

## **IC 27-7-12**

### Chapter 12. Termination of Residential Policies

#### **IC 27-7-12-1**

##### **Applicability of chapter; exceptions**

Sec. 1. (a) This chapter applies to policies of insurance covering risks to property located in Indiana that take effect or are renewed after June 30, 2001, and that insure loss of or damage to:

- (1) real property consisting of not more than four (4) residential units, one (1) of which is the principal place of residence of the named insured; or
- (2) personal property:
  - (A) in which the named insured has an insurable interest; and
  - (B) that is used within a residential dwelling for personal, family, or household purposes.

(b) This chapter does not apply to the following:

- (1) A policy of inland marine insurance.
- (2) The cancellation or nonrenewal of an automobile insurance policy under IC 27-7-6.
- (3) The cancellation or nonrenewal of a commercial property and casualty insurance policy under IC 27-1-31-2.5.

*As added by P.L.203-2001, SEC.10.*

#### **IC 27-7-12-2**

##### **Definitions**

Sec. 2. (a) As used in this chapter, "cancellation" refers to a termination of property insurance coverage that occurs during the policy term.

(b) As used in this chapter, "nonpayment of premium" means the failure of the named insured to discharge any obligation in connection with the payment of premiums on policies of insurance subject to this chapter, regardless of whether the payments are directly payable to the insurer or its agent or indirectly payable under a premium finance plan or extension of credit. The term includes the failure to pay dues or fees where payment of the dues or fees is a prerequisite to obtaining or continuing property insurance coverage.

(c) As used in this chapter, "nonrenewal" or "nonrenewed" refers to a termination of property insurance coverage that occurs at the end of the policy term.

(d) As used in this chapter, "renewal" or "to renew" refers to:

- (1) the issuance and delivery by an insurer at the end of a policy period of a policy superseding a policy previously issued and delivered by the same insurer; or
- (2) the issuance and delivery of a certificate or notice extending the term of an existing policy beyond its policy period or term.

(e) As used in this chapter, "termination" means a cancellation or nonrenewal. The term does not include:

- (1) the requirement of a reasonable deductible;
- (2) reasonable changes in the amount of insurance; or

(3) reasonable reductions in policy limits or coverage; if the requirements or changes are directly related to the hazard involved and are made on the renewal date for the policy. The term does not include a transfer of a policy to another insurer.

*As added by P.L.203-2001, SEC.10.*

### **IC 27-7-12-3**

#### **Notice of cancellation**

Sec. 3. (a) Notice of cancellation of property insurance coverage by an insurer must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known address of the named insured;
- (3) state the effective date of the cancellation; and
- (4) upon request of the named insured, be accompanied by a written explanation of the specific reasons for the cancellation.

(b) An insurer shall provide written notice of cancellation to the named insured at least:

- (1) ten (10) days before canceling a policy, if the cancellation is for nonpayment of a premium;
- (2) twenty (20) days before canceling a policy, if:
  - (A) the cancellation occurs more than sixty (60) days after the date of issuance of the policy; or
  - (B) the insurer has received a copy of a complaint under IC 32-30-10.5-8(d)(2) concerning the property; and
- (3) ten (10) days before canceling a policy, if the cancellation occurs not more than sixty (60) days after the date of issuance of the policy.

(c) If the policy was procured by an independent insurance producer licensed in Indiana, the insurer shall deliver or mail notice of cancellation to the insurance producer not less than ten (10) days before the insurer delivers or mails the notice to the named insured, unless the obligation to notify the insurance producer is waived in writing by the insurance producer.

*As added by P.L.203-2001, SEC.10. Amended by P.L.178-2003, SEC.55; P.L.116-2011, SEC.3.*

### **IC 27-7-12-4**

#### **Notice of nonrenewal**

Sec. 4. (a) Notice of nonrenewal by an insurer must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known address of the named insured;
- (3) state the insurer's intention not to renew the policy upon expiration of the current policy period;
- (4) upon request of the named insured, be accompanied by a written explanation of the specific reasons for the nonrenewal; and
- (5) be provided to the named insured at least twenty (20) days before the expiration of the current policy period.

(b) If the policy was procured by an independent insurance producer licensed in Indiana, the insurer shall deliver or mail notice of nonrenewal to the insurance producer not less than ten (10) days before the insurer delivers or mails the notice to the named insured, unless the obligation to notify the insurance producer is waived in writing by the insurance producer.

(c) If an insurer mails or delivers to an insured a renewal notice, bill, certificate, or policy indicating the insurer's willingness to renew a policy and the insured does not respond, the insurer is not required to provide to the insured notice of intention not to renew.

*As added by P.L.203-2001, SEC.10. Amended by P.L.178-2003, SEC.56.*

#### **IC 27-7-12-5**

##### **Sufficiency of explanations; coverage considered renewed where notice not given**

Sec. 5. (a) A written explanation provided under section 3 or 4 of this chapter must be of sufficient clarity and specificity to enable a reasonable lay person to identify the basis for the insurer's decision without further inquiry.

(b) If notice is not provided under section 4 of this chapter, coverage is considered to be renewed only for the ensuing policy period upon payment of the appropriate premiums under the same terms and conditions, and subject to section 6 of this chapter, unless the named insured has accepted replacement coverage with another insurer or unless the named insured has agreed to the nonrenewal.

*As added by P.L.203-2001, SEC.10.*

#### **IC 27-7-12-6**

##### **Grounds for cancellation of policies in effect for more than 60 days**

Sec. 6. After coverage has been in effect for more than sixty (60) days or after the effective date of a renewal policy, a notice of cancellation shall not be issued unless cancellation is based on at least one (1) of the following:

- (1) Nonpayment of a premium.
- (2) 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.
- (3) Discovery of willful or reckless acts or omissions on the part of the named insured that increase a hazard insured against.
- (4) The occurrence of a change in the risk that substantially increases a hazard insured against after insurance coverage has been issued or renewed.
- (5) A violation of any local fire, health, safety, building, or construction regulation or ordinance with respect to an insured property or the occupancy of the property that substantially increases any hazard insured against.
- (6) A determination by the insurance commissioner that the continuation of the policy would place the insurer in violation

of the insurance laws of Indiana.

(7) Real property taxes owing on the insured property have been delinquent for two (2) or more years and continue to be delinquent at the time notice of cancellation is issued.

*As added by P.L.203-2001, SEC.10.*

#### **IC 27-7-12-7**

##### **Prohibited grounds for termination**

Sec. 7. Termination of property insurance coverage by an insurer is prohibited if the termination is based on any of the following:

- (1) Upon the race, religion, nationality, ethnic group, age, sex, or marital status of the applicant or named insured.
- (2) Solely upon the lawful occupation or profession of the applicant or named insured. However, this subdivision does not apply to an insurer that limits its market to one (1) lawful occupation or profession or to several related lawful occupations or professions.
- (3) Upon the age or location of the residence of the applicant or named insured, unless that decision is for a business purpose that is not a mere pretext for a decision based on factors prohibited in this chapter or any other provision of this title.
- (4) 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) Upon the fact that the applicant or named insured previously obtained insurance coverage through a residual market insurance mechanism.

*As added by P.L.203-2001, SEC.10.*

#### **IC 27-7-12-8**

##### **Notice of transfer of policies**

Sec. 8. The named insured must be given notice of a transfer of a policy, including a transfer between insurers within the same insurance group. The notice must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known address of the named insured;
- (3) be provided to the named insured at least twenty (20) days before the transfer; and
- (4) identify the insurer to which the policy will be transferred.

*As added by P.L.203-2001, SEC.10.*

#### **IC 27-7-12-9**

##### **Immunity from civil liability**

Sec. 9. (a) The following persons are immune from civil liability for any communication giving notice of or specifying the reasons for a termination or for any statement made in connection with an attempt to discover or verify the existence of conditions that would be a reason for a termination under this chapter:

- (1) Employees of the department of insurance.

(2) An insurer or its authorized representative, agent, or employee.

(3) A licensed insurance producer.

(4) A person furnishing information to an insurer as to reasons for a termination.

(b) This section does not apply to statements made in bad faith with malice in fact.

*As added by P.L.203-2001, SEC.10. Amended by P.L.178-2003, SEC.57.*