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LC01138

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO INSURANCE - ACCIDENT AND SICKNESS INSURANCE POLICIES

Introduced By: Representatives Ucci, Nunes, Medina, Keable, and Fellela

Date Introduced: February 16, 2011

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 27-18-3 and 27-18-4 of the General Laws in Chapter 27-18
2 entitled "Accident and Sickness Insurance Policies" are hereby amended to read as follows:

3 **27-18-3. Required provisions.** -- (a) Except as provided in section 27-18-5, each policy
4 delivered or issued for delivery to any person in this state shall contain the provisions specified in
5 this section in the words in which the provisions appear in this section; provided, that the insurer
6 may, at its option, substitute, for one or more of the provisions, corresponding provisions of
7 different wording approved by the commissioner which are in each instance not less favorable in
8 any respect to the insured or the beneficiary. The provisions shall be preceded individually by the
9 caption appearing in this subsection or, at the option of the insurer, by the appropriate individual
10 or group captions or subcaptions as the commissioner may approve:

11 (1) A provision as follows:

12 "ENTIRE CONTRACT; CHANGES: This policy, including the endorsements and the
13 attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall
14 be valid until approved by an executive officer of the insurer and unless the approval is endorsed
15 on it or attached to it. No agent has authority to change this policy or to waive any of its
16 provisions."

17 (2) A provision as follows:

18 "TIME LIMIT ON CERTAIN DEFENSES: (a) After three (3) years from the date of
19 issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in

1 the application for this policy shall be used to void the policy or to deny a claim for loss incurred
2 or disability (as defined in the policy) commencing after the expiration of that three-year period."

3 (This policy provision shall not be construed as to affect any legal requirement for
4 avoidance of a policy or denial of a claim during the initial three (3) year period, nor to limit the
5 application of section 27-18-4(1), (2), (3), (4) and (5) in the event of a misstatement with respect
6 to age or occupation or other insurance.)

7 (A policy which the insured has the right to continue in force subject to its terms by the
8 timely payment of premium: (i) until at least age fifty (50); or (ii) in the case of a policy issued
9 after age forty-four (44), for at least five (5) years from its date of issue, may contain in lieu of
10 this provision the following provision (from which the clause in parentheses may be omitted at
11 the insurer's option) under the caption "INCONTESTABLE":

12 "After this policy has been in force for a period of three (3) years during the lifetime of
13 the insured (excluding any period during which the insured is disabled), it shall become
14 incontestable as to the statements contained in the application.")

15 "(b) No claim for loss incurred or disability (as defined in the policy) commencing after
16 three (3) years from the date of issue of this policy shall be reduced or denied on the ground that a
17 disease or physical condition not excluded from coverage by name or specific description
18 effective on the date of loss had existed prior to the effective date of coverage of this policy."

19 (3) A provision as follows:

20 "GRACE PERIOD: A grace period of _____" (insert a number not less than "seven"
21 (7) for weekly premium policies, "ten" (10) for monthly premium policies and "thirty-one" (31)
22 for all other policies) "days will be granted for the payment of each premium falling due after the
23 first premium, during which grace period the policy shall continue in force."

24 (A policy which contains a cancellation provision may add, at the end of the above
25 provision:

26 "subject to the right of the insurer to cancel in accordance with the cancellation provision
27 of this policy.")

28 (A policy in which the insurer reserves the right to refuse any renewal shall have, at the
29 beginning of the above provision:

30 "Unless not less than ten (10) days prior to the premium due date the insurer has
31 delivered to the insured or has mailed to his or her last address as shown by the records of the
32 insurer written notice of its intention not to renew this policy beyond the period for which the
33 premium has been accepted,")

34 (4) A provision as follows:

1 "REINSTATEMENT: If any renewal premium is not paid within the time granted the
2 insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly
3 authorized by the insurer to accept this premium, without requiring in connection with it an
4 application for reinstatement, shall reinstate the policy; provided, that if the insurer or the agent
5 requires an application for reinstatement and issues a conditional receipt for the premium
6 tendered, the policy will be reinstated upon approval of the application by the insurer or, lacking
7 approval, upon the forty-fifth day following the date of the conditional receipt unless the insurer
8 has previously notified the insured in writing of its disapproval of the application. The reinstated
9 policy shall cover only loss resulting from an accidental injury as may be sustained after the date
10 of reinstatement and loss due to a sickness as may begin more than ten (10) days after this date. In
11 all other respects the insured and insurer shall have the same rights under the reinstated policy as
12 they had under the policy immediately before the due date of the defaulted premium, subject to
13 any provisions endorsed on it or attached to it in connection with the reinstatement. Any premium
14 accepted in connection with a reinstatement shall be applied to a period for which the premium
15 has not been previously paid, but not to any period more than sixty (60) days prior to the date of
16 reinstatement."

17 (The last sentence of this provision may be omitted from any policy which the insured
18 has the right to continue in force subject to its terms by the timely payment of premiums: (i) until
19 at least age fifty (50); or (ii) in the case of a policy issued after age forty-four (44), for at least five
20 (5) years from its date of issue.)

21 (5) A provision as follows:

22 "NOTICE OF CLAIM: Written notice of claim must be given to the insurer within
23 twenty (20) days after the occurrence or commencement of any loss covered by the policy, or as
24 soon after this as is reasonably possible. Notice given by or on behalf of the insured or the
25 beneficiary to the insurer at _____" (insert the location of any office as
26 the insurer may designate for the purpose), "or to any authorized agent of the insurer, with
27 information sufficient to identify the insured, shall be deemed notice to the insurer." (In a policy
28 providing a loss of time benefit which may be payable for at least two (2) years, an insurer may at
29 its option insert the following between the first and second sentences of this provision: "Subject
30 to the qualifications set forth below, if the insured suffers loss of time on account of disability for
31 which indemnity may be payable for at least two (2) years, the insured shall, at least once in every
32 six (6) months after having given notice of claim, give to the insurer notice of continuance of the
33 disability, except in the event of legal incapacity. The period of six (6) months following any
34 filing of proof by the insured or any payment by the insurer on account of the claim or any denial

1 of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in
2 the giving of notice shall not impair the insured's right to any indemnity which would have
3 accrued during the period of six (6) months preceding the date on which the notice is actually
4 given.")

5 (6) A provision as follows:

6 "CLAIM FORMS: The insurer, upon receipt of a notice of claim, will furnish to the
7 claimant any forms as are usually furnished by it for filing proofs of loss. If the forms are not
8 furnished within fifteen (15) days after the giving of notice, the claimant shall be deemed to have
9 complied with the requirements of this policy as to proof of loss upon submitting, within the time
10 fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character,
11 and the extent of the loss for which claim is made."

12 (7) A provision as follows:

13 "PROOFS OF LOSS: Written proof of loss must be furnished to the insurer at its office
14 in the case of a claim for loss for which this policy provides any periodic payment contingent
15 upon continuing loss within ninety (90) days after the termination of the period for which the
16 insurer is liable and in the case of a claim for any other loss within ninety (90) days after the date
17 of the loss. Failure to furnish proof within the time required shall not invalidate nor reduce any
18 claim if it was not reasonably possible to give proof within this time, provided the proof is
19 furnished as soon as reasonably possible and in no event, except in the absence of legal capacity,
20 later than one year from the time proof is required."

21 (8) A provision as follows:

22 "TIME OF PAYMENT OF CLAIMS: Indemnities payable under this policy for any loss
23 other than loss for which this policy provides any periodic payment will be paid immediately
24 upon receipt of due written proof of this loss. Subject to due written proof of loss, all accrued
25 indemnities for loss for which this policy provides periodic payment will be paid
26 _____" (insert period for payments which must not be less frequently than
27 monthly) "and any balance remaining unpaid upon the termination of liability will be paid
28 immediately upon receipt of due written proof."

29 (9) A provision as follows:

30 "PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in accordance with
31 the beneficiary designation and the provisions respecting the payment which may be prescribed in
32 this policy and effective at the time of payment. If no designation or provision is effective,
33 indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at
34 the insured's death may, at the option of the insurer, be paid either to the beneficiary or to the

1 estate. All other indemnities will be payable to the insured."

2 (The following provisions, or either of them, may be included with this provision at the
3 option of the insurer:

4 "If any indemnity of this policy shall be payable to the estate of the insured, or to an
5 insured or beneficiary who is a minor or not competent to give a valid release, the insurer may
6 pay the indemnity, up to an amount not exceeding \$_____ " (insert an amount which shall
7 not exceed one thousand dollars (\$1,000)), "to any relative by blood or connection by marriage of
8 the insured or beneficiary who is deemed by the insurer to be equitably entitled to the payment.
9 Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the
10 insurer to the extent of the payment." "Subject to any written direction of the insured in the
11 application or otherwise, all or a portion of any indemnities provided by this policy on account of
12 hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured
13 requests otherwise in writing not later than the time of filing proofs of the loss, be paid directly to
14 the hospital or person rendering the services; but it is not required that the service be rendered by
15 a particular hospital or person.")

16 (10) A provision as follows:

17 "PHYSICAL EXAMINATIONS AND AUTOPSY: The insurer at its own expense shall
18 have the right and opportunity to examine the person of the insured when and as often as it may
19 reasonably require during the pendency of a claim under this policy and to make an autopsy in
20 case of death where it is not forbidden by law."

21 (11) A provision as follows:

22 "LEGAL ACTIONS: No action at law or in equity shall be brought to recover on this
23 policy prior to the expiration of sixty (60) days after written proof of loss has been furnished in
24 accordance with the requirements of this policy. No action shall be brought after the expiration of
25 three (3) years after the time written proof of loss is required to be furnished."

26 (12) A provision as follows:

27 "CHANGE OF BENEFICIARY: Unless the insured makes an irrevocable designation of
28 beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the
29 beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to
30 any change of beneficiary or beneficiaries, or to any other changes in this policy."

31 (The first clause of this provision, relating to the irrevocable designation of beneficiary,
32 may be omitted at the insurer's option.)

33 (13) A provision as follows:

34 "Medical services' means those professional services and supplies rendered by or under

1 the direction of persons duly licensed under the laws of this state to practice medicine, surgery, or
2 podiatry as may be specified by any medical service plan. Medical service shall not be construed
3 to include hospital services."

4 (14) A provision as follows:

5 "CANCELLATION; The insurer may cancel this policy at any time by written notice
6 delivered to the insured and the policy holder, or mailed to his or her last address as shown by the
7 records of the insurer, stating when, not less than ten (10) days after this, the cancellation shall be
8 effective; and, after the policy has been continued beyond its original term, the insured or policy
9 holder may cancel this policy at any time by written notice delivered or mailed to the insurer,
10 effective upon receipt or on a later date as may be specified in the notice. In the event of
11 cancellation, the insurer will return promptly the unearned portion of any premium paid. If the
12 insured or policy holder cancels, the earned premium shall be computed by the use of the short-
13 rate table last filed with the state official having supervision of insurance in the state where the
14 insured resided when the policy was issued. If the insurer cancels, the earned premium shall be
15 computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the
16 effective date of cancellation."

17 (c) (1) Each policy issued and/or renewed shall contain a minimum home health care
18 benefit as follows:

19 (i) "Home health care" is defined as a medically necessary program to reduce the length
20 of a hospital stay or to delay or eliminate an otherwise medically necessary hospital admission;

21 (ii) The home health care program shall be formulated and supervised by the subscriber's
22 physician;

23 (iii) Minimum home health care coverage shall not exceed six (6) home or office
24 physician's visits per month, and shall not exceed three (3) nursing visits per week, home health
25 aide visits up to twenty (20) hours per week, and the following services as needed: physical or
26 occupational therapy as a rehabilitative service, respiratory service, speech therapy, medical
27 social work, nutrition counseling, prescription drugs and medication, medical and surgical
28 supplies, such as dressings, bandages, and casts, minor equipment such as commodes and
29 walkers, laboratory testing, x-rays and E.E.G. and E.K.G. evaluations; and

30 (iv) Communicable diseases and/or nervous, emotional and mental illness are excluded
31 from home health care coverage;

32 (2) The commissioner shall approve the wording in each policy that in each instance shall
33 not be less favorable in any respect to the insured or the beneficiary, as the benefits are outlined
34 in subdivision (1) of this subsection. Any accident and sickness insurance policy whose benefits

1 are limited to income protection or the furnishing of disability income or a limited benefit health
2 coverage are excluded from this subsection. Notwithstanding the provisions of section 27-18-
3 19(3), the minimum home health care benefit shall be included in blanket and/or group policies of
4 accident and sickness insurance;

5 (3) A "limited benefit policy," for the purposes of this section, is any accident and
6 sickness policy that covers one or more specified risks including, but not limited to, accidental
7 death or injury or specified disease. A policy that broadly covers accident and sickness, but which
8 contains exclusions and limitations with respect to certain risks or services, is not a limited
9 benefit policy;

10 (4) With respect to blanket and/or group policies, the provisions of this subsection shall
11 apply only to services provided to residents of Rhode Island or employees of Rhode Island
12 employers.

13 **27-18-4. Optional provisions.** -- Except as provided in section 27-18-5, no policy
14 delivered or issued for delivery to any person in this state shall contain provisions respecting the
15 matters set forth in this section unless the provisions are in the words in which they appear in this
16 section; provided, that the insurer may, at its option, use in lieu of any provision a corresponding
17 provision of different wording approved by the commissioner which is not less favorable in any
18 respect to the insured or the beneficiary. The provision contained in the policy shall be preceded
19 individually by the appropriate caption appearing in this section or, at the option of the insurer, by
20 any appropriate individual or group captions or subcaptions as the commissioner may approve:

21 (1) A provision as follows:

22 "CHANGE OF OCCUPATION: If the insured is injured or contracts sickness after
23 having changed his or her occupation to one classified by the insurer as more hazardous than that
24 stated in this policy or while doing for compensation anything pertaining to an occupation
25 classified as more hazardous, the insurer will pay only that portion of the indemnities provided in
26 this policy as the premium paid would have purchased at the rates and within the limits fixed by
27 the insurer for the more hazardous occupation. If the insured changes his or her occupation to one
28 classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt
29 of proof of the change of occupation, will reduce the premium rate accordingly, and will return
30 the excess pro rata unearned premium from the date of change of occupation or from the policy
31 anniversary date immediately preceding receipt of the proof, whichever is the more recent. In
32 applying this provision, the classification of occupational risk and the premium rates shall be such
33 as have been last filed by the insurer, prior to the occurrence of the loss for which the insurer is
34 liable or prior to the date of proof of change in occupation, with the state official having

1 supervision of insurance in the state where the insured resided at the time this policy was issued;
2 but, if the filing was not required, then the classification of occupational risk and the premium
3 rates shall be those last made effective by the insurer in the state prior to the occurrence of the
4 loss or prior to the date of proof of change in occupation."

5 (2) A provision as follows:

6 "MISSTATEMENT OF AGE: If the age of the insured has been misstated, all amounts
7 payable under this policy shall be such as the premium paid would have purchased at the correct
8 age."

9 (3) A provision as follows:

10 "OTHER INSURANCE IN THIS INSURER: If an accident or sickness or accident and
11 sickness policy or policies previously issued by the insurer to the insured is in force concurrently
12 with it, making the aggregate indemnity for " (insert type of coverage or coverages) "in
13 excess of \$....." (insert maximum limit of indemnity or indemnities) "the excess insurance shall
14 be void and all premiums paid for the excess shall be returned to the insured or to his or her
15 estate," or, in lieu of this:

16 "Insurance effective at any one time on the insured under a like policy or policies in this
17 insurer is limited to the one such policy elected by the insured, his or her beneficiary or his or her
18 estate and the insurer will return all premiums paid for all other like policies."

19 (4) A provision as follows:

20 "INSURANCE WITH OTHER INSURERS: If there is other valid coverage, not with
21 this insurer, providing benefits for the same loss on a provision of service basis or on an expense
22 incurred basis and of which this insurer has not been given written notice prior to the occurrence
23 or commencement of loss, the only liability under any expense incurred coverage of this policy
24 shall be for the proportion of the loss as the amount which would have been payable under this
25 policy plus the total of the like amounts under all the other valid coverage for the same loss of
26 which this insurer had notice bears to the total like amounts under all valid coverage for the loss,
27 and for the return of the portion of the premiums paid as shall exceed the pro rata portion for the
28 determined amount. For the purpose of applying this provision when other coverage is on a
29 provision of service basis, the "like amount" of the other coverage shall be taken as the amount
30 which the services rendered would have cost in the absence of the coverage."

31 (If this policy provision is included in a policy which also contains the next following
32 policy provision, there shall be added to the caption of this provision the phrase " -- EXPENSE
33 INCURRED BENEFITS." The insurer may, at its option, include in this provision a definition of
34 "other valid coverage", approved as to form by the commissioner, which definition shall be

1 limited in subject matter to coverage provided by organizations subject to regulation by insurance
2 law or by insurance authorities of this or any other state of the United States or any province of
3 Canada, and by hospital or medical service organizations, and to any other coverage the inclusion
4 of which may be approved by the commissioner. In the absence of the definition, the term shall
5 not include group insurance, automobile medical payments insurance, or coverage provided by
6 hospital or medical service organizations or by union welfare plans or employer or employee
7 benefit organizations. For the purpose of applying this policy provision with respect to any
8 insured, any amount of benefit provided for the insured pursuant to any compulsory benefit
9 statute, including any workers' compensation or employer's liability statute, whether provided by
10 a governmental agency or otherwise, shall in all cases be deemed to be "other valid coverage" of
11 which the insurer has had notice. In applying this policy provision, no third party liability
12 coverage shall be included as "other valid coverage".)

13 (5) A provision as follows:

14 "INSURANCE WITH OTHER INSURERS: If there is other valid coverage, not with
15 this insurer, providing benefits for the same loss on other than an expense incurred basis and of
16 which this insurer has not been given written notice prior to the occurrence or commencement of
17 loss, the only liability for those benefits under this policy shall be for the proportion of the
18 indemnities otherwise provided under this policy for the loss as the like indemnities of which the
19 insurer had notice (including the indemnities under this policy) bear to the total amount of all like
20 indemnities for the loss, and for the return of the portion of the premium paid as shall exceed the
21 pro rata portion for the determined indemnities."

22 (If this policy provision is included in a policy which also contains the next preceding
23 policy provision, there shall be added to the caption of this provision the phrase " -- OTHER
24 BENEFITS." The insurer may, at its option, include in this provision a definition of "other valid
25 coverage", approved as to form by the commissioner, which definition shall be limited in subject
26 matter to coverage provided by organizations subject to regulation by insurance law or by
27 insurance authorities of this or any other state of the United States or any province of Canada, and
28 to any other coverage the inclusion of which may be approved by the commissioner. In the
29 absence of the definition, this term shall not include group insurance, or benefits provided by
30 union welfare plans or by employer or employee benefit organizations. For the purpose of
31 applying this policy provision with respect to any insured, any amount of benefit provided for the
32 insured pursuant to any compulsory benefit statute, including any workers' compensation or
33 employer's liability statute, whether provided by a governmental agency or otherwise, shall in all
34 cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying this

1 policy provision, no third party liability coverage shall be included as "other valid coverage".)

2 (6) A provision as follows:

3 "RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss of
4 time benefits promised for the same loss under all valid loss of time coverage upon the insured,
5 whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured
6 at the time disability commenced or his or her average monthly earnings for the period of two (2)
7 years immediately preceding a disability for which claim is made, whichever is the greater, the
8 insurer will be liable only for the proportionate amount of the benefits under this policy as the
9 amount of the monthly earnings or the average monthly earnings of the insured bears to the total
10 amount of monthly benefits for the same loss under all the coverage upon the insured at the time
11 the disability commences, and for the return of the part of the premiums paid during the two (2)
12 years that exceeds the pro rata amount of the premiums for the benefits actually paid under this
13 policy; but this shall not operate to reduce the total monthly amount of benefits payable under all
14 the coverage upon the insured below the sum of two hundred dollars (\$200) or the sum of the
15 monthly benefits specified in the coverage, whichever is the lesser, nor shall it operate to reduce
16 benefits other than those payable for loss of time." (This policy provision may be inserted only in
17 a policy which the insured has the right to continue in force subject to its terms by the timely
18 payment of premiums: (i) until at least age fifty (50); or (ii) in the case of a policy issued after age
19 forty-four (44), for at least five (5) years from its date of issue. The insurer may, at its option,
20 include in this provision a definition of "valid loss of time coverage", approved as to form by the
21 commissioner, which definition shall be limited in subject matter to coverage provided by
22 governmental agencies or by organizations subject to regulation by insurance law or by insurance
23 authorities of this or any other state of the United States or any province of Canada, or to any
24 other coverage the inclusion of which may be approved by the commissioner or any combination
25 of this coverage. In the absence of a definition, the term shall not include any coverage provided
26 for the insured pursuant to any compulsory benefit statute, including any workers' compensation
27 or employer's liability statute, or benefits provided by union welfare plans or by employer or
28 employee benefit organizations.)

29 (7) A provision as follows:

30 "UNPAID PREMIUM: Upon the payment of a claim under this policy, any premium
31 then due and unpaid or covered by any note or written order may be deducted from this
32 payment."

33 ~~(8) A provision as follows:~~

34 ~~"CANCELLATION: The insurer may cancel this policy at any time by written notice~~

1 ~~delivered to the insured, or mailed to his or her last address as shown by the records of the~~
2 ~~insurer, stating when, not less than ten (10) days after this, the cancellation shall be effective; and,~~
3 ~~after the policy has been continued beyond its original term, the insured may cancel this policy at~~
4 ~~any time by written notice delivered or mailed to the insurer, effective upon receipt or on a later~~
5 ~~date as may be specified in the notice. In the event of cancellation, the insurer will return~~
6 ~~promptly the unearned portion of any premium paid. If the insured cancels, the earned premium~~
7 ~~shall be computed by the use of the short rate table last filed with the state official having~~
8 ~~supervision of insurance in the state where the insured resided when the policy was issued. If the~~
9 ~~insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without~~
10 ~~prejudice to any claim originating prior to the effective date of cancellation."~~

11 ~~(9)~~ (8) A provision as follows:

12 "CONFORMITY WITH STATE STATUTE: Any provision of this policy which, on its
13 effective date, is in conflict with the statutes of the state in which the insured resides on that date,
14 is hereby amended to conform to the minimum requirements of those statutes."

15 ~~(10)~~ (9) A provision as follows:

16 "ILLEGAL OCCUPATION: The insurer shall not be liable for any loss to which a
17 contributing cause was the insured's commission of or attempt to commit a felony or to which a
18 contributing cause was the insured's being engaged in an illegal occupation."

19 ~~(11)~~ (10) A provision as follows included in any policy that is not a medical expense
20 policy:

21 "INTOXICANTS AND NARCOTICS: The insurer shall not be liable for any loss
22 sustained or contracted in consequence of the insured's being intoxicated or under the influence of
23 any narcotic unless administered on the advice of a physician."

24 No such provision may be included in a medical expense policy, which, for purposes of
25 this subsection, shall mean an accident and sickness insurance policy that provides hospital,
26 medical or surgical expense coverage.

27 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE - ACCIDENT AND SICKNESS INSURANCE POLICIES

1 This act would require insurers to send notices of cancellation to policy holders and
2 insureds.

3 This act would take effect upon passage.

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