

ESHB 2816 - S COMM AMD

By Committee on Financial Services, Insurance & Housing

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 48.18.290 and 1997 c 85 s 1 are each amended to read
4 as follows:

5 (1) Cancellation by the insurer of any policy which by its terms is
6 cancellable at the option of the insurer, or of any binder based on
7 such policy which does not contain a clearly stated expiration date,
8 may be effected as to any interest only upon compliance with the
9 following:

10 (a)(i) For policies other than medical malpractice liability
11 insurance, except as provided in (a)(ii) of this subsection: Written
12 notice of such cancellation, accompanied by the actual reason therefor,
13 must be actually delivered or mailed to the named insured not less than
14 forty-five days prior to the effective date of the cancellation
15 ~~((except for cancellation of insurance policies for))~~;

16 (ii) For policies that provide medical malpractice liability
17 insurance: Written notice of such cancellation, accompanied by the
18 actual reason therefore, must be actually delivered or mailed to the
19 named insured not less than ninety days prior to the effective date of
20 the cancellation, except for policies cancelled prior to the policy's
21 expiration date;

22 (iii) For policies canceled due to nonpayment of premiums,
23 ~~((which))~~ written notice ((shall be)) must be actually delivered or
24 mailed to the named insured not less than ten days prior to ((such date
25 ~~and except for cancellation of fire insurance policies))~~ the effective
26 date of the cancellation; and

27 (iv) For fire insurance policies canceled under chapter 48.53 RCW,
28 ~~((which))~~ written notice ((shall not be)) must be actually delivered or
29 mailed to the named insured not less than five days prior to ((such
30 ~~date))~~ the effective date of the cancellation;

1 (b) Like notice must also be so delivered or mailed to each
2 mortgagee, pledgee, or other person shown by the policy to have an
3 interest in any loss which may occur thereunder. For purposes of this
4 subsection (1)(b), "delivered" includes electronic transmittal,
5 facsimile, or personal delivery.

6 (2) The mailing of any such notice shall be effected by depositing
7 it in a sealed envelope, directed to the addressee at his or her last
8 address as known to the insurer or as shown by the insurer's records,
9 with proper prepaid postage affixed, in a letter depository of the
10 United States post office. The insurer shall retain in its records any
11 such item so mailed, together with its envelope, which was returned by
12 the post office upon failure to find, or deliver the mailing to, the
13 addressee.

14 (3) The affidavit of the individual making or supervising such a
15 mailing, shall constitute prima facie evidence of such facts of the
16 mailing as are therein affirmed.

17 (4) The portion of any premium paid to the insurer on account of
18 the policy, unearned because of the cancellation and in amount as
19 computed on the pro rata basis, must be actually paid to the insured or
20 other person entitled thereto as shown by the policy or by any
21 endorsement thereon, or be mailed to the insured or such person as soon
22 as possible, and no later than forty-five days after the date of notice
23 of cancellation to the insured for homeowners', dwelling fire, and
24 private passenger auto. Any such payment may be made by cash, or by
25 check, bank draft, or money order.

26 (5) This section shall not apply to contracts of life or disability
27 insurance without provision for cancellation prior to the date to which
28 premiums have been paid, or to contracts of insurance procured under
29 the provisions of chapter 48.15 RCW.

30 **Sec. 2.** RCW 48.18.2901 and 2002 c 347 s 1 are each amended to read
31 as follows:

32 (1) Each insurer shall be required to renew any contract of
33 insurance subject to RCW 48.18.290 unless one of the following
34 situations exists:

35 (a) The insurer gives the named insured at least forty-five or
36 ninety days' notice in writing as provided for in RCW 48.18.290(1)(a)

1 (i) or (ii), that it (~~proposes to refuse to renew~~) will not renew the
2 insurance contract upon its expiration date; and sets forth in that
3 writing the actual reason for refusing to renew;

4 (b) At least twenty days prior to its expiration date, the insurer
5 has communicated, either directly or through its agent, its willingness
6 to renew in writing to the named insured and has included in that
7 writing a statement of the amount of the premium or portion thereof
8 required to be paid by the insured to renew the policy, and the insured
9 fails to discharge when due his or her obligation in connection with
10 the payment of such premium or portion thereof;

11 (c) The insured has procured equivalent coverage prior to the
12 expiration of the policy period;

13 (d) The contract is evidenced by a written binder containing a
14 clearly stated expiration date which has expired according to its
15 terms; or

16 (e) The contract clearly states that it is not renewable, and is
17 for a specific line, subclassification, or type of coverage that is not
18 offered on a renewable basis. This subsection (1)(e) does not restrict
19 the authority of the insurance commissioner under this code.

20 (2) Any insurer failing to include in the notice required by
21 subsection (1)(b) of this section the amount of any increased premium
22 resulting from a change of rates and an explanation of any change in
23 the contract provisions shall renew the policy if so required by that
24 subsection according to the rates and contract provisions applicable to
25 the expiring policy. However, renewal based on the rates and contract
26 provisions applicable to the expiring policy shall not prevent the
27 insurer from making changes in the rates and/or contract provisions of
28 the policy once during the term of its renewal after at least twenty
29 days' advance notice of such change has been given to the named
30 insured.

31 (3) Renewal of a policy shall not constitute a waiver or estoppel
32 with respect to grounds for cancellation which existed before the
33 effective date of such renewal, or with respect to cancellation of fire
34 policies under chapter 48.53 RCW.

35 (4) "Renewal" or "to renew" means the issuance and delivery by an
36 insurer of a contract of insurance replacing at the end of the contract
37 period a contract of insurance previously issued and delivered by the

1 same insurer, or the issuance and delivery of a certificate or notice
2 extending the term of a contract beyond its policy period or term.
3 However, (a) any contract of insurance with a policy period or term of
4 six months or less whether or not made continuous for successive terms
5 upon the payment of additional premiums shall for the purpose of RCW
6 48.18.290 and 48.18.293 through 48.18.295 be considered as if written
7 for a policy period or term of six months; and (b) any policy written
8 for a term longer than one year or any policy with no fixed expiration
9 date, shall, for the purpose of RCW 48.18.290 and 48.18.293 through
10 48.18.295, be considered as if written for successive policy periods or
11 terms of one year.

12 (5) A midterm blanket reduction in rate, approved by the
13 commissioner, for medical malpractice insurance shall not be considered
14 a renewal for purposes of this section."

ESHB 2816 - S COMM AMD

By Committee on Financial Services, Insurance & Housing

15 On page 1, line 2 of the title, after "policies;" strike the
16 remainder of the title and insert "and amending RCW 48.18.290 and
17 48.18.2901."

EFFECT: The 90 days' notice provision does not apply to policies
canceled prior to expiration (i.e., midterm cancellations).

--- END ---