

LBR 4070.1

INSURANCE ON MOTOR VEHICLES

(a) Definitions.

(1) "Motor vehicle" includes, but is not limited to, any automobile, motorized mobile home, or house trailer designed to travel and/or capable of travel, on the public highways.

(2) "Proof of insurance" means a certificate of insurance, or other written evidence of sufficient reliability from the insurance carrier, stating the property that is insured, that insurance is in force, the amounts and types of coverage, a notation of the secured party as a loss payee, and the time period for which the coverage exists.

(b) Proof of Insurance. Except as provided in § 1326(a)(4), proof of insurance against physical damage and loss for any motor vehicle belonging to or leased by the debtor or the estate that is subject to the lien of a creditor holding an allowed secured claim must be furnished to the trustee and the creditor at or before the meeting held under § 341, or on written demand of the creditor. Written demand by the creditor for proof of insurance must be served on the debtor by first-class mail and on debtor's attorney by first-class mail or ECF notification. Failure to furnish proof of insurance at or before the meeting held under § 341 or on written demand as provided by these rules is presumed to mean there is no insurance in effect. Any written "binder" must be followed by proof of permanent insurance.

(c) Termination of Insurance. If during the pendency of a case, insurance is canceled, not renewed, expires, or lapses for any reason, on any motor vehicle, the following sequence of events may occur:

(1) *Injunction.* The debtor is enjoined from using the motor vehicle as long as the motor vehicle remains uninsured.

(2) *Surrender of Possession.* If the debtor fails to provide proof of re-insurance to the creditor within 3 business days following delivery of the notice provided in subsection (b), or fails to provide proof of re-issuance by the day before termination of any grace period granted by the insurer, if later, the debtor must surrender the motor vehicle to the creditor.

(d) Motion for Relief From Stay. If debtor fails to furnish proof of insurance under (b), above, the creditor may file a motion for expedited relief from the automatic stay under § 362. Failure to furnish proof of insurance under this rule constitutes *prima facie* evidence of irreparable injury, loss or damage pursuant to § 362(f) and Fed. R. Bankr. P. 4001(a)(2)(A).

(e) Subsequent Termination. In the event insurance on a motor vehicle lapses twice during the pendency of a case, the court may, on the filing of a motion in accordance with (d), accompanied by an affidavit evidencing compliance by the creditor with this rule and evidencing the previous lapse of insurance coverage, grant the creditor relief, including relief from the automatic stay, without further hearing.

* * *