subdivision (3) of section 375.001, RSMo, an insurer shall offer the eligible person an endorsement which removes coverage for any peril directly related to the criterion the property fails to meet.

Section 4. An insurer shall not penalize an individual agent because of the geographic location of business written by the agent.

[375.002. 1. A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

- (1) Nonpayment of premium; or
- (2) Fraud or material misrepresentation affecting the policy or in the presentation of a claim thereunder, or violation of any of the terms or conditions of the policy; or
- (3) The named insured or any occupant of the property has been convicted of a crime arising out of acts increasing the hazard insured against; or
- (4) Physical changes in the property insured which increase the hazards originally insured.

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

3. This section shall not apply to nonrenewal.]

[375.003. 1. No notice of cancellation of a policy to which section 375.002 applies

shall be effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the effective date of cancellation. However, where cancellation is for nonpayment of premium at least ten days' notice of cancellation shall be given. The notice shall state the insurer's actual reason for proposing the action, the statement of reason to be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without further inquiry. Generalized terms such as "personal habits", "living conditions", or "poor morals" shall not suffice to meet the requirements of this subsection. The notice shall also state that the insured may be eligible for insurance through the Missouri basic property insurance inspection and placement program.

2. This section shall not apply to nonrenewal.]

[375.004. 1. No insurer shall refuse to renew a policy unless the insurer or its agent mails or delivers to the named insured, at the address shown in the policy, at least thirty days' advance notice of its intention not to renew. The notice shall state the insurer's actual reason for proposing the action, the statement of reason to be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without further inquiry. Generalized terms such as "personal habits", "living conditions", or "poor morals" shall not suffice to meet the requirements of this subsection. The notice shall also state that the insured may be eligible for insurance through the Missouri basic property insurance inspection and placement program. This section shall not apply:

- (1) If the insurer has manifested its willingness to renew; or
- (2) In case of nonpayment of premium; or
- (3) If the named insured has indicated he does not wish to have the policy renewed;

or

(4) If the insured fails to pay any advance premium required by the insurer for renewal.

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

[375.005. Proof of mailing notice of cancellation, or of intention not to renew or of reasons for cancellation, to the named insured at the address shown in the policy, shall be sufficient proof of notice.]

[375.007. No insurer shall cancel or refuse to write or refuse to renew a policy solely because of the age, place of residence, race, sex, color, creed, national origin, ancestry or lawful occupation, including the military service, of anyone who is or seeks to become insured or solely because another insurer has refused to write a policy, or has canceled or has refused to renew an existing policy in which that person was the named

insured, nor shall any insurance company or its agent or representative require any applicant or policyholder to divulge in a written application or otherwise whether any insurer has canceled or refused to renew or issue to the applicant or policyholder a policy of insurance. The provisions of this section do not apply to those instances where the hazard insured against under a policy is increased because of exposure to loss attributable solely to the place of residence or lawful occupation of anyone who is or seeks to be insured.]

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