

STATE OF NEW YORK

10078

IN ASSEMBLY

April 29, 2022

Introduced by M. of A. FERNANDEZ -- (at request of the State Insurance Fund) -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to the issuance of policies by the state insurance fund where a balance is due on a prior policy issued by such fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions b and c of section 93 of the workers' compensation law, as amended by section 24 of part GG of chapter 57 of the laws of 2013, are amended to read as follows:

2 b. An employer, whose policy of insurance has been cancelled by the
3 state insurance fund for non-payment of premium and assessments or with-
4 draws pursuant to section ninety-four of this article, is ineligible to
5 contract for a subsequent policy of insurance with the state insurance
6 fund while the billed premium on the cancelled policy remains uncol-
7 lected. However, the state insurance fund shall have discretion to issue
8 a new policy to such employer by consenting to a payment plan for the
9 employer to pay off the balance on the prior policy provided that (1)
10 any required payroll audit or self-audit has been completed at the time
11 the new policy is issued, (2) the employer's prior payment and policy
12 history meet the state insurance fund's underwriting standards, (3) the
13 employer has demonstrated the ability to pay the deposit premium on the
14 new policy and the first installment of the balance due on the prior
15 cancelled policy prior to issuance of the new policy, and (4) the
16 employer has demonstrated the ability to pay the overdue balance from
17 the prior cancelled policy by installments as determined by the state
18 insurance fund together with payments on the new policy within twelve
19 months from the date the new policy is issued. If an employer is issued
20 a new policy pursuant to this subdivision, such employer shall be
21 required to make the final payment on such overdue balance within twelve
22 months from the date the new policy is issued. If the employer defaults
23 on payment for either the new policy or the balance due from the prior
24 cancelled policy, the employer's new policy is subject to cancellation
25 for non-payment of premium as provided under this chapter. If the new
26 policy is issued, the employer shall be ineligible to contract for a subsequent
27 policy of insurance with the state insurance fund while the billed premium on the

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

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1 policy issued pursuant to this subdivision is cancelled, the employer
2 shall be ineligible for an additional policy until all amounts due from
3 all prior cancelled policies have been paid.

4 c. The state insurance fund shall not be required to write a policy of
5 insurance for any employer which is owned or controlled or the majority
6 interest of which is owned or controlled, directly or indirectly, by any
7 person who directly or indirectly owns or controls or owned or
8 controlled at the time of cancellation an employer whose former policy
9 of insurance with the state insurance fund was cancelled for non-payment
10 of premium and assessments or withdraws pursuant to section ninety-four
11 of this article or who is or was at the time of cancellation the presi-
12 dent, vice-president, secretary or treasurer of such an employer until
13 the billed premium on the cancelled policy is paid. The state insurance
14 fund shall have discretion to write a policy to such an employer using
15 the same terms as applicable to writing a policy of insurance to a
16 former policyholder that owes a balance on a prior policy as provided
17 under subdivision b of this section.

18 For purposes of this subdivision, "person" shall include individuals,
19 partnerships, corporations, and other associations.

20 § 2. This act shall take effect immediately.