

**CHAPTER 31**  
**HB 227 – FINAL VERSION**

6Feb2014... 2298h  
30Apr2014... 1579EBA

2014 SESSION

13-0339  
01/10

HOUSE BILL            **227**

AN ACT                relative to property and casualty insurance.

SPONSORS:            Rep. Butler, Carr 7; Rep. John Hunt, Ches 11; Rep. Flanders, Belk 3

COMMITTEE:          Commerce and Consumer Affairs

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ANALYSIS

This bill makes certain changes in the laws relative to property and casualty insurance.

This bill was requested by the insurance department.

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Explanation:          Matter added to current law appears in ***bold italics***.  
                                Matter removed from current law appears [~~in brackets and struck through~~]  
                                Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Fourteen*

AN ACT                   relative to property and casualty insurance.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1     31:1 Insurance: Record Retention. Amend RSA 400-B:5, I(a) to read as follows:

2                   (a) For property and casualty: the file or files containing the notice of claim, claim forms,  
3 proof of loss, or other form of claim submission, settlement demands, accident reports, policy reports,  
4 adjusters' logs, claim investigation documentation, inspection reports, supporting bills, estimates  
5 and valuation worksheets, medical records, correspondence to and from insureds and claimants or  
6 their representatives, notes, contracts, declaration pages, certificates evidencing coverage under a  
7 group contract, endorsements or riders, work papers, any written communication, any documented  
8 or recorded telephone communication related to the handling of a claim, including the investigation,  
9 payment, or denial of the claim, copies of checks [~~or~~], drafts, [~~or~~] check numbers and amounts,  
10 ***numeric identifying information for debit cards, bank cards, or other similar cards,***  
11 ***including date of issue and amounts,*** releases, all applicable notices, correspondence used for  
12 determining and concluding claim payments or denials, subrogation and salvage documentation, any  
13 other documentation created and maintained in a paper or electronic format, necessary to support  
14 claim handling activity, and any claim manuals or other information necessary for reviewing the  
15 claim.

16                 31:2 New Subparagraph; Insurance Companies and Agents; Rebating. Amend RSA 402:41, I by  
17 inserting after subparagraph (f) the following new subparagraph:

18                   (g) The rebate of all or part of a producer's commission on the sale of commercial  
19 insurance as defined in RSA 412 provided the insurer expressly provides for such rebate in rate  
20 filings approved by the commissioner and the reduction of the commission is not disclosed to the  
21 insured either directly or indirectly.

22                 31:3 Insurance Companies and Agents; Premium Refunds. Amend RSA 402:81, I(c) to read as  
23 follows:

24                   (c) For auditable policies:

25                         (1) Audits shall be [~~conducted~~] ***completed*** promptly, no more than 120 days after  
26 the expiration or cancellation of the policy, provided that there is no bona fide dispute; and

27                         (2) If there is no bona fide dispute, the refund of gross unearned premium shall  
28 become due on the date of the completed audit ***or 120 days after the expiration or cancellation***

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1 *of the policy, whichever occurs first.*

2 *(3) Any insurer that violates this subparagraph shall be subject to the*  
3 *penalty provisions of RSA 402:50.*

4 ~~[(3)]~~ (4) In cases where the amount of refund is in bona fide dispute, the refund shall  
5 not become due until the dispute is resolved and the audit is completed. The insurer shall notify the  
6 insured in writing that there is a bona fide dispute and this notice shall toll the 120-day time period  
7 until the dispute is resolved. Upon resolution of the dispute, the insurer shall proceed to complete  
8 the audit within the time remaining in the 120-day time period.

9 ~~[(4)]~~ (5) A bona fide dispute includes the insured's failure to cooperate with the  
10 audit, provided the insurer has notified the insured of:

11 (A) The acts or omissions that constitute the insured's failure to cooperate; and

12 (B) The consequences of the insured's failure to cooperate, including delay in the  
13 completion of the audit and payment of any refund due.

14 31:4 Public Adjusters; Approval of Forms. Amend RSA 402-D:14, II to read as follows:

15 II. Contracts not containing all of the information required by RSA 402-D:13, **I** shall be  
16 automatically **deemed** disapproved~~[, and shall not be enforceable by the parties]~~. **Any disapproved**  
17 **contract that is used by a public adjuster in violation of this paragraph shall be voidable**  
18 **by the consumer who signed the contract.**

19 31:5 Third Party Administrators; Premium Collection and Payment of Claims. Amend RSA 402-  
20 H:7, IV to read as follows:

21 IV. All claims paid by the administrator from funds collected on behalf of or for an insurer  
22 shall be paid only on drafts or checks of and as authorized by the insurer, **provided however that**  
23 **property and casualty claims may also be paid other than by draft or check, pursuant to**  
24 **rules adopted in accordance with RSA 281-A and RSA 417.**

25 31:6 Fire Insurance Contract. RSA 407:15 is repealed and reenacted to read as follows:

26 407:15 Notice to Insured. The insurer shall provide written notice to the insured of any denial  
27 of coverage. The notice shall inform the insured that any action based upon the denial shall be  
28 barred by law if not commenced within 12 months from the date of the written denial.

29 31:7 Regulation of Forms and Rates; Forms. Amend RSA 412:5, II to read as follows:

30 II. No liability policy issued or delivered in this state **that insures against personal risk**  
31 shall contain any exclusion which would preclude coverage for intra-family or inter-spousal claims.

32 31:8 Regulation of Forms and Rates; Motor Vehicle Coverage. Amend RSA 412:8, II to read as  
33 follows:

34 II. No liability policy issued or delivered in this state **that insures against personal risk**  
35 shall contain any exclusion which would preclude coverage for intra-family or inter-spousal claims.

36 31:9 Regulation of Forms and Rates; Workers' Compensation. Amend RSA 412:35, III to read as

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1 follows:

2           III. Audits shall be completed promptly, no more than 120 days after the expiration or  
3 cancellation of the policy, provided that there is no bona fide dispute. ***Any insurer that violates***  
4 ***the provisions of this paragraph shall be subject to the penalty provisions of RSA 412:40.***

5           31:10 Refusal to Issue, Cancellation and Refusal to Renew Automobile Insurance. Amend  
6 RSA 417-A:3 to read as follows:

7           417-A:3 Cancellation; Refusal to Write; Refusal to Renew; Insufficient Grounds. No insurer  
8 shall cancel, refuse to write or refuse to renew a policy of automobile insurance on any person [~~with~~  
9 ~~at least 2 years' driving experience~~] solely because of the age, residence, race, color, creed, national  
10 origin, ancestry, marital status or lawful occupation, including the military service, of anyone who is  
11 or seeks to become insured or solely because another insurer has refused to write a policy, or has  
12 cancelled or has refused to renew an existing policy in which that person was the named insured.

13           31:11 Effective Date. This act shall take effect 60 days after its passage.

14 Approved: May 27, 2014

15 Effective Date: July 26, 2014