

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 468\*  
Insurance and Consumer Protection Committee Substitute Adopted 4/4/01  
House Committee Substitute Favorable 6/5/01

Short Title: Workers' Comp. Cancellations and Renewals-AB.

(Public)

Sponsors:

Referred to:

March 15, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR GUIDELINES, RIGHTS, AND OBLIGATIONS IN  
WORKERS' COMPENSATION INSURANCE POLICY CANCELLATIONS AND  
NONRENEWALS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 97-99 reads as rewritten:

**"§ 97-99. Law written into each insurance policy; form of policy to be approved by  
Commissioner of Insurance; cancellation; single catastrophe hazards.**

(a) Every policy for the insurance of the compensation ~~herein provided, in this~~  
Article, or against liability therefor, shall be deemed to be made subject to the  
provisions of this Article. No corporation, association or organization shall enter into  
any such policy of insurance unless its form ~~shall have~~ has been approved by the  
Commissioner of Insurance. ~~No policy form shall be approved unless the same shall~~  
~~provide a 30-day prior notice of an intention to cancel same by the carrier to the insured~~  
~~by registered mail or certified mail. This shall not apply to the expiration date shown in~~  
~~the policy. The carrier may cancel the policy for nonpayment of premium on 10 days'~~  
~~written notice to the insured, and the insured may cancel the policy on 10 days' written~~  
~~notice to the carrier. Whenever notice of intention to cancel is required to be given by~~  
~~registered or certified mail, no cancellation by the insurer shall be effective unless and~~  
~~until such method is employed and completed.~~

(b) This Article shall not apply to policies of insurance against loss from  
explosion of boilers or flywheels or other similar single catastrophe hazards: Provided,  
that nothing ~~herein contained shall be construed to relieve the~~ in this Article relieves an  
employer from liability for injury or death of an employee as a result of such an  
explosion or catastrophe."

**SECTION 2.** Article 36 of Chapter 58 of the General Statutes is amended by  
adding two new sections to read:

1 "§ 58-36-105. Certain workers' compensation insurance policy cancellations  
2 prohibited.

3 (a) No policy of workers' compensation insurance or employers' liability  
4 insurance written in connection with a policy of workers' compensation insurance shall  
5 be cancelled by the insurer before the expiration of the term or anniversary date stated  
6 in the policy and without the prior written consent of the insured, except for any one of  
7 the following reasons:

- 8 (1) Nonpayment of premium in accordance with the policy terms.
- 9 (2) An act or omission by the insured or the insured's representative that  
10 constitutes material misrepresentation or nondisclosure of a material  
11 fact in obtaining the policy, continuing the policy, or presenting a  
12 claim under the policy.
- 13 (3) Increased hazard or material change in the risk assumed that could not  
14 have been reasonably contemplated by the parties at the time of  
15 assumption of the risk.
- 16 (4) Substantial breach of contractual duties, conditions, or warranties that  
17 materially affects the insurability of the risk.
- 18 (5) A fraudulent act against the company by the insured or the insured's  
19 representative that materially affects the insurability of the risk.
- 20 (6) Willful failure by the insured or the insured's representative to institute  
21 reasonable loss control measures that materially affect the insurability  
22 of the risk after written notice by the insurer.
- 23 (7) Loss of facultative reinsurance or loss of or substantial changes in  
24 applicable reinsurance as provided in G.S. 58-41-30.
- 25 (8) Conviction of the insured of a crime arising out of acts that materially  
26 affect the insurability of the risk.
- 27 (9) A determination by the Commissioner that the continuation of the  
28 policy would place the insurer in violation of the laws of this State.
- 29 (10) The named insured fails to meet the requirements contained in the  
30 corporate charter, articles of incorporation, or bylaws of the insurer,  
31 when the insurer is a company organized for the sole purpose of  
32 providing members of an organization with insurance coverage in this  
33 State.

34 (b) Any cancellation permitted by subsection (a) of this section is not effective  
35 unless written notice of cancellation has been given by registered or certified mail,  
36 return receipt requested, to the insured not less than 15 days before the proposed  
37 effective date of cancellation. The notice shall be given by registered or certified mail,  
38 return receipt requested, to the insured and any other person designated in the policy to  
39 receive notice of cancellation at their addresses shown in the policy or, if not indicated  
40 in the policy, at their last known addresses. The notice shall state the precise reason for  
41 cancellation. Whenever notice of intention to cancel is required to be given by  
42 registered or certified mail, no cancellation by the insurer shall be effective unless and

1 until such method is employed and completed. Failure to send this notice, as provided in  
2 this section, to any other person designated in the policy to receive notice of  
3 cancellation invalidates the cancellation only as to that other person's interest.

4 (c) This section does not apply to any policy that has been in effect for fewer  
5 than 60 days and is not a renewal of a policy. That policy may be cancelled for any  
6 reason by giving at least 30 days' prior written notice of and reasons for cancellation to  
7 the insured by registered or certified mail, return receipt requested.

8 (d) Cancellation for nonpayment of premium is not effective if the amount due is  
9 paid before the effective date set forth in the notice of cancellation.

10 (e) Copies of the notice required by this section shall also be sent to the agent or  
11 broker of record though failure to send copies of the notice to those persons shall not  
12 invalidate the cancellation. Mailing copies of the notice by regular first-class mail to the  
13 agent or broker of record satisfies the requirements of this subsection.

14 **"§ 58-36-110. Notice of nonrenewal, premium rate increase, or change in workers'**  
15 **compensation insurance coverage required.**

16 (a) No insurer shall refuse to renew a policy of workers' compensation insurance  
17 or employers' liability insurance written in connection with a policy of workers'  
18 compensation insurance except in accordance with the provisions of this section, and  
19 any nonrenewal attempted or made that is not in compliance with this section is not  
20 effective. This section does not apply if the policyholder has obtained insurance  
21 elsewhere, has accepted replacement coverage, or has requested or agreed to  
22 nonrenewal.

23 (b) An insurer may refuse to renew a policy that has been written for a term of  
24 one year or less at the policy's expiration date by mailing written notice of nonrenewal  
25 to the insured not less than 45 days prior to the expiration date of the policy.

26 (c) An insurer may refuse to renew a policy that has been written for a term of  
27 more than one year or for an indefinite term at the policy anniversary date by mailing  
28 written notice of nonrenewal to the insured not less than 45 days prior to the anniversary  
29 date of the policy.

30 (d) Whenever an insurer lowers coverage limits, raises deductibles, or raises  
31 premium rates for reasons within the exclusive control of the insurer or other than at the  
32 request of the policyholder, the insurer shall mail to the policyholder written notice of  
33 the change at least 30 days in advance of the effective date of the change. As used in  
34 this subsection, the phrase, "reasons within the exclusive control of the insurer" does not  
35 mean experience modification changes, exposure changes, or loss cost rate changes.

36 (e) The notice required by this section shall be given by mail to the insured and  
37 any other person designated in the policy to receive this notice at their addresses shown  
38 in the policy or, if not indicated in the policy, at their last known addresses. The notice  
39 of nonrenewal shall state the precise reason for nonrenewal. Failure to send this notice,  
40 as provided in this section, to any other person designated in the policy to receive this  
41 notice invalidates the nonrenewal only as to that other person's interest.

1       (f)   Copies of the notice required by this section shall also be sent to the agent or  
2 broker of record, though failure to send copies of the notice to such persons shall not  
3 invalidate the nonrenewal.

4       (g)   Mailing copies of the notice by regular first-class mail satisfies the notice  
5 requirements of this section."

6           **SECTION 3.** This act becomes effective October 1, 2001, and applies to  
7 policies issued, renewed or subject to renewal, or amended on or after that date.