

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1247

To require property and casualty insurers to provide written notification to insurance applicants and policyholders of decisions to refuse to issue or to cancel or refuse to renew an insurance policy.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 1995

Mr. FIELDS of Louisiana introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To require property and casualty insurers to provide written notification to insurance applicants and policyholders of decisions to refuse to issue or to cancel or refuse to renew an insurance policy.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Insurance Disclosure  
5 Act of 1995”.

1 **SEC. 2. DISCLOSURES BY INSURERS TO APPLICANTS.**

2 (a) REQUIREMENT TO PROVIDE WRITTEN EXPLA-  
3 NATION OR NOTICE OF DECLINATION.—The Secretary of  
4 Housing and Urban Development shall, by regulation, re-  
5 quire that each insurer who, through the insurer, or an  
6 agent or broker, declines a written application or written  
7 request to issue an insurance policy under a designated  
8 line shall provide to the applicant at the time of such dec-  
9 lination, through such insurer, agent, or broker, one of  
10 the following:

11 (1) A written explanation of the specific reasons  
12 for the declination.

13 (2) Written notice that (A) the applicant may  
14 submit to the insurer, agent, or broker, within 90  
15 days of such notice, a written request for a written  
16 explanation of the reasons for the declination, and  
17 (B) pursuant to such a request, an explanation shall  
18 be provided to the applicant within 21 days after re-  
19 ceipt of such request.

20 (b) RESPONSE TO REQUEST FOR EXPLANATION.—If  
21 an insurer, agent, or broker making a declination receives  
22 a written request referred to in subsection (a)(2) within  
23 such 90-day period, the insurer, agent, or broker shall pro-  
24 vide a written explanation referred to in such subsection  
25 within such 21-day period.

1 **SEC. 3. DISCLOSURES BY INSURERS TO POLICYHOLDERS.**

2 The Secretary of Housing and Urban Development  
3 shall, by regulation, require that each insurer who cancels  
4 or refuses to renew an insurance policy under a designated  
5 line shall provide to the policyholder, in writing and within  
6 an appropriate period of time as determined by the Sec-  
7 retary, the reasons for canceling or refusing to renew the  
8 policy.

9 **SEC. 4. CONSIDERATION OF MODEL ACTS.**

10 In issuing regulations under sections 2 and 3, the  
11 Secretary shall consider relevant portions of model acts  
12 developed by the National Association of Insurance Com-  
13 missioners.

14 **SEC. 5. EFFECT ON STATE LAWS.**

15 Sections 2 and 3 shall not be construed to annul,  
16 alter, or effect, or exempt any insurer, agent, or broker  
17 subject to the provisions of such sections from complying  
18 with any laws or requirements of any State with respect  
19 to notifying insurance applicants or policyholders of the  
20 reasons for declination or cancellation of, or refusal to  
21 renew insurance, except to the extent that such laws or  
22 requirements are inconsistent with such sections (or the  
23 regulations issued thereunder) and then only to the extent  
24 of such inconsistency. The Secretary is authorized to de-  
25 termine whether such inconsistencies exist and to resolve  
26 issues regarding such inconsistencies. The Secretary may

1 not provide that any State law or requirement is inconsis-  
2 ent with section 2 or 3 if it imposes requirements equiva-  
3 lent to the requirements under such sections or require-  
4 ments that are more stringent or comprehensive, in the  
5 determination of the Secretary.

6 **SEC. 6. IMMUNITY.**

7 In issuing regulations under sections 2 and 3, the  
8 Secretary shall specifically consider the necessity of pro-  
9 viding insurers, agents, and brokers immunity solely for  
10 the act of conveying or communicating the reasons for a  
11 declination or cancellation of, or refusal to renew insur-  
12 ance on behalf of a principal making such decision. The  
13 Secretary may provide for immunity under the regulations  
14 issued under sections 2 and 3 if the Secretary determines  
15 that such a provision is necessary and in the public inter-  
16 est, except that the Secretary may not provide immunity  
17 for any conduct that is negligent, reckless, or willful.

18 **SEC. 7. DESIGNATION OF LINES OF INSURANCE.**

19 (a) IN GENERAL.—The Secretary shall, by regula-  
20 tion, designate lines of insurance as designated lines for  
21 purposes of this Act, as follows:

22 (1) AUTOMOBILE.—The Secretary shall des-  
23 ignate private passenger automobile insurance and  
24 shall also designate any sublines and coverage types  
25 of private passenger automobile insurance that the

1 Secretary considers appropriate for purposes of this  
2 Act.

3 (2) NONCOMMERCIAL INSURANCE FOR RESI-  
4 DENTIAL PROPERTY.—The Secretary shall designate  
5 homeowners insurance and dwelling fire and allied  
6 lines, and shall distinguish the coverage types in  
7 such lines by the perils covered and by market or re-  
8 placement value, as the Secretary considers appro-  
9 priate for purposes of this Act. For purposes of this  
10 Act, homeowners insurance shall not include any  
11 renters coverage or coverage for the personal prop-  
12 erty of a condominium owner.

13 (b) REPORT.—At any time the Secretary determines  
14 that any line of insurance not described in subsection (a)  
15 should be a designated line because disparities in coverage  
16 provided under such line exist among geographic areas  
17 having different income levels or racial composition, the  
18 Secretary shall submit a report to the Congress rec-  
19 ommending designating such line of insurance as a des-  
20 ignated line for purposes of this Act.

21 (c) DURATION.—

22 (1) IN GENERAL.—Except as provided in para-  
23 graph (2), the Secretary shall make the designations  
24 under this section once every 5 years, by regulation,  
25 and each line and subline or coverage type des-

1       ignated under such regulations shall be designated  
2       for the 5-year period beginning upon the issuance  
3       of such regulations.

4               (2) ALTERATION.—During any 5-year period  
5       referred to in paragraph (1) in which designations  
6       are in effect, the Secretary may amend or revise the  
7       designated lines, sublines, and coverage types only  
8       by regulation and only in accordance with the re-  
9       quirements of this section. Such regulations amend-  
10      ing or revising designations shall apply only to that  
11      portion of the 5-year period during which such  
12      amendment or revision is made that remains after  
13      the expiration of the 6-month period beginning on  
14      the date of issuance of the regulations.

15             (d) TIMING OF DESIGNATIONS.—The Secretary shall  
16      make the designations required by subsection (c)(1) and  
17      notify interested parties during the 6-month period ending  
18      6 months before the commencement of the 5-year period  
19      to which such designations apply.

20             (e) OBTAINING INFORMATION.—The Secretary may  
21      require insurers to submit to the Secretary such informa-  
22      tion as the Secretary considers necessary to make designa-  
23      tions specifically required under this section. The Sec-  
24      retary may not require insurers to submit any information  
25      under this subsection that relates to any line of insurance

1 not specifically authorized to be designated pursuant to  
2 this section or that is to be used solely for the purpose  
3 of a report under subsection (b).

4 **SEC. 8. STATE ENFORCEMENT.**

5 The Secretary may authorize the States to enforce  
6 the requirements under regulations issued under sections  
7 2 and 3.

8 **SEC. 9. ENFORCEMENT.**

9 (a) CIVIL PENALTIES.—Any insurer who is deter-  
10 mined by the Secretary, after providing opportunity for  
11 a hearing on the record, to have violated any requirement  
12 pursuant to this Act shall be subject to a civil penalty of  
13 not to exceed \$5,000 for each day during which such viola-  
14 tion continues.

15 (b) INJUNCTION.—The Secretary may bring an ac-  
16 tion in an appropriate United States district court for ap-  
17 propriate declaratory and injunctive relief against any in-  
18 surer who violates the requirements referred to in sub-  
19 section (a).

20 **SEC. 10. DEFINITIONS.**

21 For purposes of this Act:

22 (1) AGENT.—The term “agent” means, with re-  
23 spect to an insurer, an agent licensed by a State  
24 who sells property and casualty insurance. The term  
25 includes agents who are employees of the insurer,

1 agents who are independent contractors working ex-  
2 clusively for the insurer, and agents who are inde-  
3 pendent contractors appointed to represent the in-  
4 surer on a nonexclusive basis.

5 (2) DESIGNATED LINE.—The term “designated  
6 line” means a line of insurance designated by the  
7 Secretary under section 7.

8 (3) INSURANCE.—The term “insurance” means  
9 property and casualty insurance. Such term includes  
10 primary insurance, surplus lines insurance, and any  
11 other arrangement for the shifting and distributing  
12 of risks that is determined to be insurance under the  
13 law of any State in which the insurer or insurer  
14 group engages in an insurance business.

15 (4) INSURER.—The term “insurer” means any  
16 corporation, association, society, order, firm, com-  
17 pany, mutual, partnership, individual, aggregation of  
18 individuals, or any other legal entity that is author-  
19 ized to transact the business of property or casualty  
20 insurance in any State or that is engaged in a prop-  
21 erty or casualty insurance business. The term does  
22 not include an individual or entity which represents  
23 an insurer as agent solely for the purpose of selling  
24 or which represents a consumer as a broker solely  
25 for the purpose of buying insurance.

1 (5) PROPERTY AND CASUALTY INSURANCE.—

2 The term “property and casualty insurance” means  
3 insurance against loss of or damage to property, in-  
4 surance against loss of income or extra expense in-  
5 curred because of loss of, or damage to, property,  
6 and insurance against third party liability claims  
7 caused by negligence or imposed by statute or con-  
8 tract. Such term does not include workers’ com-  
9 pensation, professional liability, or title insurance.

10 (6) SECRETARY.—The term “Secretary” means  
11 the Secretary of Housing and Urban Development.

12 (7) STATE.—The term “State” means any  
13 State, the District of Columbia, the Commonwealth  
14 of Puerto Rico, the Northern Mariana Islands, the  
15 Virgin Islands, American Samoa, and the Trust Ter-  
16 ritory of the Pacific Islands.

17 **SEC. 11. REGULATIONS.**

18 (a) IN GENERAL.—The Secretary shall issue any reg-  
19 ulations required under this Act and any other regulations  
20 that may be necessary to carry out this Act. The regula-  
21 tions shall be issued through rulemaking in accordance  
22 with the procedures under section 553 of title 5, United  
23 States Code, for substantive rules. Except as otherwise  
24 provided in this Act, the final regulations to carry out this  
25 Act shall be issued not later than the expiration of the

1 18-month period beginning on the date of the enactment  
2 of this Act and shall take effect upon issuance.

3 (b) BURDENS.—In prescribing such regulations, the  
4 Secretary shall take into consideration the administrative,  
5 paperwork, and other burdens on insurance agents, includ-  
6 ing independent insurance agents, involved in complying  
7 with the requirements of this Act and shall minimize the  
8 burdens imposed by such requirements with respect to  
9 such agents.

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