

**CHAPTER 540****(HB 415)**

AN ACT relating to insurance.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 304.20-040 is amended to read as follows:

(1) As used in this section:

- (a) "Policy" means an automobile liability insurance policy, delivered or issued for delivery in this state, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:
1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others;
  2. Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1,500) pounds or less which is not used in the occupation, profession, or business of the insured; provided, however, that this section shall not apply:
    - a. To any policy issued under an automobile assigned risk plan;
    - b. To any policy insuring more than four (4) automobiles; or
    - c. To any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards;
- (b) "Automobile liability insurance policy" includes only coverage for bodily injury and property damage liability, basic reparations benefits, and the provisions therein, if any, relating to medical payments, uninsured motorists coverage, ***underinsured motorists coverage***, and automobile physical damage coverage;
- (c) "Renewal" or "to renew" means 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 a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than three (3) months shall for the purpose of this section be considered as if written for a policy period or term of three (3) months. Provided, further, that any policy written for a term longer than one (1) year or any policy with no fixed expiration date, shall for the purpose of this section, be considered as if written for successive policy periods or terms of one (1) year, and the policy may be terminated at the expiration of any annual period upon giving seventyfive (75) days' notice of ***nonrenewal***~~cancellation~~ prior to the anniversary date; ~~and the cancellation shall not be subject to any other provisions of this section; and~~
- (d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of the premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit;

- (e) *"Declination " or "decline" means either the refusal of an insurer to issue an automobile liability insurance policy upon receipt of a written nonbinding application or written request for coverage from its agent or an applicant, or refusal of an agent to transmit to an insurer a written nonbinding application or written request for coverage received from an applicant. The offering of insurance coverage with a company within an insurance group that is different from the company requested on the nonbinding application or written request for coverage, or the offering of insurance upon different terms than requested in the nonbinding application or written request for coverage, shall be considered to be a declination; and*
- (f) *"Agent" includes, but is not limited to, surplus lines broker.*
- (2) (a) A notice of cancellation of a policy shall be effective only if it is based on one (1) or more of the following reasons:
1. Nonpayment of premium;~~{or}~~
  2. The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date;
  3. *Discovery of fraud or material misrepresentation made by or with the knowledge of the named insured in obtaining the policy, continuing the policy, or in presenting a claim under the policy;*
  4. *Discovery of willful acts or omissions on the part of the named insured that increase any hazard insured against; or*
  5. *A determination by the commissioner that the continuation of the policy would place the insurer in violation of this chapter or the rules or administrative regulations of the commissioner;*
- (b) This subsection shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy;
- (c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars (\$100) shall not be deemed a cancellation of the coverage or of the policy; and
- (d) This subsection shall not apply to nonrenewal.
- (3) No notice of cancellation of a policy to which subsection (2) of this section applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least fourteen (14) days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals.
- ~~(4) No insurer shall refuse to renew a policy of automobile insurance solely because of the age of the insured.~~

~~(5)~~ No insurer *or agent* shall *decline*, refuse to renew, or cancel a policy of automobile insurance solely because:

- (a) Of the credit history, or lack of credit history, of the *applicant or* insured;
- (b) The *applicant or* insured has previously obtained automobile coverage *through a residual market mechanism or* from a carrier providing nonstandard coverage;~~or~~
- (c) The *applicant or* insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care;
- (d) *Of the race, religion, nationality, ethnic group, age, sex, or marital status of the applicant or named insured; or*
- (e) *Another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured.*

~~(5)~~~~(6)~~ No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least seventy-five (75) days' advance notice of its intention not to renew. *If notice is not provided, coverage shall be deemed to be renewed for the ensuing policy period upon payment of the appropriate payment under the same terms and conditions, until the named insured has accepted replacement coverage with another insurer, or until the named insured has agreed to the nonrenewal.*

(6) *The transfer of a policyholder between companies within the same insurance group shall be considered a nonrenewal.*

(7) 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.

(8) If the insurer has manifested its willingness to renew by mailing or delivering a renewal notice, bill, certificate, or policy to the first-named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date, unless the renewal premium is received by the insurer or its authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the firstnamed insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist.

(9) (a) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date, shall constitute a presumption of receipt pursuant to subsection (8) of this section.

(b) Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at the address shown in the policy shall be sufficient proof of notice.

(10) No insurer shall impose or request an additional premium higher than its standard premium for automobile insurance, cancel or refuse to issue a policy, or refuse to renew a policy solely because the insured or the applicant is an individual with a disability, so long as the disability does not substantially impair the person's mechanically assisted driving ability.

- (11) When an automobile liability insurance policy is canceled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance coverage through the Kentucky automobile assigned risk plan. The notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. The notice shall also inform the insured that he may, within *seven (7)*~~four (4)~~ days, request the commissioner in writing to determine whether there is sufficient reason to cancel or not to renew the policy. Within fourteen (14) days of receiving such a written request, the commissioner shall send his findings to the insurer and to the insured. When he sends his findings, the commissioner shall notify both parties of their right to request a hearing under KRS 304.2-310(2)(b) *and KRS Chapter 13B*. The party requesting the hearing shall give the commissioner written confirmation of attendance at the hearing not more than five (5) days before, nor less than forty-eight (48) hours before, the scheduled hearing. If the requesting party fails to give the required written confirmation, the commissioner shall cancel the hearing.
- (12) The reason for nonrenewal or cancellation shall accompany or be included in the notice of nonrenewal or cancellation.
- (13) Except where the maximum limits of coverage have been purchased, every notice of first renewal shall include a provision or be accompanied by a notice stating in substance that added uninsured motorists, underinsured motorists, and personal injury protection coverages may be purchased by the insured.
- (14) There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employees, or any firm, person, or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written, specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.
- (15) (a) *If the commissioner determines that an insurer has violated any provision of this section, the commissioner may require the insurer to:*
1. *Accept the application or written request for insurance coverage at a rate and on the same terms and conditions as are available to other risks similarly situated;*
  2. *Reinstate insurance coverage to the end of the policy period; or*
  3. *Continue insurance coverage at a rate and on the same terms and conditions as are available to other risks similarly situated;*
- (b) *As to any person who has violated any provisions of this section, the commissioner may:*
1. *Issue a cease and desist order to restrain the person from engaging in practices that violate this section;*
  2. *Suspend or revoke the person's license or certificate of authority;*
  3. *Assess a civil penalty against the person in accordance with KRS 304.99-020; or*

**4. Take any combination of the actions specified in this paragraph.**

Section 2. KRS 304.20-320 is amended to read as follows:

- (1) Declinations. An applicant may request in writing an explanation of a declination. The insurer shall provide a prompt written response to such inquiries.
- (2) Cancellations.
  - (a) A notice of cancellation of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer shall be in writing, shall be delivered to the named insured or mailed to the named insured at the last known address of the named insured, shall state the effective date of the cancellation, and shall be accompanied by a written explanation of the specific reason or reasons for the cancellation;~~and~~
  - (b) The notice of cancellation referred to in paragraph (a) of this subsection shall be mailed or delivered by the insurer to the named insured at least fourteen (14) days prior to the effective date of the cancellation if the cancellation is for nonpayment of premium or occurs within sixty (60) days of the date of issuance of the policy. Such notice of cancellation shall be mailed or delivered by the insurer to the named insured at least seventy-five (75) days prior to the effective date of the cancellation if the policy has been in effect more than sixty (60) days; **and**
  - (c) ***Proof of mailing of notice of cancellation or of reasons for cancellation to the named insured at the address shown in the policy shall be sufficient proof of notice.***
- (3) Nonrenewals.
  - (a) No insurer shall refuse to renew a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 unless at least seventy-five (75) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, written notice of the insurer's intention not to renew the policy upon expiration of the current policy period with a written explanation of the specific reason or reasons for the nonrenewal;
  - (b) If notice is not provided pursuant to paragraphs (a) and (b) of this subsection, coverage shall be deemed to be renewed for the ensuing policy period upon payment of the appropriate premium under the same terms and conditions, and subject to the provisions of KRS 304.20-330, until the named insured has accepted replacement coverage with another insurer, or until the named insured has agreed to the nonrenewal;
  - (c) If the insurer has manifested its willingness to renew by mailing or delivering of a renewal notice, bill, certificate, or policy to the first named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date unless the renewal premium is received by the insurer or its authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first named insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist;~~and~~

(d) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date shall constitute a presumption of receipt pursuant to paragraph (c) of this subsection; *and*

(e) ***Proof of mailing of notice of intention not to renew or of reasons for nonrenewal to the named insured at the address shown in the policy shall be sufficient proof of notice.***

(4) No insurer shall increase the premium for a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 more than twenty-five percent (25%) of the premium for the preceding policy term for like coverage and like risks unless at least seventy-five (75) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, a notice for the renewal premium amount and the insurer shall mail or deliver to its agent, if any, a duplicate notice of the premium amount. In order to comply with this requirement, the insurer may extend the period of coverage of the current policy at the expiring premium.

Section 3. KRS 304.20-340 is amended to read as follows:

The declination or termination of a policy of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer or agent is prohibited if the declination or termination is:

- (1) Based solely upon the race, religion, nationality, ethnic group, age, sex, or marital status of the applicant or named insured;
- (2) Based solely upon the lawful occupation or profession of the applicant or named insured, except that this provision shall not apply to an insurer which limits its market to one (1) lawful occupation or profession or to several related lawful occupations or professions or to an insurer that does not provide the kind of insurance sought by the applicant;
- (3) Based solely upon the age or location of the residence or property of the applicant or named insured, unless such decision is for a business purpose which is not a mere pretext for unfair discrimination;
- (4) Based solely upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured;
- (5) Based solely upon the fact that the applicant or named insured previously obtained insurance through a residual market mechanism;
- (6) ~~Based solely upon the credit history, or lack of credit history, of the insured;~~
- (7) ~~Based solely upon the fact that the ***applicant or named*** insured has previously obtained property or casualty insurance from a carrier providing nonstandard coverage; or~~
- (7) ~~(8)~~ Based solely upon the fact that the ***applicant or named*** insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care.

Section 4. KRS 304.20-042 is amended to read as follows:

- (1) No insurer shall ***decline to issue, cancel, nonrenew, or otherwise terminate*** ~~refuse to issue automobile or~~ property and casualty insurance ***contracts covering personal risks*** ~~to an applicant~~ solely because of ~~the~~ credit history, or lack of credit history ~~, of the applicant~~.

- (2) *For purposes of this section, "personal risks" shall have the meaning as defined in KRS 304.13-011.*

Section 5. KRS 304.20-310 is amended to read as follows:

As used in KRS 304.20-320 to 304.20-350:

- (1) "Renewal" or "to renew" means the issuance and delivery by an insurer at the end of a policy period or term of a policy superseding a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of an existing policy beyond its policy period or term. For the purpose of KRS 304.20-320 to 304.20-350, any policy period or term of less than six (6) months shall be considered to be a policy period or term of six (6) months and any policy period or term of more than one (1) year or any policy with no fixed expiration date shall be considered a policy period or term of one (1) year;
- (2) "Nonpayment of premium" means the failure of the named insured to discharge any obligation in connection with the payment of premiums on property or casualty insurance subject to KRS 304.20-320 to 304.20-350, whether such payments are directly payable to the insurer or its agent or indirectly payable under a premium finance plan or extension of credit. "Nonpayment of premium" shall include failure to pay dues or fees where payment of such dues or fees is a prerequisite to obtaining or continuing property or casualty insurance coverage;
- (3) "Termination" means either a cancellation or nonrenewal of property or casualty insurance coverage in whole or in part. A cancellation occurs during the policy period or term as set forth in subsection (1) of this section. A nonrenewal occurs at the end of the policy period or term as set forth in subsection (1) of this section. For the purpose of KRS 304.20-320 to 304.20-350, the transfer of a policyholder between companies within the same insurance group shall be considered a termination, but requiring a reasonable deductible, reasonable changes in the amount of insurance, or reasonable reductions in policy limits or coverage shall not be considered a termination if such requirements are directly related to an increased hazard involved and are made on the renewal date for the policy;
- (4) "Declination" means either the refusal of an insurer to issue a property or casualty insurance policy upon receipt of a written nonbinding application or written request for coverage from its agent or an applicant, or refusal of an agent to transmit to an insurer a written nonbinding application or written request for coverage received from an applicant. For the purposes of KRS 304.20-320 to 304.20-350, the offering of insurance coverage with a company within an insurance group which is different from the company requested on the nonbinding application or written request for coverage, ~~or for~~ the offering of insurance upon different terms than requested in the nonbinding application or written request for coverage, shall be considered to be a declination; and
- (5) "Agent" includes, but is not limited to, surplus lines ~~broker~~~~brokers~~.

**Approved April 26, 2000**