

4399

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

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

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

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

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

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

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

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

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