



Current Articles 2005 – April

Ontario Auto is changing

Effective June 1, 2005, and applicable to all auto policies made or renewed after that date, two Ontario Regulations made under the Insurance Act will amend the Automobile Statutory Conditions and establish new rules on underwriting.

The first regulation amends the Statutory Condition 11 with regard to “Termination”. For cancellation for other than non-payment of premium, the termination will take effect no earlier than 15 days notice by registered mail or five days if personally delivered. However the day on which the insurer gives the notice by registered mail shall be deemed to be the day of mailing. This replaces the previous Condition (5), which made the fifteen-day notice to commence to run “on the day following the receipt of the registered letter at the post office to which it is addressed”.

A significant change is with regard to termination for non-payment of all or part of the premium. For non-payment the termination will take effect in 30 days following notice by registered mail or 10 days if personally delivered. If the premium is paid within the notice period the coverage will not be terminated. If the premium is not paid within the time specified the contract would be terminated at midnight of the day specified for termination.

It is a mystery why the government would specify “midnight” when the auto policies have always used 12:01 am as a time frame. We have been told by the regulators that this may be a mistake in the Regulation and we can expect a further change to making the termination effective 12:01 am! Can you believe it?

If there have been two previous cancellations “in respect of the contract”, the insurer can terminate using the 15 days registered notice or 5 days if hand delivered. And coverage may not be reinstated if the premium is paid. The ambiguous wording is with reference to “the contract”. Do those two previous cancellations refer to the policy in force at the time of the non-payment or include previous terms of the same policy? Again we can expect a clarification and change to this section. It is the intent that the two prior cancellations must occur in the current term of the policy.

A new policy wording dated June 1, 2005 and including the above and other minor changes will replace the Oct. 1, 2003, OAP 1.

The other new Regulation deals with the removal of “lifestyle” factors as auto underwriting criteria. Some of these factors that will no longer be considered as an underwriting refusal for coverage will include employment history, occupation or profession of an insured, possession of a credit card, credit history, credit rating, prior bankruptcy, residence history, whether the insured owns a home, gross net worth of an insured, level of income of an insured, indebtedness of an insured, late auto premium payments that did not involve a termination.

In addition a draft for a revised OPCF 28A, Excluded Driver Endorsement, has been submitted for approval. The new endorsement requires the Excluded Driver and Names Insured to promise that the excluded driver will not drive and the Named Insured promises that he will not permit the Excluded Driver to drive.

In addition, the endorsement has strengthened the "Warning" by adding: This policy will not provide the Insurance required by law; This policy will not provide coverage for damage or injuries caused by the excluded driver; and Both the automobile owner and the excluded driver may be personally responsible for damage or injuries caused by the excluded driver.

FSCO has also revised their underwriting rules which states that insurers MUST offer to all individuals an OPCF28A with no underwriting restrictions and insurers may not charge a premium for same.

Please note my new email address: jamesbonnay@cogeco.ca

James E. Bonnay,
C.I.P., C.C.I.B.
Insurance Consultant

Phone 905-333-1727
Fax 905-333-0683
E-mail - jamesbonnay@cogeco.ca