

211 CMR: DIVISION OF INSURANCE

211 CMR 97.00: PROCEDURES FOR CANCELLATION AND NON-RENEWAL OF MOTOR VEHICLE INSURANCE POLICIES

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97.01: Purpose, Scope and Authority

211 CMR 97.00, promulgated pursuant to M.G.L. c. 174A, M.G.L. c. 175, § 193R and M.G.L. c. 175A governs the procedures for the cancellation and non-renewal of Motor Vehicle Insurance Policies.

97.02: Definitions

As used in 211 CMR 97.00, the following words mean:

Board of Appeal. The Board of Appeal on Motor Vehicle Liability Policies and Bonds established pursuant to M.G.L. c. 26, § 8A.

Cancellation. Termination of an existing Motor Vehicle Insurance Policy, at the request of either the Insurer or the Policyholder, as of an effective date prior to the policy's expiration date.

Commissioner. The Commissioner of Insurance appointed pursuant to M.G.L. c. 26, § 6, or his or her designee.

Division. The Division of Insurance, established pursuant to M.G.L. c. 26, § 1.

Insurer. Any corporation, association, partnership, group or individual engaged as a principal authorized to issue a Motor Vehicle Insurance Policy to an applicant for motor vehicle insurance in the Commonwealth of Massachusetts.

Motor Vehicle Insurance Policy. A certificate, as defined in M.G.L. c. 90, §§ 34A and 34O, evidencing insurance coverage on a motor vehicle.

Non-renewal. A declination to renew an existing Motor Vehicle Insurance Policy at the request of either the Insurer or the Policyholder, upon the expiration date of that policy.

Notice. The written communication delivered by an Insurer or a Policyholder indicating the intent of the Insurer or the Policyholder to cancel or non-renew an existing Motor Vehicle Insurance Policy.

Person. An Insurer or a Policyholder who initiates the Cancellation or Non-renewal of an existing Motor Vehicle Insurance Policy.

Policyholder. The named insured on the Motor Vehicle Insurance Policy, or any person the named insured identifies as his or her representative for purposes of giving or receiving notices relating to the Motor Vehicle Insurance Policy.

Registrar of Motor Vehicles. The Registrar of Motor Vehicles appointed pursuant to M.G.L. c. 16, § 9, or his or her designee.

Short Rate. A fixed dollar value or percentage of premium, representing an Insurer's fixed policy acquisition expenses incurred prior to the date a Motor Vehicle Insurance Policy becomes effective, that an Insurer includes in its motor vehicle insurance rate manual filed with the Commissioner and uses to adjust return premium when a policyholder cancels a policy.

97.03: Policy Cancellation

(1) Cancellation Initiated by the Insurer. An Insurer may cancel a Motor Vehicle Insurance Policy, other than a Motor Vehicle Insurance Policy issued to a Policyholder who is an individual member of a group insured pursuant to a group marketing plan under M.G.L. c. 175, § 193R, at any time during the policy effective period only for the following reasons:

1. Non-payment of premium;
2. Fraud or material misrepresentation in the application for or renewal of the policy;
3. Suspension or revocation during the policy period of the operator's license or motor vehicle registration of the named insured or any other person residing in the same household as the named insured and who usually operates a motor vehicle insured under the policy;
4. Removal of certain coverage(s) of the Motor Vehicle Insurance Policy pursuant to the provisions of M.G.L. c. 175, § 113H(A)(7); or
5. Failure by the Policyholder to comply with the Insurer's request for a vehicle inspection under M.G.L. c. 90, § 34O.

(b) An Insurer may cancel a Motor Vehicle Insurance Policy up to 90 days after the policy's renewal effective date for either of the following reasons:

1. The Insurer is making a general reduction in the volume of motor vehicle insurance it writes in the Commonwealth in accordance with M.G.L. c. 175, § 22E; or
2. The applicant for insurance has failed to complete a renewal application and return it to the Insurer at least 30 days before the expiration date of the previous Motor Vehicle Insurance Policy.

(c) An Insurer may cancel a Motor Vehicle Insurance Policy issued to an individual member of a group insured pursuant to a group marketing plan under M.G.L. c. 175, § 193R only for the following reasons:

1. Non-payment of premium;
2. Fraud;
3. The individual member of the group insured pursuant to the group marketing plan has lost his or her motor vehicle registration or operator's license for a period of one year or more; or
4. Motor vehicle insurance coverage for the entire group insured pursuant to the group marketing plan has been cancelled.

(2) Cancellation Initiated by the Policyholder. A Policyholder may cancel a Motor Vehicle Insurance Policy, or any of its coverage parts, at any time.

97.04: Content of Notices of Cancellation

(1) Required Content of Notices of Cancellation. Notices of Cancellation must be in writing and must include the following information:

- (a) A title which indicates the nature of the Notice;
- (b) The complete name and address of the Person requesting Cancellation;
- (c) The complete name and address of the Person to whom the Notice of Cancellation is sent;
- (d) The policy number or other identifier specifying the Motor Vehicle Insurance Policy being cancelled;
- (e) The date on which the Person intends the Cancellation of the Motor Vehicle Insurance Policy to take effect; and
- (f) The Person's specific reason for the Cancellation. An Insurer may not use phrases such as "underwriting reasons" as the reason for Cancellation. An Insurer must inform the Policyholder of the specific facts on which the Insurer based its decision to cancel the Motor Vehicle Insurance Policy.

(2) A Notice of Cancellation that an Insurer issues to a Policyholder also must comply with the following requirements:

- (a) If the Cancellation is for non-payment of premium, the Notice of Cancellation shall state clearly the amount of premium and of any applicable fees included in the Insurer's premium payment plan approved by the Commissioner that are owed to the Insurer for the existing Motor Vehicle Insurance Policy and shall state further that the Cancellation will not take effect if the Policyholder pays the full amount of premium and fees owed on or before the effective date of the Cancellation. The Notice of Cancellation shall inform the Policyholder of options for making such payment; and

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(b) The Notice of Cancellation shall include the following language, unless the Notice was issued as a result of non-payment of premium for a Motor Vehicle Insurance Policy insuring a motor vehicle registered as a taxicab or public livery use, or unless the Commissioner of Insurance approves alternate language.

IMPORTANT NOTICE TO POLICYHOLDERS: Please read carefully the information below which outlines your legal rights relative to this cancellation.

INFORMATION ABOUT MINIMUM INSURANCE REQUIREMENTS

Massachusetts law requires that every motor vehicle registered in Massachusetts carry minimum motor vehicle liability insurance. The Registrar of Motor Vehicles will revoke your registration and license plates on the effective date of cancellation shown in this notice unless:

1. We reinstate your required minimum motor vehicle insurance; or
2. Before the date of cancellation shown in this notice you obtain minimum motor vehicle insurance from another insurance company. The new insurance company must notify the Registrar before the date of cancellation in this notice that it has insured your motor vehicle.

If you are unable to obtain motor vehicle insurance from another insurance company, you may be eligible to obtain motor vehicle insurance through the Massachusetts residual market plan. Almost all insurance agents and all insurance companies are authorized to help you apply for motor vehicle insurance through the plan. If you apply for motor vehicle insurance through the plan, you will be not be able to choose an insurer, but you will be assigned to an insurance company. In some cases, you may not be able to obtain coverage through the plan that is identical to the coverage that was not renewed; or

3. Before the effective date of cancellation shown in this notice you file with the Commissioner of Insurance a written complaint on a form prescribed and furnished by the Commissioner of Insurance. The form is available on the Division of Insurance website by searching "Cancellation Appeal Form" at www.mass.gov/doi or can be obtained by calling the Division's Consumer Service Section at 617-521-7777.

Unless one of the three above actions occurs, the registration for your motor vehicle will be revoked on the effective date of cancellation shown in this notice.

(3) Procedures for Delivering a Notice of Cancellation. The written Notice of Cancellation must be sent to the intended recipient at least 20 days before the proposed effective date of Cancellation of the Motor Vehicle Insurance Policy. The Insurer must notify the Registrar of Motor Vehicles of the Cancellation of a Motor Vehicle Insurance Policy, whether initiated by the Insurer or the Policyholder, in accordance with the procedures prescribed by the Registrar.

(a) Notification Procedures Applicable to Insurers. The Insurer must give written Notice of Cancellation to the Policyholder and to any loss payee identified on the Policyholder's coverage selections or declaration page of the Motor Vehicle Insurance Policy in any of the following ways:

1. Delivery in hand to the Policyholder;
2. Delivery in hand to the Policyholder's last address known to the Insurer (business, residence or other); or
3. Delivery by first class mail forwarded to the Policyholder's last address known to the Insurer (business, residence or other). If the Insurer mails the Notice of Cancellation to the Policyholder, it will not be deemed effective unless the Insurer obtains a certificate of mailing receipt from the United States Postal Service showing the name and address of the Policyholder to whom the Notice of Cancellation was mailed.

(b) Notification Procedures Applicable to Policyholders. A Policyholder must give written Notice of Cancellation either to the Insurer or by notifying the insurance producer through whom the Policyholder purchased the Motor Vehicle Insurance Policy. Notice of Cancellation may be given by any reasonable means, including hand delivery or first class mail.

(4) Insurer Notice of Reinstatement of a Motor Vehicle Insurance Policy After Issuing Notice of Cancellation. An Insurer that reinstates a Motor Vehicle Insurance Policy after issuing a Notice of Cancellation must notify the Registrar of Motor Vehicles of such reinstatement in accordance with the procedures prescribed by the Registrar.

97.05: Return Premium Applicable to Cancelled Motor Vehicle Insurance Policies

(1) If premium payments have been made on a Motor Vehicle Insurance Policy which is cancelled, the Policyholder may be entitled to the return of premium paid for the unexpired term of that policy. Return premium, if any, shall be determined based on the rates in effect for the Insurer on the date the cancelled Motor Vehicle Insurance Policy first became effective.

(2) An Insurer that cancels a Motor Vehicle Insurance Policy shall calculate return premium on a *pro rata* basis as of the intended effective date of Cancellation, or the date upon which a new certificate of insurance is filed with the Registrar of Motor Vehicles covering the same vehicle that was insured under the cancelled policy, if the effective date of the new Motor Vehicle Insurance Policy is prior to the intended Cancellation date of the cancelled Motor Vehicle Insurance Policy. Any return premium associated with the unexpired portion of the term of the cancelled Motor Vehicle Insurance Policy shall be delivered to the Policyholder within 30 days of the effective date of Cancellation of that policy.

(3) If a Motor Vehicle Insurance Policy that an Insurer cancelled is reinstated by the Board of Appeal or by order of a court in any legal proceeding that the Policyholder initiated relating to the Cancellation, any return premium shall be calculated based on the rates in effect when the cancelled Motor Vehicle Insurance Policy first became effective.

(4) If a Policyholder cancels a Motor Vehicle Insurance Policy, return premium, if any, shall reflect the unexpired portion of the term of the cancelled policy, *pro rata*, in any of the following circumstances:

(a) The Policyholder cancels the Motor Vehicle Insurance Policy within the first 30 days from the date on which the policy becomes effective or the date on which the Policyholder receives the policy documents, whichever is later;

(b) The Policyholder cancels the Motor Vehicle Insurance Policy within 30 days after the date on which the insured motor vehicle is stolen or destroyed, if the loss to the motor vehicle is a total loss or total constructive loss. The return premium, if any, shall be calculated from the day following the date of loss;

(c) The Policyholder cancels the Motor Vehicle Insurance Policy because of entry into the military service of the United States of America; or

(d) The Policyholder cancels a Motor Vehicle Insurance Policy issued through the Massachusetts residual market plan because coverage has been obtained in the voluntary market. The return premium, if any, shall be calculated from the effective date of the Motor Vehicle Insurance Policy that replaces the policy issued through the residual market plan.

Nothing precludes an Insurer from identifying other circumstances in which it will calculate the return premium to the Policyholder on a *pro rata* basis without short rate adjustments.

(5) In all other cases, if the Policyholder cancels a Motor Vehicle Insurance Policy the Insurer may reduce the otherwise calculated return premium in accordance with any short rate adjustments contained in the Insurer's motor vehicle insurance rate manual filed with the Commissioner and in effect on the date the policy became effective.

(6) If a Motor Vehicle Insurance Policy terminates by operation of law, return premium, if any, is calculated based on the date of such automatic termination, regardless of any other intended date of Cancellation proposed by the Insurer or the Policyholder. A Motor Vehicle Insurance Policy terminates by operation of law in any of the following circumstances:

(a) Another Insurer files with the Registrar of Motor Vehicles a certificate of insurance covering the same motor vehicle or trailer covered by the terminating policy. The date of termination is the date on which a new certificate of insurance filed with the Registrar of Motor Vehicles becomes effective;

(b) The owner of the motor vehicle or trailer sells or transfers title. The date of termination is 30 days after such sale or transfer unless the owner, within that 30 day period, transfers the registration of the motor vehicle or trailer to a replacement motor vehicle or trailer; or

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(c) The owner of the motor vehicle or trailer surrenders the registration plates issued by the Registrar of Motor Vehicles for the motor vehicle or trailer to the Registrar of Motor Vehicles, along with a written statement, in such form as the Registrar of Motor Vehicles may require, indicating that such registration plates are being surrendered to cancel the registration of the motor vehicle or trailer, as well as the Motor Vehicle Insurance Policy covering such motor vehicle or trailer. If the registration plates have been lost or stolen, the owner of the motor vehicle or trailer may cancel the registration of the motor vehicle or trailer by filing a lost plate affidavit with the Registrar of Motor Vehicles in accordance with procedures prescribed by the Registrar.

(7) When a Motor Vehicle Insurance Policy terminates by operation of law, the return premium, if any, may be reduced in accordance with any short rate adjustments contained in the Insurer's motor vehicle insurance rate manual filed with the Commissioner and in effect on the date the policy became effective.

97.06: Policy Non-renewal

(1) Required Content of Notices of Non-renewal. Notices of Non-renewal must be in writing and must include the following information:

- (a) A title which indicates the nature of the Notice;
- (b) The complete name and address of the Person requesting Non-renewal;
- (c) The complete name and address of the Person to whom the Notice of Non-renewal is sent;
- (d) The policy number or other identifier specifying the Motor Vehicle Insurance Policy being non-renewed;
- (e) The date on which the non-renewing Motor Vehicle Insurance Policy will expire; and
- (f) An Insurer must comply with all Massachusetts laws and regulations relating to non-renewal of a Motor Vehicle Insurance Policy. An Insurer that issues a Notice of Non-renewal must state the reason for the Non-renewal. An Insurer may not use phrases such as "underwriting reasons" as the reason for Non-renewal. An Insurer must inform the Policyholder of the specific facts on which the Insurer based its decision not to renew the Motor Vehicle Insurance Policy.

(2) Required Language of Notices of Non-renewal. A Notice of Non-renewal that an Insurer issues to a Policyholder of a private passenger Motor Vehicle Insurance Policy also must include the following language, unless the Commissioner approves alternate language.

IMPORTANT NOTICE TO POLICYHOLDERS

You must have compulsory motor vehicle insurance in order to keep your motor vehicle registered in Massachusetts. We have notified the Registrar of Motor Vehicles and you of our intent to non-renew your motor vehicle insurance policy.

You must replace your policy as soon as possible. The Registrar of Motor Vehicles will cancel your motor vehicle registration if it does not receive a new certificate of insurance covering your motor vehicle before your current policy expires. You may contact an insurance company directly, or work with a licensed insurance agent to obtain new insurance from a company that the insurance agent represents.

If no insurance company is willing to insure you, you may be eligible to obtain motor vehicle insurance through the Massachusetts residual market plan. Almost all insurance agents and all insurance companies are authorized to help you apply to the plan. If you apply for insurance through the plan, you will not be able to choose an insurer, but you will be assigned to an insurance company. In some cases, you may not be able to obtain coverage through the plan that is identical to the insurance coverage that was not renewed.

This notice shall not be deemed a refusal under M.G.L. c. 175, § 113D to issue a motor vehicle liability policy or to execute a motor vehicle liability bond as surety.

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- (3) Procedures for Delivering a Notice of Non-renewal.
- (a) Notification Procedures Applicable to Insurers. An Insurer must give written Notice that it will not renew an existing Motor Vehicle Insurance Policy 45 days in advance of the policy expiration date. Notices of Non-renewal must be given as follows:
1. For policies with expiration dates between April 1, 2009 and March 31, 2010, the Insurer shall send the Notice of Non-renewal to the insurance producer of record, regardless of whether that insurance producer is then appointed as an agent of the Insurer.
 2. For policies with expiration dates on or after April 1, 2010, the Insurer shall send the Notice of Non-renewal to the insurance producer of record only if that producer is then appointed as an agent of the Insurer. If the Insurer has terminated that insurance producer's agent appointment, the Insurer must send the Notice of Non-renewal to the Policyholder.
 3. For all policies, if the insurance producer of record no longer is licensed as an insurance producer by the Commissioner, the Insurer shall send the Notice of Non-renewal to the Policyholder.
- (b) Notification Procedures Applicable to Insurance Producers.
1. The insurance producer who receives a Notice of Non-renewal from an Insurer shall send a copy of the Notice of Non-renewal to the Policyholder within 15 days of receiving such Notice, unless another Insurer has issued a Motor Vehicle Insurance Policy covering the motor vehicle insured under the non-renewing Motor Vehicle Insurance Policy.
 2. An insurance producer who receives a Notice of Non-renewal from a Policyholder must notify the Insurer promptly that the Policyholder does not intend to renew the Motor Vehicle Insurance Policy.
- (c) Notification Procedures to the Registrar of Motor Vehicles. The Insurer shall send the Notice of Non-renewal to the Registrar of Motor Vehicles at least 45 days prior to the expiration of the Policy in accordance with procedures of the Registrar of Motor Vehicles.
- (d) Effect of Failure to Comply with Non-renewal Notice Requirements.
1. An Insurer that fails to comply with the statutory requirements related to a Notice of Non-renewal, or that sends such Notice of Non-renewal and then subsequently renews the Motor Vehicle Insurance Policy, must, at the Policyholder's request, issue motor vehicle insurance coverage of at least the same type and amount as existed on the non-renewed Motor Vehicle Insurance Policy.
 2. The failure of an insurance producer to comply with the requirements for sending a Notice of Non-renewal to a Policyholder or to an Insurer may be grounds for revoking an insurance producer's license and may be considered an unfair or deceptive act or practice in the business of insurance.
- (e) Insurer Notice of Reinstatement of a Motor Vehicle Insurance Policy After Issuing Notice of Non-renewal. An Insurer that reinstates a Motor Vehicle Insurance Policy after issuing a Notice of Non-renewal must notify the Registrar of Motor Vehicles of such reinstatement in accordance with the procedures prescribed by the Registrar of Motor Vehicles.

97.07: Severability

The provisions of 211 CMR 97.00 are severable. If any section, subsection, division, subdivision, paragraph, sentence or clause of 211 CMR 97.00 is held invalid or unconstitutional, such decision shall not affect the remaining portions of 211 CMR 97.00.

REGULATORY AUTHORITY

211 CMR 97.00: M.G. L. c. 175, §§3A, 113A, 13F, and 176D.