

616 Fifth Avenue, Suite 106
Belmar, NJ 07719
732-201-4133
CHIEF EXECUTIVE OFFICER: Thomas B. Considine



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Contact: Pat Gilbert
(732) 201-4133

NCOIL ADOPTS INSURANCE UNDERWRITING TRANSPARENCY MODEL ACT *Model Will Provide Consumers With Clear and Useful Information About Changes to Their Homeowners and Auto Insurance Policies*

Belmar, NJ – At the 2023 National Council of Insurance Legislators (NCOIL) Spring National Meeting in San Diego, the organization adopted the NCOIL Insurance Underwriting Transparency Model Act sponsored by Indiana Representative Matt Lehman, NCOIL Immediate Past President. The Model was passed by both the NCOIL Property & Casualty Insurance Committee and the NCOIL Executive Committee.

The Model will give states a framework to provide personal auto and homeowners insurance consumers informative and valuable information explaining the basis for a “material change” made to their policies. A “material change” is defined as: a nonrenewal or cancellation; an increase of more than ten percent (10%) over the expiring premium; a reduction in coverage; or another adverse or unfavorable change in the terms of coverage of amount.

Insurers must provide a notice that either explains the principal factors for the material change or states that the insured has the right to request and obtain an explanation of the principal factors for the material change. The notice explaining the material change must: be sufficiently clear and use language specific to enable the insured to identify the basis for the insurer’s decision to make the material change; include a description of the principal factors most heavily weighed by an insurer in making a material change, listed in no particular order; and provide a point of contact through which the insured may discuss the reasons for the material change. The notice must also be sent to the insurance producer, if any, who represented the insured in obtaining coverage from the insurer, or who represented the insurer in regard to the providing of coverage to the insured.

The Model also suggests in Drafting Notes that States may wish to consider expanding the scope of the Model to make it applicable to declinations, and requiring a specific number of principal



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factors to be included in the notice provided to the insureds (or applicant if a State has expanded the Model to include declinations).

“I am proud to sponsor this Model as it will allow consumers and agents to understand why certain changes are made to policies and enable them to make the better informed coverage related decisions,” said Rep. Lehman. “As a legislator and insurance agent, I know that having more transparency in this area is a necessity that is only becoming more important as companies continue to integrate more technology in their business models. When a consumer wants to know why their premium increased, the answer from the insurer or agent is too often “I don’t know.” This Model is an important development in helping consumers get better answers to that question.”

“I’m glad that Representative Lehman and NCOIL recognized the need for this type of Model legislation,” said Rep. Jordan. “This was a very deliberate and thoughtful process and while I would have liked to see the Model go a bit further in terms of explicitly applying to declinations and requiring the insurer to provide more information in the notice to the insured, the Model is a good starting point that States can use to develop their own transparency-focused laws.”

During the drafting and deliberation process, NCOIL legislators and staff heard from a wide array of interested parties including: the American Council of Life Insurers (ACLJ); the American Property & Casualty Insurance Association (APCIA); the Consumer Federation of California (CFC); the Independent Insurance Agents & Brokers of America (IIABA); and the National Association of Mutual Insurance Companies (NAMIC).

NCOIL CEO Commissioner Tom Considine said, “Thank you to Rep. Lehman for taking the lead and sponsoring this Model as well as Chair Jordan and the Committee for the work they did to get this Model over the finish line. Ensuring more transparency for consumers is a top priority for insurance legislators across the country and this Model is a good first step in making that possible.”

A full copy of the Model appears below.

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NCOIL is a national legislative organization with the nation’s 50 states as members, represented principally by legislators serving on their states’ insurance and financial institutions committees. NCOIL writes Model Laws in insurance and financial services, works to preserve the State jurisdiction over insurance as established by the McCarran-Ferguson Act over seventy years ago, and to serve as an educational forum for public policymakers and interested parties. Founded in 1969, NCOIL works to assert the prerogative of legislators in making State policy when it comes to insurance and educate State legislators on current and longstanding insurance issues.

National Council of Insurance Legislators (NCOIL)

Insurance Underwriting Transparency Model Act

****Sponsored by Rep. Matt Lehman (IN) – NCOIL Immediate Past President***

****Adopted by the Property & Casualty Insurance Committee on March 11, 2023, and the Executive Committee on March 12, 2023.***

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Section 1. Short Title

This Act shall be known and cited as the “[State] Insurance Underwriting Transparency Act.”

Section 2. Purpose

The purpose of this legislation is to provide personal auto and homeowners insurance consumers with clear and useful information explaining the basis for when a material change is made to a consumer’s policy.

Section 3. Scope

(a) This Act applies to personal automobile and homeowner’s policies that are underwritten on an individual basis for an individual, family, or household.

(b) This Act does not apply to notices required by the federal Fair Credit Reporting Act (15 U.S.C. 1681 et. seq.).

Section 4. Definitions

(a) “Insured” means an individual entitled to coverage under a personal automobile or homeowner’s policy.

(b) (1) “Material change” means:

(A) a nonrenewal or cancellation of;

(B) an increase of more than ten percent (10%) over the expiring premium for;

(C) a reduction in coverage of; or

(D) another adverse or unfavorable change in the terms of coverage or amount of;

insurance in connection with a personal automobile or homeowner's policy.

(2) The term does not include the following:

(A) An increase in the insurer's filed rate plan and automatic inflationary increases.

(B) An additional premium due to a change initiated by the insured, such as:

(i) adding or removing vehicles or drivers;

(ii) adding an endorsement;

(iii) adding additional coverages;

(iv) adding covered premises; or

(v) increasing coverage limits or deductibles.

(C) An additional premium due to a change in risk exposure as a result of the insured's participation in a usage based or telematics insurance program.

Drafting Note: Terms such as "automobile policy", "homeowner's policy", and "insurer" are intentionally not defined in this Model so that the specific definitions of each state's insurance code shall govern.

Drafting Note: States may wish to consider expanding the scope of the Model to make it applicable to declinations so that those who are declined coverage are required to be issued an explanation pursuant to the process set forth in Section 4 of the Model.

Section 5. Transparency Requirements

(a) An insurer that makes a material change to an insured's personal automobile or homeowner's policy shall provide a written notice to the insured that:

(1) explains the principal factors for the material change; or

(2) states that the insured has the right to request and obtain an explanation of the principal factors for the material change.

(b) An insured who receives a notice of a material change described in subsection (a)(2) may submit to the insurer a written request for an explanation of the principal factors for the material change.

(c) Upon receiving a request for an explanation under subsection (b), the insurer shall provide a written notice to the insured explaining the principal factors for the material change.

(d) An insurer shall provide a copy of a written notice provided under subsection (a)(1) or (c) to the insurance producer, if any, who:

(1) represented the insured in obtaining coverage from the insurer, or represented the insurer in regard to the providing of coverage to the insured; and

(2) is not an employee, an exclusive agent, or a captive agent of the insurer.

(e) A written notice:

(1) provided under subsection (a) or (c), or a written request submitted under subsection (b), must be provided by first class mail, or electronic delivery as set forth in [insert citation to electronic delivery section of State insurance code];

(2) provided under subsection (d) may be provided to the insurance producer via the insurer's portal for producer communications.

(f) A written notice provided under subsection (a)(1) or (c):

(1) must be sufficiently clear and use language sufficiently specific to enable the insured to identify the basis for the insurer's decision to make the material change;

(2) must include a description of the principal factors most heavily weighed by an insurer in making a material change, listed in no particular order; and

(3) must provide a point of contact through which the insured may discuss the reasons for the material change.

Drafting Note: States may wish to consider requiring a specific number of principal factors to be included in the notice provided to the insured (or applicant if a State has expanded the Model to include declinations).

(g) The following statements do not meet the requirements set forth in subsection (f):

(1) the material change is based on the insurer's internal standards, policies, or models;

(2) the insured failed to achieve a particular score on the insurer's scoring system;

(3) one containing generalized terms, such as "poor credit history", "poor credit rating", or "poor insurance score."

(h) The requirements set forth in this Section do not replace and are in addition to the requirements under [insert citation to state cancellation/termination notice requirements].

(i) Nothing in this Act shall prohibit an insurer from voluntarily providing the disclosures required by this Act.

Section 6. Rules

The Commissioner shall adopt rules to effectuate the provisions of this Act. Those rules shall include monetary penalties consistent with those assessed for other similar violations of this State's insurance code. Violations shall be enforced solely by the Commissioner. A violation of this Act shall not create a private cause of action.

Section 7. Effective Date

This Act applies to a personal automobile or homeowner's policy that is issued, delivered, amended, or renewed after [one year following enactment of this Act].