INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Cancellation of Automobile Insurance Policies

Proposed Amendment: N.J.A.C. 11:3-35.4

Authorized By: Holly C. Bakke, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A.17:1-8.1, 15e and 17:29C-7, and Section 61 of P.L. 2003, c.89.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2003- 311

Submit comments by October 3, 2003 to:

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The agency proposal follows:

Summary

P.L. 2003, c. 89 (the "Act") provides a well-balanced approach to addressing the immediate automobile insurance availability crisis facing New Jersey consumers, insurers and regulators. The Act includes numerous anti-fraud provisions providing law enforcement and insurers with the tools necessary to combat fraud. Specifically, the Act amends N.J.S.A. 17:29C-7. Section 61 of the Act sets forth the reasons that an insurer may cancel a personal automobile insurance policy. The two most widely used reasons to cancel are nonpayment of premium, and suspension or revocation of a driver's license. In an attempt to reduce underwriting fraud, the

Act adds two new reasons: knowingly providing false information in connection with any application for insurance, renewal of insurance, or in connection with the filing of a claim for insurance benefits, and failing to meet underwriting guidelines.

N.J.A.C. 11:3-35.4, the existing underwriting rule on cancellations, is proposed to be amended to refer to the authority of insurers to cancel policies based on the two additional reasons, and to authorize them to include these reasons in their underwriting guidelines.

This rule proposal provides for a comment period of 60 days, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.JA.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendments will benefit insureds because it will help reduce fraud by serving as an effective deterrent to those who cheat the system. Moreover, reducing fraud will put downward pressure on rates because fraud increases the cost of insurance, particularly for good, honest drivers.

The amendments should have a beneficial impact on insurers. The proposed amendments would apply to all New Jersey insurers who write automobile insurance. Insurers will be able to cancel policies of persons for the additional reasons specified in the amended statute. The threat of cancellation will act as an inducement for insureds to provide truthful information to insurance companies, which should result in policies being more accurately rated.

Economic Impact

The Department expects that the proposed amendments will not have a detrimental economic impact on either policyholders or insurers. Honest drivers should benefit from downward pressure or rates due to the savings generated from the potential reduction of fraud. Insurers should benefit from being able to cancel the policies of those persons who knowingly provided materially false or misleading information on an insurance document, or who, as a result of their failure to meet current underwriting rules, pose excessive risks of loss to companies. The enhanced ability of insurers to do so will reduce their claims exposure and the resulting upward pressure on rates. Persons who commit underwriting fraud or do not meet underwriting guidelines will have to obtain insurance at higher rates that will accurately reflect the higher risk factor they pose for insurers.

Federal Standards Statement

The proposed amendments are not subject to any Federal standards or requirements. Therefore, a Federal standards analysis is not required.

Jobs Impact

Although the Department does not anticipate that the amendments alone will result in the generation or loss of jobs, it believes that the package of statutory and regulatory amendments of which it is a part, taken as a whole, will contribute to the attractiveness and competitiveness of the New Jersey automobile insurance market and help preserve and expand employment in the automobile insurance industry and in insurance agencies and brokerage firms. The Department invites interested persons to submit any data or studies about the jobs impact of these proposed rules with their written comments.

Agriculture Industry Impact

The Department does not expect any agriculture industry impact from the proposed amendments.

Regulatory Flexibility Analysis

Some New Jersey insurers who write automobile insurance may be small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments will impose compliance requirements on these entities if they choose to take advantage of the additional reasons to cancel. Insurers will have to amend their underwriting guidelines on file with the Department. These guidelines are prepared by insurers as part of their normal course of doing business.

Nonetheless, the Department does not believe that these requirements are unduly burdensome and should not impose the need for professional services to comply. Moreover, the purpose of these requirements does not vary based upon business size. Accordingly, no differentiation based on business size is provided.

Smart Growth Impact

The proposed amendments will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**):

SUBCHAPTER 35 **PRIVATE PASSENGER AUTOMOBILE INSURANCE UNDERWRITING RULES**

11:3-35.4 Underwriting rules for eligible persons

(a) - (f) (No change.)

(g) Insurers may file for approval underwriting rules which provide for the cancellation of coverage during the policy term under a policy insuring an eligible person if:

1. The named insured knowingly provided materially false or misleading information in connection with any application for insurance, renewal of insurance, or in connection with the filing of a claim for benefits under an insurance policy; or

2. An insurer determines, within 60 days of issuance of the policy or renewal, that the named insured does not meet the approved underwriting rules of the insurer then in effect.