

4399--A

2015-2016 Regular Sessions

I N S E N A T E

March 18, 2015

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Subdivision 5 of section 54 of the workers' compensation
2 law, as amended by section 23 of part GG of chapter 57 of the laws of
3 2013, is amended to read as follows:
4 5. (A) Cancellation and termination of insurance contracts. No
5 contract of insurance issued by an insurance carrier against liability
6 arising under this chapter shall be cancelled within the time limited in
7 such contract for its expiration unless notice is given as required by
8 this section. When cancellation is due to non-payment of premiums and
9 assessments, such cancellation shall not be effective until at least ten
10 days after a notice of cancellation of such contract, on a date speci-
11 fied in such notice, shall be filed in the office of the chair and also
12 served on the employer. When cancellation is due to any reason other
13 than non-payment of premiums and assessments, such cancellation shall
14 not be effective until at least thirty days after a notice of cancella-
15 tion of such contract, on a date specified in such notice, shall be
16 filed in the office of the chair and also served on the employer;
17 provided, however, in either case, that if the employer has secured
18 insurance with another insurance carrier which becomes effective prior
19 to the expiration of the time stated in such notice, the cancellation
20 shall be effective as of the date of such other coverage. No insurer
21 shall refuse to renew any policy insuring against liability arising
22 under this chapter unless at least thirty days prior to its expiration

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

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1 notice of intention not to renew has been filed in the office of the
2 chair and also served on the employer.

3 Such notice shall be served on the employer by delivering it to him,
4 her or it or by sending it by mail, by certified or registered letter,
5 return receipt requested, addressed to the employer at his, her or its
6 last known place of business; provided that, if the employer be a part-
7 nership, then such notice may be so given to any of one of the partners,
8 and if the employer be a corporation then the notice may be given to any
9 agent or officer of the corporation upon whom legal process may be
10 served; and further provided that an employer may designate any person
11 or entity at any address to receive such notice including the design-
12 nation of one person or entity to receive notice on behalf of multiple
13 entities insured under one insurance policy and that service of notice
14 at the address so designated upon the person or entity so designated by
15 delivery or by mail, by certified or registered letter, return receipt
16 requested, shall satisfy the notice requirement of this section.
17 Provided, however, the right to cancellation of a policy of insurance in
18 the state fund shall be exercised only for non-payment of premiums and
19 assessments or as provided in section ninety-four of this chapter.

20 The provisions of this subdivision shall not apply with respect to
21 policies containing coverage pursuant to subsection (j) of section three
22 thousand four hundred twenty of the insurance law relating to every
23 policy providing comprehensive personal liability insurance on a one,
24 two, three or four family owner-occupied dwelling.

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

31 (B) CONDITIONAL RENEWAL. A CONTRACT OF INSURANCE SHALL REMAIN IN FULL
32 FORCE AND EFFECT SUBJECT TO THE SAME TERMS AND CONDITIONS, LOSS COST
33 MULTIPLIERS AND CLASSIFICATION OF THE EMPLOYER WITH REGARD TO THE
34 PAYMENT OF DIVIDENDS, PURSUANT TO SECTIONS FOUR THOUSAND ONE HUNDRED SIX
35 AND FOUR THOUSAND ONE HUNDRED FOURTEEN OF THE INSURANCE LAW, UNLESS
36 WRITTEN NOTICE IS MAILED OR DELIVERED BY THE INSURANCE CARRIER TO THE
37 EMPLOYER, AT THE ADDRESS SHOWN ON THE POLICY, AND TO SUCH EMPLOYER'S
38 AUTHORIZED AGENT OR BROKER, INDICATING THE INSURANCE CARRIER'S INTENTION
39 TO CONDITION RENEWAL UPON ISSUANCE OF A POLICY THAT SUPERSEDES A POLICY
40 PREVIOUSLY ISSUED BY ANOTHER INSURANCE CARRIER UNDER COMMON CONTROL THAT
41 WILL RESULT IN AN INCREASED PREMIUM IN EXCESS OF TEN PERCENT (EXCLUSIVE
42 OF ANY PREMIUM INCREASE GENERATED AS A RESULT OF INCREASED LOSS COSTS
43 FILED AND APPROVED IN ACCORDANCE WITH SUBSECTION (E) OF SECTION TWO
44 THOUSAND THREE HUNDRED FIVE OF THE INSURANCE LAW, INCREASED EXPOSURE
45 UNITS, OR AS A RESULT OF EXPERIENCE RATING, CONTRACTOR CREDIT ADJUSTMENT
46 PROGRAM, DRUG FREE CREDIT, MERIT RATING, MANAGED CARE CREDIT, LARGE
47 DEDUCTIBLE, RETROSPECTIVE RATING OR AUDIT). SUCH NOTICE SHALL BE MAILED
48 OR DELIVERED AT LEAST THIRTY DAYS IN ADVANCE OF THE EXPIRATION DATE OF
49 THE POLICY, AND SHALL SET FORTH THE AMOUNT OF THE PREMIUM INCREASE (OR,
50 WHERE SUCH AMOUNT CANNOT REASONABLY BE DETERMINED AS OF THE TIME THE
51 NOTICE IS PROVIDED, A REASONABLE ESTIMATE OF THE PREMIUM INCREASE BASED
52 UPON THE INFORMATION AVAILABLE TO THE INSURANCE CARRIER AT THAT TIME).
53 NOTHING IN THIS SUBDIVISION WILL REQUIRE THE INSURANCE CARRIER TO
54 PROVIDE SUCH NOTICE WHEN THE EMPLOYER, AN AGENT OR BROKER AUTHORIZED BY
55 THE EMPLOYER, OR ANOTHER INSURANCE CARRIER OF THE EMPLOYER HAS MAILED OR

1 DELIVERED WRITTEN NOTICE THAT THE POLICY HAS BEEN REPLACED OR IS NO
2 LONGER DESIRED.
3 S 2. This act shall take effect on the one hundred twentieth day after
4 it shall have become a law, and shall apply to all policies issued or
5 renewed on or after such effective date.