

Report of Rescinded Policy Misrepresentation

**Personal Injury Protection Roundtable
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- **Definition of Material Misrepresentation.**
- **Material misrepresentation as it relates to Section 626.409 (1), Florida Statutes.**
- **Description of a typical material misrepresentation scenario and why it occurs.**
- **Analysis of the result of the material misrepresentation scenario (cancellation *ab initio*).**

How Market Investigation investigations **Companies handling of cancellations ab initio.**

- **Market analysis resulting from the required notifications of such actions as required by the Administrative Code Rule 69O-167.002 (1).**
- **Investigations resulting from the required notifications of such actions as required by the Administrative Code Rule 69O-167.002 (1).**

- **Target exams resulting from consumer complaints.**
- **General exams which include a cancellation review.**

FLORIDA OFFICE OF INSURANCE REGULATION
REPORT OF RESCINDED POLICY

RETURN THIS COMPLETED FORM TO:

OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS UNIT
ROOM 220, LARSON BUILDING
TALLAHASSEE, FL 32399-4210

DATE SUBMITTED _____

COMPANY FEDERAL ID# _____

FULL COMPANY NAME _____

POLICY HOLDER'S NAME _____

DATE OF APPLICATION FOR COVERAGE _____

POLICY NUMBERS _____

HAS A CLAIM BEEN FILED ON THIS POLICY YES _____ NO _____

IF YES:

CLAIM NO _____ DATE _____

CLAIM NO _____ DATE _____

CLAIM NO _____ DATE _____

CLAIM NO _____ DATE _____

DATE OF RECISSION OF THIS POLICY _____

THE FOLLOWING MUST BE RETAINED FOR THREE (3) CALENDAR YEARS FROM THE DATE SUBMITTED TO THE DEPARTMENT OF INSURANCE:

1. REPORT OF RESCINDED POLICY
2. INITIAL APPLICATION
3. COPY OF POLICY
4. COPY OF CLAIMS FORMS FILED
5. ALL DOCUMENTATION USED AS A BASIS FOR RESCISSION
6. NAME, BUSINESS ADDRESS AND TELEPHONE NUMBER OF ANY INDEPENDENT CLAIMS ADJUSTING SERVICE WHERE FILES MAY BE LOCATED

Title XXXVII

INSURANCE

Chapter 627

INSURANCE RATES AND CONTRACTS

627.409 Representations in applications; warranties.--

(1) Any statement or description made by or on behalf of an insured or annuitant in an application for an insurance policy or annuity contract, or in negotiations for a policy or contract, is a representation and is not a warranty. A misrepresentation, omission, concealment of fact, or incorrect statement may prevent recovery under the contract or policy only if any of the following apply:

(a) The misrepresentation, omission, concealment, or statement is fraudulent or is material either to the acceptance of the risk or to the hazard assumed by the insurer.

(b) If the true facts had been known to the insurer pursuant to a policy requirement or other requirement, the insurer in good faith would not have issued the policy or contract, would not have issued it at the same premium rate, would not have issued a policy or contract in as large an amount, or would not have provided coverage with respect to the hazard resulting in the loss.

(2) A breach or violation by the insured of any warranty, condition, or provision of any wet marine or transportation insurance policy, contract of insurance, endorsement, or application therefor does not void the policy or contract, or constitute a defense to a loss thereon, unless such breach or violation increased the hazard by any means within the control of the insured.

History.--s. 458, ch. 59-205; s. 2, ch. 71-45; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 363, 377, 809(2nd), ch. 82-243; s. 79, ch. 82-386; ss. 30, 114, ch. 92-318.

690-167.002 Private Passenger Motor Vehicle Insurance; Completion of Underwriting Notice of Incorrect Premium, Return of Unearned Premium.

(1) Pursuant to the provisions of Section 627.728, Florida Statutes, any insurer which issues a policy of private passenger motor vehicle insurance in this state shall be required to complete the underwriting of the policy and make a final determination of the correct premium for the coverage set forth in the insurance application within sixty (60) days after the effectuation of coverage. The requirements of this subsection shall not apply in the event that an incorrect premium was charged due to material misrepresentation or fraud on the part of the insured in the application for insurance. Insurers asserting a common law right of rescission or otherwise asserting rights to void insurance policies ab initio shall, within 90 days of taking such action, report to the Office of Insurance Regulation, Bureau of Property and Casualty Forms and Market Conduct Review, regarding any policies rescinded. The report shall be on Form OIR-493, "Report of Rescinded Policy," rev. 7/90, which is hereby adopted and incorporated by reference. The form may be obtained from and shall be submitted to the Bureau of Property and Casualty Forms and Market Conduct Review, Office of Insurance Regulation, Larson Building, Tallahassee, FL 32399-0300. The insurer shall retain its files on each rescinded policy for three (3) calendar years from the date of the report to the Office. Each file shall contain a copy of the initial application, a copy of the policy, copies of any claim forms filed, all documentation used by the insurer as a basis for its rescission, including the basis for any denial of coverage; and the name, business address and telephone number of any independent claims adjusting service where files may be located, if no longer in the possession of the insurer.

(2) In the event that an insurer issues a policy of private passenger motor vehicle insurance and timely determines that the policyholder has been charged an incorrect premium, the insurer shall provide notice to the policyholder as provided in Section 627.7282, Florida Statutes. Such notice shall include a period of time no less than ten (10) days and no greater than forty-five (45) days within which the policyholder has the option to pay the additional amount of premium due or to cancel the policy and demand a refund of any unearned premiums. The maximum 45-day time period shall not apply in the event the amount of the additional premium due is equal to or less than five percent of the correct premium.

(3) If the policyholder fails to timely respond to the notice referred to in subsection (2), above, the insurer shall cancel the policy as required in Section 627.7282, Florida Statutes, on a date no less than fourteen (14) days and no greater than forty-five (45) days after the notice, and return any unearned premium to the insured.

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 626.9541(1)(o)3.a., 627.420, 627.421, 627.728, 627.7282 FS. History—New 7-23-88, Amended 9-18-90, Formerly 4-28.005, 4-167.002.