S T A T E O F N E W Y O R K

7268

I N S E N A T E

May 8, 2014

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to providing conditional renewal notices to policyholders

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 5 of section 54 of the workers' compensation law, as amended by section 23 of part GG of chapter 57 of the laws of 2013, is amended to read as follows:

5. Cancellation, CONDITIONAL RENEWAL and termination of insurance contracts. No contract of insurance issued by an insurance carrier against liability arising under this chapter shall be cancelled within the time limited in such contract for its expiration unless notice is given as required by this section. When cancellation is due to non-payment of premiums and assessments, such cancellation shall not be effective until at least ten days after a notice of cancellation of such contract, on a date specified in such notice, shall be filed in the office of the chair and also served on the employer. When cancellation is due to any reason other than non-payment of premiums and assessments, such cancellation shall not be effective until at least thirty days after a notice of cancellation of such contract, on a date specified in such notice, shall be filed in the office of the chair and also served on the employer; provided, however, in either case, that if the employer has secured insurance with another insurance carrier which becomes effective prior to the expiration of the time stated in such notice, the cancellation shall be effective as of the date of such other coverage. No insurer shall refuse to renew any policy insuring against liability arising under this chapter unless at least thirty days prior to its expiration notice of intention not to renew has been filed in the office of the chair and also served on the employer.

Such notice shall be served on the employer by delivering it to him, her or it or by sending it by mail, by certified or registered letter, return receipt requested, addressed to the employer at his, her or its last known place of business; provided that, if the employer be a part-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD14461-01-4

nership, then such notice may be so given to any of one of the partners, and if the employer be a corporation then the notice may be given to any agent or officer of the corporation upon whom legal process may be served; and further provided that an employer may designate any person or entity at any address to receive such notice including the designation of one person or entity to receive notice on behalf of multiple entities insured under one insurance policy and that service of notice at the address so designated upon the person or entity so designated by delivery or by mail, by certified or registered letter, return receipt requested, shall satisfy the notice requirement of this section. Provided, however, the right to cancellation of a policy of insurance in the state fund shall be exercised only for non-payment of premiums and assessments or as provided in section ninety-four of this chapter.

A CONTRACT OF INSURANCE SHALL REMAIN IN FULL FORCE AND EFFECT SUBJECT TO THE SAME TERMS AND CONDITIONS, LOSS COST MULTIPLIERS AND CLASSIFICATION OF THE EMPLOYER WITH REGARD TO THE PAYMENT OF DIVIDENDS, PURSUANT TO SECTIONS FOUR THOUSAND ONE HUNDRED SIX AND FOUR THOUSAND ONE HUNDRED FOURTEEN OF THE INSURANCE LAW, UNLESS WRITTEN NOTICE IS MAILED OR DELIVERED BY THE CARRIER TO THE EMPLOYER, AT THE ADDRESS SHOWN ON THE POLICY, AND TO SUCH EMPLOYER'S AUTHORIZED AGENT OR BROKER, INDICATING THE CARRIER'S INTENTION TO CONDITION RENEWAL UPON INCREASED DEDUCTIBLE, CHANGE IN CLASSIFICATION WITH REGARD TO THE PAYMENT OF DIVIDENDS THAT MAY RESULT IN A REDUCTION IN DIVIDENDS PAID, OR UPON INCREASED PREMIUMS IN EXCESS OF TEN PERCENT (EXCLUSIVE OF ANY PREMIUM INCREASE GENERATED AS A RESULT OF INCREASED LOSS COSTS FILED AND APPROVED IN ACCORDANCE WITH SUBSECTION (E) OF SECTION TWO THOUSAND THREE HUNDRED FIVE OF THE INSURANCE LAW, INCREASED EXPOSURE UNITS, OR AS A RESULT OF EXPERIENCE RATING, LOSS RATING, RETROSPECTIVE RATING OR AUDIT). SUCH NOTICE SHALL BE MAILED OR DELIVERED AT LEAST SIXTY, BUT NOT MORE THAN ONE HUNDRED TWENTY, DAYS IN ADVANCE OF THE EXPIRATION DATE OF THE POLICY, AND SHALL CONTAIN THE SPECIFIC REASON OR REASONS FOR CONDITIONAL RENEWAL, SET FORTH THE AMOUNT OF ANY PREMIUM INCREASE (OR, WHERE SUCH AMOUNT CANNOT REASONABLY BE DETERMINED AS OF THE TIME THE NOTICE IS PROVIDED, A REASONABLE ESTIMATE OF THE PREMIUM INCREASED BASED UPON THE INFORMATION AVAILABLE TO THE INSURANCE CARRIER AT THAT TIME), A REASONABLE ESTIMATE OF THE POTENTIAL REDUCTION IN DIVIDENDS ATTRIBUTABLE TO THE CHANGE IN CLASSIFICATION, AND THE AMOUNT OF THE INCREASED DEDUCTIBLE. NOTHING IN THIS SUBDIVISION WILL REQUIRE THE INSURANCE CARRIER TO PROVIDE SUCH NOTICE WHEN THE EMPLOYER, AN AGENT OR BROKER AUTHORIZED BY THE EMPLOYER, OR ANOTHER INSURANCE CARRIER OF THE EMPLOYER HAS MAILED OR DELIVERED WRITTEN NOTICE THAT THE POLICY HAS BEEN REPLACED OR IS NO LONGER DESIRED.

EVERY NOTICE MAILED OR DELIVERED BY AN INSURANCE CARRIER PURSUANT TO THIS SUBDIVISION SHALL ADVISE THE EMPLOYER AND SUCH EMPLOYER'S AUTHORIZED AGENT OR BROKER OF THE AVAILABILITY OF LOSS INFORMATION CONSISTENT WITH THIS SUBDIVISION UPON WRITTEN REQUEST BY THE EMPLOYER OR SUCH EMPLOYER'S AUTHORIZED AGENT OR BROKER, THE INSURANCE CARRIER SHALL MAIL OR DELIVER LOSS INFORMATION COVERING THE PERIOD OF TIME COVERAGE HAS BEEN PROVIDED BY THE INSURANCE CARRIER, WITHIN TEN DAYS OF SUCH REQUEST. SUCH INFORMATION SHALL INCLUDE INFORMATION ON CLOSED AND OPEN CLAIMS AND ANY NOTICES OF OCCURRENCES, INCLUDING DATES AND DESCRIPTIONS OF OCCURRENCES AND AMOUNTS OF ANY PAYMENTS OR AMOUNTS HELD IN RESERVE FOR FUTURE PAYMENTS.

The provisions of this subdivision shall not apply with respect to policies containing coverage pursuant to subsection (j) of section three thousand four hundred twenty of the insurance law relating to every

policy providing comprehensive personal liability insurance on a one, two, three or four family owner-occupied dwelling.

In the event such cancellation or termination notice is not filed with the chair within the required time period, the chair shall impose a penalty in the amount of up to five hundred dollars for each ten-day period the insurance carrier or state insurance fund failed to file the notification. All penalties collected pursuant to this subdivision shall be deposited in the uninsured employers' fund.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law, and shall apply to all policies issued or renewed on or after such effective date.