



Re: Governor Cuomo Issues Executive Order Related to Certain Insurance Regulations

Dear Valued Genatt Specialty Client:

First and foremost, let us say that we hope you, your loved ones, friends, colleagues, employees and acquaintances are all safe and healthy during this most challenging time. We have heard from many of you of the personal pressures you are facing, and we are here to listen, as well as help in any way we can. Our thoughts are with you as we all struggle through this unprecedented moment.

We write to notify you of an Executive Order recently issued by Governor Cuomo related to insurance, as well as explain some recent amendments to the insurance and banking regulations (the "Amendments to Regulations"). These Amendments to Regulations have been issued by the New York State Department of Financial Services ("DFS"), which is the governing body that oversees insurance and banking in the state of New York.¹

As briefly outlined below, these Amendments to Regulations provide grace periods and give rights under certain property/casualty insurance policies if you are an **individual** or a **small business** and can **demonstrate financial hardship** as a result of the novel coronavirus ("COVID-19") pandemic.

These grace periods and rights are currently in effect, however, please note that they are temporary. They might or might not be extended further. We are continuing to monitor updates daily, and you can likewise monitor updates if you wish at the DFS's website <https://www.dfs.ny.gov/consumers/coronavirus>.

If you are an individual, then you should know that the Amendments to Regulations do generally address personal lines property/casualty insurance policies, including auto, homeowners' and renters' insurance. As such, if you are an individual and are affected by COVID-19, please contact us to determine whether your policy is specifically covered by the Amendments to Regulations.

If you are a small business, we note that only certain types of commercial lines property/casualty insurance policies are covered by these Amendments to Regulations. The policies generally included are: property, fire, commercial general liability, special multiperil, medical malpractice,

¹ A copy of the Executive Order and regulations can be found at: <https://www.governor.ny.gov/news/no-20213-continuing-temporary-suspension-and-modification-laws-relating-disaster-emergency>

workers' compensation, commercial auto (including livery and other for-hire vehicles), and commercial umbrella insurance.

Furthermore, a **business qualifies as a "small business" if:** (i) it is resident in New York State, (ii) is independently owned and operated, AND (iii) employs 100 or fewer individuals. As such, if you are a small business and are affected by COVID-19, please contact us to determine whether your policy is covered by the Amendments to Regulations.

As you will see below, the Amendments to Regulations **require demonstration of financial hardship.** If you, as policyholder affected by COVID-19, are unable to make a timely premium payment due to financial hardship, you may submit to your insurer or premium finance agency, as applicable, **a statement that you swear or affirm in writing under penalty of perjury that you are experiencing financial hardship as a result of the COVID-19 pandemic,** which the insurer or premium finance agency, as applicable, shall accept as satisfactory proof. Such statement is not required to be notarized.

Summary of Amendments to Regulations

Moratorium on Cancellation, Non-Renewal, and Conditional Renewal

If you have a policy that falls under the Amendments to Regulations, then there is a moratorium on your insurer cancelling, non-renewing, or conditionally renewing your property/casualty insurance policy for a period of 60 days. Also, if you do not make a timely premium payment and can demonstrate financial hardship as a result of the COVID-19 pandemic, your insurer may not impose any late fees relating to the premium payment or report you to a credit reporting agency or a debt collection agency regarding such premium payment.

Catching up on Overdue Insurance Payments

The Amendments to Regulations also require your insurer to permit you, as a policyholder affected by COVID-19, to pay the overdue premium over a 12-month period if you did not make a timely premium payment due to financial hardship as a result of the COVID-19 pandemic and can still demonstrate financial hardship as a result of the COVID-19 pandemic. This also applies if the insurer sent you a nonpayment cancellation notice prior to March 29, 2020.

Policies Financed by Premium Finance Agencies – Grace Period

If your insurance policy has been financed through a premium finance agency, and you, as a policyholder affected by COVID-19, do not make an installment payment, the premium finance agency may not cancel your policy for a period of at least 60 days, including any contractual grace period, and subject to the safety and soundness of the premium finance agency. In addition, if you do not make a timely installment payment to the premium finance agency, the premium finance agency must extend the due date for the installment payment by at least 60 days, may not impose any late fees relating to that installment payment, and may not report you to a credit reporting agency or a debt collection agency regarding that installment payment.

Catching up on Overdue Payments to Premium Finance Agencies

If you, as a policyholder affected by COVID-19, do not make a timely installment payment to the premium finance agency due to financial hardship as a result of the COVID-19 pandemic, the

premium finance agency must permit you to pay the installment payment over a 12-month period if you can still demonstrate financial hardship as a result of the COVID-19 pandemic, subject to the safety and soundness of the premium finance agency. This also applies if the premium finance agency issued a non-payment cancellation notice prior to March 29, 2020.

Questions?

Please feel free to contact us should you have any questions.

Please continue to stay safe. Together we will make it through this challenging time.

The Genatt Specialty Team