

Bulletin No. 2020-16

March 31, 2020

RE: GOVERNOR AND DFS ORDER MORATORIUM ON CANCELLATIONS, NONRENEWALS AND LATE PAYMENT PENALTIES

Governor Andrew Cuomo issued [Executive Order 202.13](#) on March 29th imposing a moratorium on insurance policy cancellations, nonrenewals and late payment penalties under certain circumstances due to the COVID-19 pandemic. The Department of Financial Services (“DFS”) promulgated an [Emergency Regulation](#) on March 30th stating specific requirements.

THE EMERGENCY REGULATION EXPRESSLY APPLIES TO EXCESS LINE INSURERS.

THE GOVERNOR’S EXECUTIVE ORDER PLACES A MORATORIUM ON INSURERS CANCELLING, NON-RENEWING, OR CONDITIONALLY RENEWING ANY INSURANCE POLICY issued to an individual or small business (as defined in the Executive Order) for a period of 60 days (running from March 29th) for any policyholder facing financial hardship as a result of the COVID-19 pandemic.

Both the Executive Order and Regulation apply to property-casualty policies (as specified in Article 34 of the Insurance Code), fidelity and surety, credit, marine and inland marine, marine protection and indemnity, credit unemployment, gap, and involuntary unemployment insurance. ELANY is analyzing both the Executive Order and Regulation and will provide additional information on applicability in the coming days.

The Regulation requires the following:

- Producer Responsibilities to Policyholders
 - **AN INSURANCE PRODUCER WHO PROCURED THE INSURANCE POLICY FOR A PROPERTY POLICYHOLDER MUST MAIL OR DELIVER NOTICE TO THE POLICYHOLDER OF THE PROPERTY AND LIFE INSURANCE AND PREMIUM FINANCE PROVISIONS OF THE REGULATION BY APRIL 13TH.** This requirement also applies to life insurance producers.
- Insurer Responsibilities to Producers
 - Insurers must notify producers and third party administrators with which it does business of the regulation’s requirements.

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- Insurer Responsibilities to Policyholders
 - Where a property policyholder can demonstrate financial hardship as a result of the COVID-19 pandemic, an insurer may not impose any premium payment late fees and may not report the policyholder to a credit reporting agency or debt collection agency based on later payment.
 - An insurer must accept a policyholder's written attestation as proof of financial hardship.
 - Policyholders experience financial hardship due to COVID-19 may pay impacted premiums over a 12-month period.
 - This includes any policyholder to whom the insurer issued a nonpayment cancellation notice prior to March 30th if financial hardship is demonstrated.
 - The regulation requires insurers to notify policyholders about the regulation with each premium bill, and provide a toll-free number which policyholders may call to discuss billing and alternative arrangements.
- Premium Finance Company Responsibilities
 - Premium finance companies may not cancel a property-casualty insurance policy for at least 60 days if financial hardship is demonstrated.
 - Please see the Regulation for more on premium finance companies and agreements

The Executive Order and Regulation cover additional areas of insurance that this Bulletin does not discuss, including credit life and health, credit unemployment, life, annuities, and workers compensation. The Executive Order and Regulation also apply to prepaid legal services plans and legal service insurance, the Motor Vehicle Insurance Association Assigned Risk Plan, New York Property Insurance Underwriting Association, and Medical Malpractice Insurance Association. Please review the [Emergency Regulation](#) and [Executive Order](#) for full requirements.

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