

## IMPROPER TERMINATION PRACTICES MODEL ACT

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### Section 1. Purpose

The purpose of this Act is to protect policyholders from improper terminations of insurance coverage and to set forth standards for the regulation and disposition of terminations of policies or certificates of insurance. Nothing in this Act shall be construed to create or imply a private cause of action for violation of this Act except that a named insured may appeal the termination of the named insured's policy pursuant to Section 16.

### Section 2. Scope

This Act shall apply to all insurers issuing or renewing in this state any policy or certificate of insurance as defined in Section 31.

### Section 3. Definitions

For the purposes of this Act:

- A. "Cancellation" or "canceled" means the termination of a policy by an insurer prior to the expiration date of the policy.
- B. "Concealed or misrepresented a material fact or circumstance" means falsification or omission of a material fact that, had the insurer known the truth, it would not have insured the risk; would not have issued the policy; would have charged a higher premium, other than an incidental amount, for insuring the risk; or would not have issued a policy in as large an amount or under the same terms.

Drafting Note: States may wish to include the words "intentionally or knowingly" in the first sentence before the word "concealed" and modify a similar provision in Section 9B(2).





Section 7. Rescission

Nothing in this Act limits an insurer's right to rescind a policy if an insured or an applicant for insurance has intentionally or knowingly concealed or misrepresented a material fact or circumstance concerning the risk assumed by the insurer. However, a policy or policy renewal shall not be rescinded after the policy has been in effect for 180 days or one policy period, whichever is greater.

- (3) With regard to a policy of automobile insurance, the driver's license of any insured or any driver who lives with the insured or who customarily uses a covered vehicle has been suspended or revoked or is under a suspension or revocation for moving violations at any time during the twelve-month period immediately preceding the notice of cancellation; or

Drafting Note: States with named driver exclusion laws or provisions may wish to include a similar provision in this subsection.

- (4) Fraud in the submission of a claim.

Drafting Note: If there are provisions in other statutes setting forth other prohibited reasons for cancellation and a state wishes to continue those other prohibited reasons, reference to those provisions should be made in this subsection so that cancellations based on these other prohibited reasons will be subject to the procedures of this Act.

C. In addition to the reasons stated in Sections 9B(1), (2) and (4), a property insurance policy, or a policy renewal, may be canceled with ten (10) days notice if the insured property is found to have one or more of the following conditions:

- (1) Permanent repairs have not commenced within sixty (60) days after satisfactory adjustment of a loss, unless the delay is beyond the insured's control or the failure to repair does not increase the risk assumed;
- (2) Buildings that have been unoccupied sixty (60) consecutive days, or vacant thirty (30) consecutive days, except buildings that have a seasonal occupancy, buildings that are actively advertised as "for rent," or buildings that are undergoing construction, repair or reconstruction, and are properly secured against unauthorized entry;
- (3) Buildings on which, because of their physical condition, there is an outstanding order to vacate or an outstanding demolition order; or that have been declared unsafe in accordance with applicable law; or
- (4) The risk originally accepted has increased to the degree that it would have increased the premium charged, other than an incidental amount, or affected the insurer's decision to issue the policy.

D.

Section 11. Refund of Premium Upon Cancellation

- A. A policy shall not be canceled on other than a pro-



- C. If a named insured timely appeals the termination of a policy, coverage under that policy shall remain in effect until the effective date specified in the order entered by the commissioner in the





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- (1) Payment of a civil penalty of not more than \$1,000 for each violation, but not to exceed an aggregate civil penalty of \$100,000, unless the violation was committed flagrantly and in conscious disregard of this Act, in which case the civil penalty shall not be more than \$25,000 for each violation not to exceed an aggregate civil penalty of \$250,000; or
- (2) Suspension or revocation of the insurer's license if the insurer knew or reasonably should