

Committee Report

CONSENT CALENDAR

March 2, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Commerce and Consumer Affairs to
which was referred HB 299,**

**AN ACT relative to responsibilities of the insurance
department. Having considered the same, report the
same with the recommendation that the bill OUGHT TO
PASS.**

Rep. John Potucek

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Commerce and Consumer Affairs
Bill Number:	HB 299
Title:	relative to responsibilities of the insurance department.
Date:	March 2, 2021
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

This bill was submitted at the request of the Insurance Department to make changes to several of the laws that regulate property and casualty insurance. These changes will clean up and simplify the language currently in statute, clarify requirements, and modernize standards. The Commerce and Consumer Affairs Committee agreed unanimously with these revisions.

Vote 17-0.

Rep. John Potucek
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Commerce and Consumer Affairs

HB 299, relative to responsibilities of the insurance department. **OUGHT TO PASS.**

Rep. John Potucek for Commerce and Consumer Affairs. This bill was submitted at the request of the Insurance Department to make changes to several of the laws that regulate property and casualty insurance. These changes will clean up and simplify the language currently in statute, clarify requirements, and modernize standards. The Commerce and Consumer Affairs Committee agreed unanimously with these revisions. **Vote 17-0.**

Archived: Thursday, April 22, 2021 1:46:33 PM
From: JOHN HUNT
Sent: Tuesday, March 9, 2021 9:44:43 AM
To: Carrie Morris
Cc: Pam Smarling
Subject: Fwd: HB299 Majority Blurb OTP
Importance: Normal

ok,
JBH

Begin forwarded message:

From: "John Potucek" <potucek1@comcast.net>
Subject: HB299 Majority Blurb OTP
Date: March 3, 2021 at 8:09:29 AM EST
To: <jbhunt@prodigy.net>

John,
Here it is, with help from Marty.
John

Rep. John Potucek for the Majority of Commerce and Consumer Affairs. Relative to responsibilities of the insurance department. This bill was submitted at the request of the Insurance Department to make changes to several of the laws that regulate Property and Casualty insurance. These changes will clean up and simplify the language currently in statute, clarify requirements, and modernize standards. The Commerce and Consumer Affairs Committee agreed unanimously. **Vote 18-0.**

Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 299

BILL TITLE: relative to responsibilities of the insurance department.

DATE: March 2, 2021

LOB ROOM: Zoom

MOTIONS: **OUGHT TO PASS**

Moved by Rep. Potucek

Seconded by Rep. Bartlett

Vote: 17-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Keith Ammon, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



1/22/2021 9:55:55 AM
Roll Call Committee Registers
Report

2021 SESSION

Commerce and Consumer Affairs

Bill #: HB299 Motion: OTP AM #: _____ Exec Session Date: 3/2/2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Hunt, John B. Chairman	17		
Potucek, John M. Vice Chairman	1		
Osborne, Jason M.	2		
Ammon, Keith M. Clerk	3		
Abramson, Max	4		
Ham, Bonnie D.	5		
Depalma IV, Joseph	6		
Greeson, Jeffrey	7		
Johnson, Dawn M.	8		
Terry, Paul A.	9		
Bartlett, Christy D.	10		
Abel, Richard M.	11		
Herbert, Christopher J.	12		
Van Houten, Constance	13		
Fargo, Kristina M.	14		
Weston, Joyce	15		
Beaulieu, Jane E.	16		
Burroughs, Anita D.			
McAleer, Chris R.			
TOTAL VOTE:	17	0	

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 299

BILL TITLE: relative to responsibilities of the insurance department.

DATE: February 10, 2021

LOB ROOM: Remote **Time Public Hearing Called to Order:** 9:00a.m.

Time Adjourned: 9:12 a.m

Committee Members: Reps. Hunt, Potucek, Ammon, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

Bill Sponsors:
Rep. Potucek

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep Potucek

This bill is at the request of the insurance department. This omnibus bill will make changes to several laws that regulate property and casualty insurance. Clean up and simplify language on motor vehicle liability provisions. They will allow insureds request as grounds for cancelling a commercial policy. They will modify the definition of Third Party Administrators TPSs to include property and casualty insurance, and remove workers compensation insurance. It will clarify that [inaudible] will remain confidential until they take effect. Will allow insurers to include fees for unanticipated costs when calculating rates and clarifying prorate premium earning for personal lines policies. Finally, it will remove "excessive insurance" as an exemption from the consumer protections in RSA 417-b. Members of the insurance department with answer any question you may have.

Emily Doherty

Property and Casualty Attorney at NH Insurance Dept. This omnibus bill will make changes to laws that address P&C insurance. Adds new paragraph labels to RSA 264:18 accidents and financial responsibility for motor vehicles. Makes the law easier to read. Amends P&C commercial lines cancellation statute to add cancellation at request of insured to add as a reason for cancellation. Includes all TPA within the administrator statute. Seeks to simplify the wording of the statute. Amends 400 A15-f (?) to clarify that forms and rates filed for informational purposes remain confidential until effective. Amends 412:15 to clarify that fees for unanticipated costs may be recovered. Also, clarifies law relative to premium earning patterns. Removes excess insurance exemption from cancellation and non-renewal statute.

Rep Van Houten

Q: Double check. Several places strike workers comp and property and casualty has replaced that language.

A: In third party administrator statute. This makes it include all TPAs including workers comp TPAs property and casualty insurance lines.

HOUSE COMMITTEE ON COMMERCE & CONSUMER AFFAIRS

PUBLIC HEARING on Bill # HB299

BILL TITLE:

DATE: Feb 10, 2021

ROOM: Zoom

Time Public Hearing Called to Order: 9:00 AM

Time Adjourned: 9:12 AM

(please bold if present)

Committee Members: Reps. Hunt, Potucek, Ammon, Osborne, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

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House Remote Testify

Commerce and Consumer Affairs Committee Testify List for Bill HB299 on 2021-02-10

Support: 9 Oppose: 0 Neutral: 1 Total to Testify: 3

<u>Name</u>	<u>Email Address</u>	<u>Phone</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Signed Up</u>
Potucek, John	potucek1@comcast.net	603.432.9049	An Elected Official	Myself	Support	Yes (3m)	2/3/2021 5:33 PM
Doherty, Emily	emily.m.doherty@ins.nh.gov	2714843	State Agency Staff	Insurance Department	Support	Yes (0m)	2/5/2021 1:52 PM
Fox, James	james.r.fox@ins.nh.gov	2712502	State Agency Staff	Insurance Department	Support	Yes (0m)	2/5/2021 1:53 PM
Mobley, Marty	martha.v.mobley@ins.nh.gov	2712805	State Agency Staff	Insurance Department	Support	No	2/5/2021 1:53 PM
Roussos, George	groussos@orr-reno.com	603.223.9143	A Lobbyist	NH Association of Domestic Insurance Companies	Support	No	2/9/2021 1:16 PM
Nadeau, Lindsay	lnadeau@orr-reno.com	603.568.1601	A Lobbyist	American Property Casualty Insurance Association	Support	No	2/9/2021 1:20 PM
Citarella, Christian	christian.g.citarella@ins.nh.gov	2712113	State Agency Staff	Insurance Department	Support	No	2/9/2021 3:16 PM
Rathbun, Eric	ericrathbun@gmail.com	111.111.1111	A Member of the Public	Myself	Neutral	No	2/9/2021 10:48 PM
Hatem, James	jhatem@nixonpeabody.com	111.111.1111	A Lobbyist	State Farm Insurance Company	Support	No	2/10/2021 9:02 AM
Pageau, Joan	joan@nhaia.com	603.224.3965	A Lobbyist	NH Association of Insurance Agents	Support	No	2/5/2021 4:30 PM

Testimony

Bill as
Introduced

HB 299 - AS INTRODUCED

2021 SESSION

21-0439

05/11

HOUSE BILL **299**

AN ACT relative to responsibilities of the insurance department.

SPONSORS: Rep. Potucek, Rock. 6

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill clarifies certain responsibilities of the insurance department.

The bill is a request of the insurance department.

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

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to responsibilities of the insurance department.

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

1 1 Accidents and Financial Responsibility; Motor Vehicles; Required Provisions. Amend RSA
2 264:18 read as follows:

3 264:18 Required Provisions. A motor vehicle liability policy, except as to coverage providing
4 protection against uninsured motor vehicles required by RSA 264:14 shall be subject, ~~[with respect~~
5 ~~to accidents which occur in New Hampshire and]~~ within limits of liability required by this chapter,
6 to the following provisions which need not be contained therein:

7 I. **Absolute Liability.** The liability of any company under a motor vehicle liability policy
8 shall become absolute whenever loss or damage covered by said policy occurs, and the satisfaction by
9 the insured of a final judgment for such loss or damage shall not be a condition precedent to the
10 right or duty of the company to make payment on account of said loss or damage. No agreement
11 between the company and the insured after the insured has incurred liability for loss or damage
12 covered by the policy shall operate to defeat the company's liability to pay for such loss or damage.
13 Upon the recovery of a final judgment against any person for any loss or damage specified in this
14 section, if the judgment debtor was, at the accrual of the cause of action, protected against liability
15 therefor under a motor vehicle liability policy, the judgment creditor shall be entitled to have the
16 insurance money applied to the satisfaction of the judgment.

17 II. **Entirety of Contract.** The policy, the written application therefor, if any, and any rider
18 or ~~[indorsement]~~ **endorsement**, which shall not conflict with the provisions of this chapter, shall
19 with the provisions of this section and any other applicable statutes constitute the entire contract
20 between the parties.

21 III. ~~[With respect to accidents which occur within this state and]~~ **Minimum Limits of**
22 **Mandatory Coverage.** Subject to the minimum limits of liability ~~[validly made]~~ under the
23 authority of RSA 259:61, the policy is to be interpreted ~~[with reference hereto]~~ **consistent with this**
24 **section** and the liability of the company under the policy shall thereby become absolute upon the
25 occurrence of such an accident; no statement made by the insured or on his behalf, and no violation
26 of exclusions, conditions, other terms, or language contained in the policy, and no unauthorized or
27 unlawful use of the vehicle except as provided in paragraph VI of this section, whether or not a
28 premium charge has been made and paid, shall operate to defeat or avoid the policy so as to bar
29 recovery for such accidents within ~~[said]~~ **minimum** limits of liability.

30 IV. **Death, Insolvency, and Bankruptcy.** If the death, insolvency, or bankruptcy of the
31 insured shall occur within the policy period, the policy during the unexpired portion of such period

1 shall cover the person or persons entitled to possession of the vehicle of the insured. Such policy
2 shall contain such provisions, not inconsistent with this chapter, as shall be required by the
3 insurance commissioner.

4 V. **Defendant Default.** In an action of tort where payment of the judgment is secured by a
5 motor vehicle liability policy, *as defined in RSA 259:61*, and where the defendant has been
6 defaulted for failure to enter an appearance, damages shall not be assessed, except by special order
7 of the court, until the expiration of 30 days after the plaintiff has given notice of such default to the
8 company issuing or executing such policy and has filed an affidavit thereof. Such notice may be
9 given by mailing the same, postage prepaid, to the said company or to its agent who issued or
10 executed such policy. Upon receipt of information and having become satisfied that the insured has
11 failed to comply with the terms of his policy in regard to notice to the company of an accident, the
12 director shall revoke his license and registration for such period as the director shall determine.

13 VI. **Permissive Users.** The insurance applies to any person who has obtained possession or
14 control of the vehicle of the insured with his express or implied consent even though the use in the
15 course of which liability to pay damages arises has been expressly or impliedly forbidden by the
16 insured or is otherwise unauthorized. This provision, however, shall not apply to the use of a vehicle
17 converted with the intent to wrongfully deprive the owner of his property therein.

18 VII. **Bifurcation of Bodily Injury and Property Damage Claims.** No liability insurer
19 shall require that a bodily injury claim be settled or adjudicated as a condition precedent to the
20 settlement of a property damage claim arising out of the same accident. No evidence of settlement of
21 a property damage claim shall be admissible as evidence of liability in the trial of any other cause of
22 action arising out of the same accident.

23 2 Cancellation or Refusal to Renew Commercial Insurance; Grounds for Cancellation. Amend
24 RSA 417-C:1 to read as follows:

25 417-C:1 Grounds for Cancellation.

26 I. A notice of cancellation of a policy, to which RSA 417-C:2 applies, shall be effective only if
27 it is based on one or more of the following reasons:

28 (a) Nonpayment of a premium, including nonpayment of any additional premiums due
29 from an audit conducted in accordance with law for the prior policy term; or

30 (b) Fraud or material misrepresentation affecting the policy or in the presentation of a
31 claim thereunder, or violation of any of the terms or conditions of the policy; or

32 (c) A change in the risk that substantially increases a hazard insured against after
33 insurance coverage has been issued or renewed.

34 II. ~~[This section shall not apply to any policy or coverage which has been in effect less than~~
35 ~~60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal~~
36 ~~policy]~~ **An insurer shall cancel a policy at the specific request of the insured.**

1 III. *Paragraph I shall not apply to any policy or coverage which has been in effect*
2 *less than 60 days at the time notice of cancellation is mailed or delivered by the insurer*
3 *unless it is a renewal policy.*

4 IV. This section shall not apply to nonrenewal.

5 3 Third Party Administrators; Definition of Administrator. Amend RSA 402-H:1, I to read as
6 follows:

7 I. "Administrator" or "third party administrator" or "TPA" means a person who directly or
8 indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on residents of
9 this state, in connection with life, annuity, or health coverage or ~~[workers' compensation]~~ **property**
10 **and casualty** insurance, ~~[other than persons subject to regulation under RSA 281-A:5-d offered or~~
11 ~~provided by an insurer or under a self-funded governmental plan that is exempt from the provisions~~
12 ~~of the Employee Retirement Income Security Act pursuant to 29 U.S.C. section 1003(b)(1);]~~ except
13 any of the following:

14 (a) An employer, or a wholly owned direct or indirect subsidiary of an employer, on
15 behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of such
16 employer.

17 (b) A union on behalf of its members.

18 (c) An insurer that is authorized to transact insurance in this state pursuant to RSA 401
19 or a subsidiary or affiliated corporation of such insurer if the insurer and the subsidiary or affiliated
20 corporation have overlapping directorates.

21 (d) An insurance producer licensed to sell life, annuities, or health coverage or ~~[workers'~~
22 ~~compensation]~~ **property and casualty** insurance in this state, whose activities are limited
23 exclusively to the sale of insurance.

24 (e) A creditor on behalf of its debtors with respect to insurance covering a debt between
25 the creditor and its debtors.

26 (f) A trust and its trustees, agents, and employees acting pursuant to such trust
27 established in conformity with 29 U.S.C. section 186.

28 (g) A trust exempt from taxation under section 501(a) of the Internal Revenue Code, its
29 trustees and employees acting pursuant to such trust, or a custodian and the custodian's agents or
30 employees acting pursuant to a custodian account which meets the requirements of section 401(f) of
31 the Internal Revenue Code.

32 (h) A credit union or a financial institution that is subject to supervision or examination
33 by federal or state banking authorities, or a mortgage lender, to the extent they collect and remit
34 premiums to licensed insurance producers or to limited line producers or authorized insurers in
35 connection with loan payments.

36 (i) A credit card issuing company that advances for and collects insurance premiums or
37 charges from its credit card holders who have authorized collection.

1 (j) A person who adjusts or settles claims in the normal course of that person's practice
2 or employment as an attorney at law and who does not collect charges or premiums in connection
3 with life, annuity, or health coverage or ~~workers' compensation~~ **property and casualty** insurance.

4 (k) An adjuster licensed by this state whose activities are limited to adjustment of
5 claims.

6 (l) A person licensed as a managing general agent in this state, pursuant to RSA 402-E,
7 whose activities are limited exclusively to the scope of activities conveyed under such license.

8 (m) An administrator who is affiliated with an insurer and who only performs the
9 contractual duties, between the administrator and the insurer, of an administrator for the direct and
10 assumed insurance business of the affiliated insurer. The insurer is responsible for the acts of the
11 administrator and is responsible for providing all of the administrator's books and records to the
12 insurance commissioner, upon request from the insurance commissioner. For purposes of this
13 subparagraph, "insurer" means a licensed insurance company, prepaid hospital or medical care plan,
14 or a health maintenance organization.

15 4 Third Party Administrators; Definition of Insurer. Amend RSA 402-H:1, VII to read as
16 follows:

17 VII. "Insurer" means, for the purposes of this chapter only and except as provided in RSA
18 402-H:6, a person undertaking to provide life, annuity, or health coverage or ~~workers'~~
19 ~~compensation~~ **property and casualty** insurance or self-funded coverage under a multiple employer
20 welfare arrangement or a church plan in this state. For the purposes of this chapter, "insurer" may
21 include an employer, a licensed insurance company, a prepaid hospital or medical care plan, or a
22 health maintenance organization.

23 5 Insurance Department; Confidentiality; Forms and Rates. Amend RSA 400-A:15-f, I to read
24 as follows:

25 I. Forms and rates that are filed for review in accordance with Title XXXVII shall be
26 confidential pending approval. **Forms and rates filed for informational purposes shall be**
27 **confidential until effective.**

28 6 New Paragraphs; Regulation of Forms and Rates for Property Insurance; Rate Standards;
29 Fees for Unanticipated Costs. Amend RSA 412:15 by inserting after paragraph V the following new
30 paragraphs:

31 VI. Insurers may charge service fees for unanticipated costs, such as the costs associated
32 with returned checks or late payments. Such fees shall not be in excess of the reasonable
33 administrative cost associated with the service at issue. Installment fees may not be charged for the
34 first payment of each policy term because they are never unanticipated.

35 VII. For personal lines policies, the general rule is that premium is earned pro-rata over the
36 length of the policy. However, insurers may file other than pro-rata earning patterns if the risk is
37 distributed unevenly over the policy period. If the personal lines policy is canceled with or without

HB 299 - AS INTRODUCED

- Page 5 -

1 cause by either party, all unearned premium at the time of the cancellation shall be returned to the
2 insured.

3 7 Cancellation, Refusal to Write, Refusal to Renew Certain Property and Liability Insurance.

4 Amend the introductory paragraph of RSA 417-B:1 to read as follows:

5 417-B:1 Application of Chapter. This chapter shall apply to policies of insurance other than
6 automobile insurance[⁷] **and** workers' compensation insurance[~~and excess insurance~~] on risks
7 located or residents in this state which insure any of the following contingencies:

8 8 Effective Date. This act shall take effect 60 days after its passage.