

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON INSURANCE
Lisa Calderon, Chair
SB 1295 (Rubio & Stern) – As Amended April 9, 2024

SENATE VOTE: 39-0

SUBJECT: Automobile insurance: notice of cancellation

SUMMARY: Clarifies that the 10-day notice of cancellation period for nonpayment of premium for auto insurance policies shall not commence until after nonpayment of premium.

EXISTING LAW:

- 1) Requires that insurers provide notice to policyholders prior to cancelling an auto insurance policy. Specifically:
 - a) Notice of cancellation must be mailed or delivered by the insurer to the policyholder, unless the policyholder opts in to receiving notices electronically.
 - b) Notice of cancellation must be provided at least 20 days prior to the effective date of cancellation.
 - c) Notice of cancellation must be provided at least 10 days prior if due to nonpayment of premium. (Insurance Code, Section 662)
- 2) Defines “nonpayment of premium” as a failure of the named insured to discharge when due any of their obligations in connection with the payment of premiums on a policy, or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit. (Insurance Code, Section 660)

FISCAL EFFECT: None

COMMENTS:

- 1) *Purpose:* According to the author:

District offices have received numerous inquiries from constituents who are being dropped from their auto-insurer for being just one day late on their monthly or annual premiums, often due to bank errors or a credit card mishaps. This results in these people having to reapply for insurance, then undergoing a 15 day waiting period before they can legally drive again. In the absence of an opportunity to cure a missed payment, constituents are finding themselves unable to timely secure new policies.

A common practice of insurers has been to send the ten-day of cancellation prior to the non-payment. An example would be: “Please send your payment on time to avoid cancellation of your policy for non-payment of the premium. We value your business and

urge you to send your payment in a timely manner, as there is no grace period for your payment. If unpaid, cancellation will be effective 06/02/24 at 12:01 a.m. Pacific Time (or sooner for other valid reasons). This is the only notice you will receive.”

The issue being addressed by this bill is whether an insurer can provide the ten-day notice of cancellation of non-payment prior to default. This question was answered by California’s First Appellate District in 2003 in *Mackey v. Bristol West Insurance Services of California, Inc.* (130 CAL.RPTR.2D 536,105 CAL.APP.4TH 1247). This court decided that when an insurer is fulfilling its requirement to provide its ten-day notice of cancellation due to non-payment under Insurance Code §662 it cannot send this notice prior to the date on which the premium, or any installment thereof, is due.

Additionally, the Court in *Mackey* found that it is apparent that the Legislature intended to provide policyholders with a 10-day period *after default* before the insurer can effectively cancel the policy. This additional notice was intended to provide policyholders who default in payment of their premium an opportunity during the 10-day period to pay the past due premium and keep the policy in force or to secure other insurance.

The insurers contend that it will be financially unfair to require notices of cancellation to be sent after default. This argument implicitly assumes a grace-period of free insurance would be given to insureds who fail to make their premium payments on time. However, this problem can be alleviated through proper scheduling on the part of insurance companies of their next premium due dates or by offering premium policies that specifically allow for grace periods after default.

This measure clarifies that a policyholder has 10 days to cure a nonpayment of premium after the policyholder receives notice.

REGISTERED SUPPORT / OPPOSITION:

Support

Insurance Commissioner Ricardo Lara / California Department of Insurance
United Policyholders

Opposition

None on file

Analysis Prepared by: Kathleen O'Malley / INS. / (916) 319-2086