

**State of Rhode Island and Providence Plantations**  
**DEPARTMENT OF BUSINESS REGULATION**  
*Division of Insurance*  
**233 Richmond Street**  
**Providence, RI 02903**

**NOTICE OF PROPOSED AMENDMENT TO REGULATIONS  
AND NOTICE OF PUBLIC HEARING**

Notice is hereby given, in accordance with R.I. Gen. Laws §§ 42-14-17 and 42-35-3, that the Director of the Department of Business Regulation (“Department”) proposes to amend the following Insurance Regulations:

**Insurance Regulation 16 – Automobile Insurance Policies:  
Cancellation and Renewal Provisions**

The Proposed Amended Regulation continues the effective date of the changes made in 2005 from December 31, 2005 to March 31, 2006. The Department has determined that this amendment is necessary to allow enough time for implementation of the changes.

**Insurance Regulation 25 – Automobile Insurance Merit Rating Plan**

The Proposed Amended Regulation continues the effective date of the changes made in 2005 from December 31, 2005 to March 31, 2006. The Department has determined that this amendment is necessary to allow enough time for implementation of the changes. Additionally, the proposal removes the word “solely” from section 7 to clarify the prohibition of this section as expressed in Insurance Bulletin 2005-10 issued September 16, 2005.

**Insurance Regulation 62 – Plan of Automobile Insurance Rating  
Territories**

The Proposed Amended Regulation continues the effective date of the changes made in 2005 from December 31, 2005 to March 31, 2006. The Department has determined that this amendment is necessary to allow enough time for implementation of the changes.

Notice is also hereby given, in accordance with R.I. Gen. Laws § 42-35-3, that the Department of Business Regulation will hold a public hearing beginning at 10:00 a.m. on December 19, 2005 in the Main Hearing Room of the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903, regarding the Proposed Amended Regulations.

Copies of the Proposed Amended Regulations are on file at the Department and copies may be obtained from the Legal Division, Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903 during normal working hours on regular business days or by mail upon request. The Proposed Amended Regulations may also be obtained from the Department's website [www.dbr.state.ri.us](http://www.dbr.state.ri.us).

In the development of the Proposed Amended Regulations, consideration was given to overlapping approaches, overlap and duplication with other statutory and regulatory provisions and economic impact on small business and cities and towns.

All interested persons may submit their views, data or arguments regarding the Proposed Amended Regulations, including information relating to alternative approaches, duplication or overlap with other state rules or regulations and the economic impact of the Proposed Amended Regulations on small business and/or cities and towns, orally at the public hearing or in writing, either by delivering the same in person or United States mail with postage pre-paid thereon to the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903 attention Elizabeth Kelleher Dwyer, Hearing Officer or by e-mail to [Elizabeth\\_dwyer@dbr.state.ri.us](mailto:Elizabeth_dwyer@dbr.state.ri.us)

ALL WRITTEN SUBMISSION MUST BE RECEIVED NOT LATER THAN  
DECEMBER 19, 2005 AT 10:00 A.M.

The hearing room is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Office of Legal Counsel at (401) 222 5400 or TDD (401) 222 2999 not less than ninety-six (96) hours in advance of the hearing date.

A. Michael Marques  
Director, Department of Business Regulation

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**PROPOSED AMENDMENTS TO**  
**INSURANCE REGULATION 16**

**AUTOMOBILE INSURANCE POLICIES: CANCELLATION AND RENEWAL**  
**PROVISIONS**

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**Section 1**     **Authority**

This Regulation is promulgated in accordance with R.I. Gen. Laws §§ 27-8-11, 27-9-1 *et seq.*, 31-47-4 and 42-14-17.

**Section 2**     **Purpose**

The purpose of this Regulation is to set forth the limitations which apply to cancellation and renewal of automobile insurance policies. The provisions of this Regulation cannot be varied by the language of the insurance policy.

**Section 3**     **Definitions**

As used in this Regulation:

- A. "Automobile Liability Coverage" shall mean coverage of bodily injury and property damage liability, medical payments and uninsured motorist coverages.

- B. "Automobile physical damage coverage" shall mean coverage of loss or damage to an automobile insured under the policy except loss or damage resulting from collision or upset.
- C. "Automobile collision coverage" shall mean coverage or loss or damage to an automobile insured under the policy resulting from collision or upset.
- D. "Chargeable Loss Occurrence" shall mean a chargeable accident as set forth in Regulation 25 and R.I. Gen. Laws § 27-9-4(b), (d) and (e).
- E. "Insurance Score" shall mean a number, rating or any categorization that is derived from an algorithm, computer application, model or other process that is based in whole or in part on credit history for the purposes of predicting the future insurance loss experience of an individual applicant or insured.
- F. "Non-Chargeable Loss Occurrence" shall mean any incident which results in any loss payment other than those incidents which fall within the definition of Chargeable Loss Occurrence.
- G. "Non-payment of Premiums" shall mean failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy of automobile insurance 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.
- H. "Policy" shall mean any private passenger automobile policy which includes automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage, or automobile physical damage coverage, delivered or issued for delivery in this state. Provided however, that this Regulation shall not apply:
  - a. to any policy which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy, nor
  - b. to any policy covering garage, automobile sales agency, repair shop, service station or public parking place operations hazards, nor
  - c. to any policy providing insurance only on an excess basis.
- I. "Private Passenger Automobile" shall mean any vehicle insured by a personal automobile insurance policy.
- J. "Renewal" or "to renew" shall mean the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or

notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than twelve (12) months shall for the purpose of this section be considered as if written for a policy period or term of twelve (12) months. Provided, further, that for purposes of this Regulation any policy written for a term longer than one (1) year or any policy with no fixed expiration date shall be considered as if written for successive policy periods or terms of one (1) year and any termination by an insurer effective on an anniversary date of such policy shall be deemed a failure to renew.

**Section 4**      **Cancellation of Policy**

- A.      Effective sixty (60) days after the inception date of a policy, or if the policy is a renewal, effective immediately, the company shall not exercise its right to cancel the policy unless it is based on one (1) or more of the following reasons:
1.      Non-payment of premium; whether payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit, or
  2.      The driver's license or motor vehicle registration of the named insured or any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation or cancellation of the license during the policy period, or, if the policy is a renewal, during its policy period, or
  3.      The insurance was obtained through fraudulent misrepresentation (subject to the limitation in section 10 of this Regulation), or
  4.      There has been a violation of any of the terms or conditions of the policy, or
  5.      The named insured or any other operator of the automobile either resident in the same household or who customarily operates the automobile is subject to epilepsy or heart attacks, provided such individual cannot produce a certificate from a physician testifying to unqualified ability to operate a motor vehicle, or
  6.      The named insured or any other operator of the automobile either resident in the same household or who customarily operates the automobile has been convicted of or forfeits bail for three (3) or more violations, committed within a period of eighteen (18) months, of any ordinance or regulation limiting the speed of motor vehicles or any provision constituted a misdemeanor by the motor vehicle laws of any state, or
  7.      The named insured or any other operator of the automobile either resident in the same household or who customarily operates the automobile has

been convicted of or forfeits bail during the thirty six (36) months immediately preceding the effective date of the policy, or during the policy term, for;

1. any felony, or
2. homicide or assault arising out of the operation of a motor vehicle, or criminal negligence in the operation of a motor vehicle resulting in death, or
3. operating a motor vehicle while in an intoxicated condition or, while under the influence of drugs, or
4. leaving the scene of an accident without stopping to report, or
5. theft of a motor vehicle, or
6. making false statements in an application for a driver's license.

B. During the policy period no modification of automobile physical damage coverage (except coverage for loss caused by collision) whereby provision is made for the application of a deductible amount not exceeding one hundred dollars (\$100) shall be deemed a cancellation of the coverage or of the policy. This section shall not apply to the failure to renew a policy.

C. This Section shall not apply to policies issued pursuant to R.I. Gen. Laws § 31-33-8 and 31-47-16 through the Rhode Island Automobile Insurance Plan. Cancellation of those policies is governed solely by the terms of the Plan Manual as filed with and approved by the Department.

## **Section 5**      **Cancellation Notice**

A. The provisions of Section 4 of this Regulation shall apply to each and every coverage or limit afforded under the policy but the insurer, at its option and in lieu of outright cancellation, may reduce the limits afforded for automobile bodily injury liability and property damage liability (subject to compliance with the minimum financial security requirements) or cancel any other coverage, by mailing to the insured at the address shown in the policy written notice stating the specific reason or reasons relied upon by it for its action and when, not less than thirty (30) days thereafter, such cancellation or reduction of limits shall be effective.

B. No insurer shall exercise its right to cancel a policy unless a written notice of cancellation is mailed or delivered to the named insured, at the address shown in the policy, at least thirty (30) days prior to the effective date of cancellation, except that when cancellation is for non-payment of premium such notice shall be

mailed or delivered to the named insured at the address in the policy at least ten (10) days prior to the effective date of cancellation and shall include or be accompanied by a statement of the reason therefore. This section shall not apply to the failure to renew a policy.

- C. This Section shall not apply to policies issued pursuant to R.I. Gen. Laws § 31-33-8 and 31-47-16 through the Rhode Island Automobile Insurance Plan. Cancellation of those policies is governed solely by the terms of the Plan Manual as filed with and approved by the Department.

**Section 6**      **Notice of Nonrenewal**

- A. Unless the insurer, at least thirty (30) days in advance of the end of the policy period, mails or delivers to the named insured at the address shown in the policy, notice of its intention not to renew the policy or to condition its renewal upon reduction of limits or elimination of any coverages afforded under the policy, together with a statement of its reasons therefor, the named insured shall be entitled to renew the policy upon payment of the premium when due. The renewal policy shall provide that the insurer shall not cancel such policy or reduce any of the limits or cancel any of the coverages provided thereunder except as provided in Sections 4 and 5 of this Regulation. This Section shall not apply in case of nonpayment of premium as required by the insurer for the expiring policy or renewal thereof. 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.
- B. No insurance company shall fail to renew a private passenger automobile policy because of a loss occurrence only, unless a Chargeable Loss Occurrence or more than two (2) Non-Chargeable Loss Occurrences, involving insureds, have taken place within the annual policy year.
- C. No insurance company shall fail to renew a private passenger automobile policy solely because the insured has attained the age of sixty-five (65) years or older.
- D. Notwithstanding the failure of an insurer to comply with this Section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.
- E. This Section shall not apply to policies issued pursuant to R.I. Gen. Laws § 31-33-8 and 31-47-16 through the Rhode Island Automobile Insurance Plan. Nonrenewal of those policies is governed solely by the terms of the Plan Manual as filed with and approved by the Department.

**Section 7**      **Use of Insurance Score in Rating or Underwriting**

- A.      An insurer may not decline insurance for a new customer based solely on an Insurance Score, or absence of an Insurance Score.
  
- B.      An insurer which uses an Insurance Score in rating or underwriting must demonstrate the statistically predictive nature of the Insurance Score utilized in conjunction with its rate filing.
  
- C.      An insurer must confirm that none of the “negative factors” listed in R.I. Gen. Laws § 27-9-56(c) have been utilized in determining an Insurance Score or in the rating or underwriting process.
  
- D.      No insurer shall cancel, fail to renew or increase the rate of an existing customer based solely on a worsening in a customer’s Insurance Score unless:
  - i.      the worsening is due to a bankruptcy, tax lien, garnishment, foreclosure or judgment, or
  
  - ii.     if a subsequent Insurance Score no sooner than six (6) months later confirms the worsening in score.

**Section 8**      **Notice of Eligibility for State Plan**

When a policy is cancelled or non-renewed, other than for non-payment of premiums or the insured's having obtained substitute coverage or if the policy had been issued through the Rhode Island Automobile Insurance Plan, the insurer shall notify the insured of his possible eligibility for insurance through the Rhode Island Automobile Insurance Plan. Such notice shall accompany or be included in the cancellation or non-renewal notice. The notice must be clearly identifiable by the insured. The notice must provide information that insured may contact a licensed insurance producer for assistance in obtaining coverage through the Rhode Island Automobile Insurance Plan.

**Section 9**      **Notice of Financial Responsibility**

Every notice of cancellation or non-renewal sent to the insured shall include a statement that financial security is required to be maintained continuously throughout the registration period and that failure to maintain financial security shall subject the violator to a mandatory suspension of license and registration. The statement of financial security shall be in a type face not smaller than 12 point pursuant to R.I. Gen. Laws § 31-47-4(c).

**Section 10**     **Prohibition of Rescission of Automobile Liability Coverage**

No insurer may rescind *ab initio* coverage required by the terms of R.I. Gen. Laws § 31-47-1 *et seq.* Whether or not rescission *ab initio* is available for other coverages is not addressed by this Regulation and shall be governed by the applicable statutory and case law of this state. Nothing in this section shall vary the ability of the insurer to cancel automobile liability coverage on a prospective basis, as long as the requirements of all statutes and Regulations governing cancellation are met.

**Section 11**     **Nonliability of Insurer**

- A.     There shall be no liability on the part of and no cause of action of any nature shall arise against any insurer, its authorized representatives, its agents, its employees, or any firm, person or corporation furnishing either to the insurer or the Insurance Commissioner information as to reasons for cancellation, reduction of limits, elimination of coverages, conditioned renewal or non-renewal, for any statement made by any of them in any written notice of cancellation, reduction of limits, elimination of coverages, conditioned renewal or non-renewal, or in any other communication, oral or written, specifying the reasons for cancellation, reduction of limits, elimination of coverages, conditioned renewal or non-renewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.
  
- B.     Proof of mailing of a notice of cancellation, reduction of limits, elimination of coverages or of intention not to renew or proof of the mailing of the reasons therefor, to the named insured at the address shown in the policy, shall be sufficient proof of the giving of notice and the giving of reasons required by this Regulation. A certificate of mailing as certified by the U.S. Postal Service will satisfy the proof of mailing requirement.

**Section 12**     **Automatic Termination of Excess Automobile Policy**

An excess automobile policy may provide that it shall automatically terminate if the primary policy terminates, whether by cancellation, non-renewal or otherwise and such an automatic termination provision shall not be deemed a cancellation or non-renewal for the purpose of this Regulation. As used in this Regulation, "excess automobile policy" means a policy which affords automobile bodily injury liability insurance and automobile property damage liability insurance restricted to a limit of liability in excess of that provided by another designated policy containing limits of liability which are at least equal to those required by the Financial Responsibility Law of Rhode Island.

**Section 13**    *Severability*

If any section, term, or provision of this Regulation should be adjudged invalid for any reason, that judgment should not effect, impair, or invalidate any remaining section, term or provision, which shall remain in full force and effect.

**Section 14**    *Effective Date*

This Regulation shall be effective ~~as indicated below. The 2005 amendments to the Regulation shall be effective~~ for all policies issued or renewed after ~~December 31, 2005~~ March 31, 2006.

EFFECTIVE DATE:	May 1, 1969
AMENDED:	August 6, 1984
REFILED:	December 19, 2001
AMENDED:	August 26, 2003
AMENDED:	May 9, 2005
<u>AMENDED:</u>	<u>December , 2005</u>