

How to File a Protest of an Auto Insurance Cancellation or Surcharge

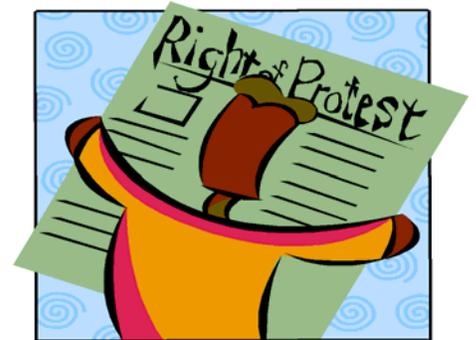


A “protest” is a formal objection to a change that your insurance company has made on your personal automobile policy. Protests *cannot* be filed on commercial vehicle policies or other types of insurance, the law allows this specific option for *personal private vehicle insurance* policies only.

If you have an insurance policy on a private passenger vehicle, your automobile insurance company may decide to make certain changes to your policy, including:

- An increase in the premium you are charged
- Non-renewal of your policy
- Cancellation of your policy, or,
- A reduction in your policy coverage.

The company must notify you (the policyholder), at least 30 days before your policy is scheduled to be renewed, and let you know of the changes that are proposed. The 30-day notice must include a “Right of Protest” to the Colorado Division of Insurance.



The “Right of Protest” should be printed on the notice that is sent to you, detailing any changes the insurance company plans to make.

The company must state in clear and specific language the reasons for the proposed action and must also clearly describe its underwriting rule, policy, or guideline, which is the basis for the proposed action.

If you disagree with the company’s action (the premium increase, non-renewal, cancellation or reduction of



coverage), you have the right to protest. Be aware that companies ARE allowed to make the above changes if they comply with current Colorado insurance law.

Some examples that are not reasons to file a protest:

- you don’t want your premium to go up, because you don’t like paying more money.
- you pled guilty to some recent speeding tickets, but you’ve been driving very carefully ever since, so you think you deserve a break.
- you were at-fault in one or more accidents and filed a claim on the policy, but you didn’t think your rates should go up.
- your insurance company has been rude to you.

Your driving record and claims history can affect your rates. Companies are allowed to apply a premium surcharge to drivers who have been involved in an accident or who have been convicted of traffic violations. Also, the more claims you have made, the higher your rates are likely to be.

When and How to File a Protest

If you believe that the change or action proposed by the company is in violation of state law, you may file a protest. You must follow these steps to protect your rights:

- Continue to pay your premium during the protest process. Pay the amount – on time – that would have been due, regardless of the proposed rate increase or cancellation notice. Failure to pay your insurance premium at this time could allow your policy to lapse.
- If you choose to file a protest, you must sign and date two copies of the notice **and provide your reason** for protesting.

Mail both copies (of every page, if there is more than one page) of the signed notice to:

**Colorado Division of Insurance
Consumer Affairs
1560 Broadway, Suite 850
Denver, CO 80202.**



Please clearly state the reason why you disagree with the company's action or change to your policy or premium. If you do not provide a reason for the protest, the Division of Insurance staff reviewing your file may have no cause to uphold the protest, may not review documents and may not set a hearing.

For more information on when an insurance company can, and cannot, make changes (such as raising premiums, canceling a policy or reducing coverage), see Division of Insurance Regulation 5-2-12 listing specific circumstances under which an insurer may increase rates, cancel policies, decide not to renew a policy or reduce coverage in an existing policy. [View Regulation 5-2-12 here.](#)

- The law provides ten (**10**) days, from the date you receive the notice, to mail your signed protest, and reasons for disagreeing with the policy changes, to the Colorado Division of Insurance.

See "[frequently asked questions](#)" below for the few exceptions to this timeline.

Mail 2 copies of your protest (included on the notice from your insurance company) to the Division of Insurance **within ten days** of receiving the notice.



- In order to continue coverage during the period the proposed action is protested you must pay the premium you would have paid if the action had not been taken.

Contact your agent or the company if you are not sure what premium amount should be paid. If your premium is not paid prior to the effective date listed on the notice your insurance policy will lapse. (If you allow the policy to lapse for non-payment, the protest process will no longer make a difference.) If you pay the premium, upon notice of a protest being filed, the insurer must continue the coverage during the protest process.

The Division of Insurance will acknowledge receipt of your protest (by mail), typically within 3 to 5 working days after it is received.

After reviewing your signed protest and reasons for the protest, the Division of Insurance may:

- 1) uphold the company's actions if there is no violation of Colorado law; – or –
- 2) uphold the insured person (you), if the company has made a technical error on the notice you were given; – or –
- 3) request additional information from both the insurance company and the consumer (you).

After reviewing the requested documentation provided by both parties (the insured person – you – and the insurance company), the Division of Insurance may uphold the company's action or set the matter for hearing.

Hearings

Protest Hearings are scheduled ONLY if – the reasons listed by the consumer (you) on the protest indicate the insurance company may have violated state insurance law or regulation. Hearings are not scheduled if the protest and company response was reviewed and the company's action has been shown to act within law.



- The protest process takes approximately forty-five (45) to sixty (60) days from start to finish.
- Please note: The Hearing Officer cannot determine liability and cannot reverse a company's determination of fault. The Hearing Officer bases his/her decision to uphold the company or set a hearing on the company's ability to provide evidence supporting its action. For example, if the company increases the premium based on a speeding violation but fails to provide evidence of the violation the Hearing Officer would set the case for hearing before making his/her initial decision.

If a hearing is scheduled, you will be notified approximately 10 days in advance.

You are NOT required to attend the hearing, but you may do so if you wish. Hearings are typically held at the Division of Insurance offices, 1560 Broadway, Suite 850, in downtown Denver.

If you attend the hearing, you may present new information and documents at the hearing.

After the hearing (which typically takes less than an hour), the hearing officer will consider all evidence and render a decision. Both the consumer (you) and the insurance company will be notified by mail of the outcome of the hearing within 2-3 weeks of the date of the hearing.

After the initial decision is made, either party (the consumer or the insurance company) has the right to file an exception to the decision within 30 days. At the end of the 30 days, (if no exception is filed), the Colorado Division of Insurance issues a Final Agency Order.

Not every company action (premium increase, non-renewal, cancellation or reduction of coverage) entitles the consumer to a hearing. The Division of Insurance may read the initial protest, determine that the company is

acting within Colorado Insurance law, and uphold the company's right to change the premium, cancel or non-renew a policy, or reduce coverage under a policy.

There is no cost charged to hold a hearing. Consumers may hire an attorney to represent them at their own cost, but it is not a requirement to do so.



Not all protests go to hearing, but after a protest is heard, and the evidence is reviewed, the hearing officer will render a decision and notify all parties by mail. After the initial decision is made, either party has an additional 30 days to file an exception if they do not agree with the decision by the hearing officer.

Frequently Asked Questions:

Can I protest if my personal insurance rates are increased on a vehicle I was using for work?

If the vehicle is a personal passenger vehicle and you carry the insurance on that vehicle, you may protest a change in your policy IF the change appears to be a violation of law. If the vehicle is owned by a business or corporation, and is insured by that entity, there is no allowable protest of a rate

increase or other change to the policy.



Can I contest a rate increase based on a moving violation that was received while I was driving a work vehicle?

Yes, if a driver is ticketed for a moving violation while driving a commercial vehicle, and convicted of that violation, in some cases, that violation may not apply to the calculation of rate increase for the

driver's personal passenger vehicle insurance. Before filing a protest with the Division of Insurance, you may wish to contact the insurance company and explain your position. In some cases, the insurance company may accept your explanation and a formal protest will not be needed.

If you receive more than 7 points in moving violations in a single year, regardless of whether you were driving a personal car or commercial vehicle, the insurance company may review your personal policy and increase your rates, cancel or non-renew your policy, or reduce policy coverages.

I was out of town when the insurance company mailed the notice that they were canceling my policy and now the time has already passed. Do I have any recourse? Am I out of luck?

Your objection (protest) to the change in your policy must be mailed to the Division of Insurance within 10 days of *receiving* notice of the change from the insurance company. That ten days begins when you RECEIVE the notice, so if you were out of town, it begins the day you return and open your mail.

Be sure to clearly explain why your protest appears to be delayed, if you did not receive it due to circumstances such as being out of town, hospitalized, misdirected mail, etc. You must still pay your premium on time, regardless of when a notice was received, or when a protest was filed, in order to stay insured during the protest process.



I filed a protest, but the Division of Insurance didn't give me a hearing. Am I entitled to a hearing if I file a protest?

No. The Division of Insurance may rule in favor of the consumer (you) or in favor of the insurance company upon reading the initial protest and responses. It is important that you list the specific reasons you feel your policy should not have been changed when you file the protest. If the protest is incomplete, the Division of Insurance may not have enough evidence to proceed and will rule in favor of the company's right to change/cancel/non-renew the policy in that instance.



The Division of Insurance has granted me a hearing on the changes to my personal passenger vehicle insurance policy.

Do I need to hire an attorney to represent me at the hearing?

No. While you may hire an attorney at your own cost, if you wish, it is not a requirement that you are represented by legal counsel at the hearing. In fact, it is not a requirement that you attend the hearing, if you do not wish to be present.

You **do** need to make sure the Hearing Officer has received all the documentation that you want to be considered at the hearing.

I think the ticket I got was unfair. The police officer made a mistake when it was issued.

Can the Division of Insurance help me fix this error so my insurance rates don't go up?

No. The Division of Insurance cannot modify records for the Department of Motor Vehicles (DMV). If you feel a ticket was in error, you should handle it through the DMV or courts. In general, if you have paid a ticket, or pled guilty to a traffic charge, that record will

stand and may be considered when your insurance company reviews your policy or coverage. If you object to a ticket you have received, you may go to court and explain your side of the story.



It's the Law!

Colorado Laws, Statutes, and Regulations that relate to this topic:

State Law – Colorado Revised Statutes Sections 10-4-629, C.R.S. 2003, prohibits an insurer from canceling a casualty insurance policy (except for non-payment of a premium) or from increasing a premium for such a policy (except as a part of a general increase approved by the Commissioner), unless written notice of such action is given to the insured at least 30 days before the effective date of any such action.

Upon protest by an insured, the Commissioner is charged with determining whether an insurer's action to cancel a policy or to increase a premium is proper. See §§10-4-629, C.R.S. 2003. And, the Commissioner has been given general authority to adopt any rules and regulations necessary to carry out his or her duties, §10-1-109, C.R.S. 1997, as well as the specific authority to adopt a certified form of the notice to be given under §10-4-629.

(See **Colorado Revised Statutes**, Section 10 "Insurance" for more detail.)

Division of Insurance Regulation 5-2-12 Concerning Automobile Insurance Consumer Protections

For more information on when an insurance company can, and cannot, make changes (such as raising premiums, canceling a policy, non-renewal of a policy, or reducing coverage), see Division of Insurance Regulation 5-2-12 listing specific circumstances under which an insurer may increase rates, cancel policies, decide not to renew a policy or reduce coverage in an existing policy.