

Bulletin 21

AUTOMOBILE LIABILITY CANCELLATIONS AND ASSIGNED RISKS

August 22, 1966

One of the most serious problems confronting the Insurance Industry and Insurance Commissioners generally over the past few years is the cancellation of automobile liability insurance policies.

Extensive underwriting losses and continuously increasing loss and expense ratios have caused a "tight market" and more restrictive underwriting screening in the field of automobile liability insurance. However, the automobile has become a necessity in the American way of life and an integral part of American economy, and the Insurance Industry must meet the demand for automobile liability coverage or the public will go to the Government.

Indiana has piloted two resolutions through the National Association of Insurance Commissioners dealing with methods of coping with the situation, and many meetings and conferences with company and agency representatives have been held -- all with a view of having the industry voluntarily project plans for affording automobile liability insurance to the public.

In keeping with the National Association resolutions and with ideas developed in the conferences above-referred to, a twofold program has been devised, namely:

- A. Some form of non-cancelable automobile liability insurance policy.
- B. A wider and more liberal use of the Assigned Risk Plan.

Therefore, this Department proclaims the following as a program presented by company and agency interests, the Assigned Risk Plan and the Insurance Department.

- A. Non-cancelable Automobile Liability Insurance Coverage:
 - 1. All automobile liability insurance policies issued in Indiana on private passenger automobiles, as hereafter defined, shall provide:

(a) NBCU Cancellation Provisions (See Attachment 1).

(b) Any company may add a fifth provision to the NBCU cancellation provisions, to wit: "The named insured changes either his place of principal residence or the registration or license of an insured automobile to a state or country other than the state shown as the Insured's Address in the policy at its effective date."

(c) Those policies not including such provisions shall be required to notify the policyholder by conspicuous language affixed to the face of the policies: "This policy contains none of the minimum standards regarding policy cancellation promulgated by the Insurance Department of the State of Indiana."

(d) Under these minimum limited cancellation provisions, a policy may not be cancelled during its term after it has been in effect for sixty (60) days, except for causes coming

under said minimum provisions. Such minimum cancellation provisions become immediately effective if it is a renewal policy.

(e) The specified reasons for cancellation are to be considered minimum standards. A company may adopt or use language further restricting its right to cancel a policy or coverages.

(f) The minimum limited cancellation provisions are to apply to bodily injury and property damage liability coverages of automobile policies:

- (1) Issued to individuals or named insured and spouse (not to associations, partnerships, corporations, or assigned risks).
- (2) Covering only private passenger automobiles which are not fleets.
- (3) Written under Family Auto Policies, Special Auto Policies, or individual company form of policy or endorsement designed for use in insuring "family" or individually owned private passenger automobiles.

B. Assigned Risk Plan:

1. Companies and agents shall cooperate to make wider use of the Automobile Assigned Risk Plan in applicable cases, and in that connection to explain the Plan to the public.
2. The Assigned Risk Plan application should be shortened and simplified and no notarization shall be required except in justifiable cases.
3. All Assigned Risk applications shall be submitted through, or accredited to, a licensed resident insurance agent or broker.
4. The producer's compensation shall be Ten Per Cent (10%) of the total premium.
5. Companies shall furnish Assigned Risk application blanks to all producers upon request, and all producers shall assist applicants in preparing and filing the application and servicing the policyholder.
6. The company to which the case is assigned in the Plan shall consider voluntarily insuring, if the case meets the company's management and underwriting policies, physical damage, medical and excess limits coverages, the company being permitted to apply its scheduled substandard rates in such cases.
7. It is recognized as the duty of the company and the agent to assist the public in obtaining automobile liability coverage where ordinary coverage cannot be obtained. This may be accomplished through substandard arrangements or through the Assigned Risk Plan, the interests and protection of the public being always the primary consideration.

MASS CANCELLATIONS

The Department wishes to explain some of the problems arising from mid-term cancellations of policies and to state its position concerning such cancellations. Three types of mass cancellations have been found:

- a. cancellation by geographic area;
- b. a company withdrawing from a line of coverage;
- c. termination of an agency relationship.

Mass cancellation by area is and has been no problem in Indiana. Some few cases of mass cancellation by withdrawal from a line have been reported but all disposed of. Cancellations in connection with termination of an agency have presented some problems.

The Department's position is that it has no authority to enter into the controversy of fairness or unfairness of a company terminating an agency or vice versa, unless rights of policyholders are involved and then only to protect policyholders.

Mass cancellation of policies mid-term in such cases is seldom, if ever, justified and a duty rests on the company, as well as the agent, to get the insured covered elsewhere.

In all such cases where policyholders' rights are involved, it should be reported to the Department. The Department will require a company representative and the agent to appear before the Department in an informal conference to make proper arrangements for the protection of policyholders' rights. So far, this informal "policing" policy has been successful.

Joseph G. Wood
Insurance Commissioner

ATTACHMENT 1

Cancellation by Company Limited. Part 1. After this policy has been in effect for sixty days or, if the policy is a renewal, effective immediately, the company shall not exercise its right to cancel the insurance afforded under Part 1 unless:

1. the named insured fails to discharge when due any of his obligations in connection with the payment of premium for this policy or any installment thereof whether payable directly or under any premium finance plan; or
2. the insurance was obtained through fraudulent misrepresentation; or
3. the insured violates any of the terms and conditions of the policy; or
4. the named insured or any other operator, either resident in the same household, or who customarily operates an automobile insured under the policy,
 - (a) has had his driver's license suspended or revoked during the policy period, or
 - (b) is or becomes subject to epilepsy or heart attacks, and such individual cannot produce a certificate from a physician testifying to his unqualified ability to operate a motor vehicle, or
 - (c) is or has been convicted of or forfeits bail during the 36 months immediately preceding the effective date of the policy, or during the policy period, for:

- (1) any felony, or
- (2) criminal negligence resulting in death, homicide or assault, arising out of the operation of a motor vehicle, or
- (3) operating a motor vehicle while in an intoxicated condition or while under the influence of drugs, or
- (4) leaving the scene of an accident without stopping to report, or
- (5) theft of a motor vehicle, or
- (6) making false statements in an application for a driver's license, or
- (7) a third violation, committed within a period of 18 months, of (i) any ordinance or regulation limiting the speed of motor vehicles or (ii) any of the provisions in the motor vehicle laws of any state, the violation of which constitutes a misdemeanor, whether or not the violations were repetitions of the same offense or were different offenses.

Withdrawn