

40-276a. Automobile liability insurance policies; denial of renewal; notice; conditions; exceptions. (a) Any insurance company that denies renewal of an automobile liability insurance policy in this state shall give at least 30 days written notice to the named insured, at his last known address, or cause such notice to be given by a licensed agent of its intention not to renew such policy. No insurance company shall deny the renewal of an automobile liability insurance policy except in one or more of the following circumstances or as permitted in subsection (b):

- (1) When such insurance company is required or has been permitted by the commissioner of insurance, in writing, to reduce its premium volume in order to preserve the financial integrity of such insurer;
- (2) when such insurance company ceases to transact such business in this state;
- (3) when such insurance company is able to show competent medical evidence that the insured has a physical or mental disablement that impairs his ability to drive in a safe and reasonable manner;
- (4) when unfavorable underwriting factors, pertinent to the risk, are existent, and of a substantial nature, which could not have reasonably been ascertained by the company at the initial issuance of the policy or the last renewal thereof;
- (5) when the policy has been continuously in effect for a period of five years. Such five-year period shall begin at the first policy anniversary date following the effective date of the policy, except that if such policy is renewed or continued in force after the expiration of such period or any subsequent five-year period, the provisions of this subsection shall apply in any such subsequent period; or
- (6) when any of the reasons specified as reasons for cancellation in K.S.A. 40-277 are existent, except that (A) when failure to renew is based upon termination of agency contract, obligation to renew will be satisfied if the insurer has manifested its willingness to renew, and (B) obligation to renew is terminated on the effective date of any other automobile liability insurance procured by the named insured with respect to any automobile designated in both policies.

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal. Nothing in this section shall require an insurance company to renew an automobile liability insurance policy if such renewal would be contrary to restrictions of membership in the company which are contained in the articles of incorporation or the bylaws of such company.

(b) (1) No insurance company shall refuse to renew a policy until after June 30, 2002, based on an insured's failure to maintain membership in a bona fide association, until both the insurance company and bona fide association have complied with the requirements of this subsection. No insurance company shall refuse to renew any coverage continuously in effect before July 1, 2002, unless:

(A) The application for insurance and the insurance policy shall clearly disclose that both the payment of dues and current membership in the bona fide association are prerequisites to obtaining or renewing the insurance;

(B) the bona fide association has filed a certification with the commissioner of insurance verifying the eligibility of the insurance company to refuse to renew an insurance policy based on the membership in the bona fide association; and

(C) any money paid to the bona fide association as a membership fee:

(i) Shall not be used by the insurance company directly or indirectly to defray any costs or expenses in connection with the sale or purchase of the insurance; and

(ii) shall be set independently of any factor used by the insurance company to make any judgment or determination about the eligibility of any individual to purchase or renew such insurance. For the purposes of this provision, the individual may be a member of the bona fide organization or an employee or dependent of such a member.

(2) (A) Upon request the bona fide association shall file a statement with the commissioner of insurance verifying that the bona fide association meets the requirements of this paragraph.

(B) For the purposes of this subsection, "bona fide association" means an association which:

(i) Has been in active existence for at least five consecutive years immediately preceding the date the statement is filed;

(ii) has been formed and maintained in good faith for purposes other than obtaining or providing insurance and does not condition membership in the association on the purchase of insurance;

(iii) has articles of incorporation and bylaws or other similar governing documents;

(iv) has a relationship with one or more specific insurance companies and identifies each such insurance company; and

(v) and does not condition membership in the association or set membership fees on the eligibility of any individual to purchase or renew the insurance or on any factor that the insurance company could not lawfully consider when setting rates. For the purposes of this provision, the individual may be a member of the bona fide organization or an employee or dependent of such a member.

(3) Membership fees collected by the bona fide association shall not be deemed to be premiums of the insurance company that issued the coverage unless the bona fide association:

(A) Uses any portion of such membership fees directly or indirectly to defray any costs or expenses in connection with the sale or purchase of the insurance; or

(B) sets or adjusts membership fees for any member of the bona fide association based on any factor used by the insurance company that issues the insurance to make any judgment or determination about the eligibility of any individual to purchase or renew the insurance. For the purposes of this provision, the individual may be a member of the bona fide organization or an employee or dependent of such a member.

(4) If the membership fees are determined to constitute premiums pursuant to paragraph (3) of this subsection, the insurance company shall not refuse to renew a policy as otherwise permitted by this subsection.

History: L. 1972, ch. 176, § 1; L. 2002, ch. 58, § 1; July 1.