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:

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:

b. An employer, whose policy of insurance has been cancelled by the state insurance fund for non-payment of premium and assessments or withdraws pursuant to section ninety-four of this article, is ineligible to contract for a subsequent policy of insurance with the state insurance fund while the billed premium on the cancelled policy remains uncollected. **However, the state insurance fund shall have discretion to issue a new policy to such employer by consenting to a payment plan for the employer to pay off the balance on the prior policy provided that (1) any required payroll audit or self-audit has been completed at the time the new policy is issued, (2) the employer's prior payment and policy history meet the state insurance fund's underwriting standards, (3) the employer has demonstrated the ability to pay the deposit premium on the new policy and the first installment of the balance due on the prior cancelled policy prior to issuance of the new policy, and (4) the employer has demonstrated the ability to pay the overdue balance from the prior cancelled policy by installments as determined by the state insurance fund together with payments on the new policy within twelve months from the date the new policy is issued. If an employer is issued a new policy pursuant to this subdivision, such employer shall be required to make the final payment on such overdue balance within twelve months from the date the new policy is issued. If the employer defaults on payment for either the new policy or the balance due from the prior cancelled policy, the employer's new policy is subject to cancellation for non-payment of premium as provided under this chapter. If the new**

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

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

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

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

§ 2. This act shall take effect immediately.