



PROFESSIONAL INSURANCE AGENTS

PIANY Executive Order 202.13 Questions-and-answers

Q. How does the Executive Order 202.13 and Department of Financial Services emergency amendments impact insurance?

A. Executive Order 202.13 puts a moratorium on the cancellation, nonrenewal or conditional renewal of certain property/casualty and workers' compensation policies, including those financed by premium-finance companies for all those facing financial hardship due to the COVID-19 pandemic.

It also extends the grace period for payment of premiums and fees for life insurance for all those facing financial hardship due to the COVID-19 pandemic.

In addition, any property/casualty, workers' compensation or life insurance policy-holders, including those with policies financed by premium-finance agencies who were unable to make a premium payment due to financial hardship as a result of the COVID-19 pandemic and who can still demonstrate financial hardship as a result of the COVID-19 pandemic, will be permitted to pay the missed premium over a 12-month period. This includes policies involving premium-finance agencies.

The Department of Financial Services emergency amendments require all licensed insurance producers to send notice to their client of the changes detailed above.

MORATORIUM

Q. What does the moratorium do?

A. The moratorium prohibits an insurer from cancelling, nonrenewing or conditionally renewing certain property/casualty or workers' compensation policy issued to an individual or small business for a period of 60 days (March 29, 2020, through May 28, 2020), for any policyholder facing financial hardship as a result of the COVID-19 pandemic.

Q. What businesses qualify as small businesses under the moratorium?

A. Small business is defined as any business that is resident in New York state, is independently owned and operated, and employs 100 or fewer individuals.

Q. Does the moratorium apply to everyone?

A. No. The moratorium only applies to those who are experiencing financial hardship caused by the COVID-19; it is not a blanket moratorium. Anyone who is experiencing a hardship must submit a written attestation to an insurer as proof of their hardship due to COVID-19.

Q. What P&C policies are including in the moratorium?

A. Personal lines property/casualty insurance policies including auto, homeowners' and renters' insurance.

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Commercial lines property/casualty insurance policies including property, fire,

commercial general liability, special multiperil, medical malpractice, workers' compensation, commercial auto (including livery and other for-hire vehicles), and commercial umbrella insurance.

Q. Does the moratorium apply to nonadmitted/excess-line policies?

A. The moratorium only applies to excess-line personal-lines policies. E&S commercial-lines policies are specifically excluded by New York Insurance Section 3426(1)(2). The DFS has confirmed that the moratorium does not apply to E&S commercial-lines policies. This includes E&S commercial lines policies that are premium financed.

However many E&S carriers are choosing to voluntarily follow the moratorium. Producers are encouraged to reach out to their wholesalers and other E&S partners to determine which E&S carriers are following the moratorium.

Q. When will the moratorium expire?

A. The moratorium will expire on May 29, 2020, for property/casualty or workers' compensation policies.

LIFE INSURANCE GRACE PERIOD

Q. How long is the grace period for paying life insurance premiums?

A. The grace period for payment of premiums and fees by a life insurance policyholder, as well as fraternal benefit society certificate holder, is extended 90 days (March 29, 2020, through June 26, 2020).

Q. When does the grace period for life insurance expire?

A. The grace period for paying life insurance premiums ends on June 28, 2020.

REPAYMENT PLAN

Q. If a policyholder misses a payment to an insurer or premium-finance agency, when is the payment due?

A. Any policyholder who missed a payment due to financial hardship as a result of the COVID-19 pandemic and who can still demonstrate financial hardship as a result of the COVID-19 pandemic will be permitted to pay the missed payment over a 12-month period. This also applies to any policyholder who was issued a nonpayment cancellation notice prior to the effective date of the Executive Order on March 29, 2020.

This applies to both P&C and life policies, including those financed by a premium finance agency.

Q. Does the 12-month repayment plan apply to nonadmitted/excess-line policies?

A. Just like with the moratorium, The repayment plan only applies to excess-line personal-lines policies. E&S commercial-lines policies are specifically excluded by New York Insurance Section 3426(1)(2). The DFS has confirmed that the moratorium does not apply to E&S commercial-lines policies. This includes E&S commercial lines policies that are premium financed.

However many E&S carriers are choosing to voluntarily follow the moratorium. Producers are encouraged to reach out to their wholesalers and other E&S partners to determine which E&S carriers are following the moratorium.

Q. Does the executive order apply commercial lines excess and surplus policies that are financed by a premium finance agency?

A. No. All commercial lines excess and surplus policies are excluded from the executive order, even those financed by a premium finance agency.

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Q. Does the policyholder have to provide any proof that they are experiencing financial hardship?

A. Yes. Policyholders must submit written attestation to the insurer as proof of financial hardship as a result of the COVID-19 pandemic.

NOTICE REQUIREMENT

Q. Must all producers send notification to their clients?

A. Yes. The DFS emergency regulations apply to all licensed insurance producers.

Q. Can PIA help me notify my clients?

A. Yes. PIA can assist you with emailing or mailing the notification to your clients. Contact PIA Design & Print at: aplaza@pia.org for more information.

Q. Does the notice requirement apply to non-resident licensees?

A. Yes. If you service an in-force policy in New York State you must notify all of your clients by April 13, 2020.

Q. Which policyholders should receive notice?

A. All personal lines property/casualty insurance policyholders including auto, homeowners' and renters' insurance clients.

Commercial lines property/casualty insurance policyholders including property, fire, commercial general liability, special multiperil, medical malpractice, workers' compensation, commercial auto (including livery and other for-hire vehicles) and commercial umbrella insurance clients.

All life insurance policyholders and annuity contract holders should receive notice.

Note that commercial lines excess and surplus lines policyholders are excluded should not be sent a notice.

Q. Do producers only need to send notifications to policyholders who are being renewed in the moratorium time frame or all policyholders for those types of policies mentioned above?

A. All policyholders must be sent this notice provided they have one of the policies mentioned above.

Q. Does the notice requirement apply to non-resident licensees?

A. Yes. If you service an in-force policy in New York State you must notify all of your clients with applicable policies by April 13, 2020.

Q. Can I just send one notice out to all my clients with all of the information about P&C and life policies?

A. That depends. The DFS has made clear that clients should only receive the information that is applicable to their policies. AP&C policyholder should receive information on the P&C rules but not the life rules. The opposite would be true for life insurance policyholders. However if you have clients with both life and P&C policies then one notice, with information on both lines, can be sent.

Q. Can producers send the information electronically?

A. Yes. The information can be sent electronically or through traditional means.

Q. Instead of sending a notification, can producers just post the information on social media or on their agency website?

A. No. While DFS is encouraging all producers to place the information on their agency website and social media accounts, that is meant as a supplement to the notice. It is not a replacement.

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What happens if a carrier issues a cancellation, nonrenewal, or conditional renewal during the 60-day grace period?

A. The grace period only applies to those who have a financial hardship due to COVID-19; it is not a blanket protection against cancellation, nonrenewal, or conditional renewal of policies. If your client is having a financial hardship which would prevent the carrier from issuing such, then they must attest such to the insurer.

What relief are insurers required to provide for life insurance and annuity contracts?

A. DFS requires life insurance and annuity contract issuers to provide the following relief to **policyholder or certificate holder (consumer) who can demonstrate financial hardship due to COVID-19:**

- Extend to 90 days the grace period for the payment of premiums and fees to ensure that the policyholder's or certificate holder's life insurance policy or certificate does not lapse for non-payment during the 90-day period;
- Waive late payment fees otherwise due, and not report late payments to credit rating agencies, during the 90-day period;
- Allow premiums due but not paid during the 90-day period to be paid over the course of the following year in 12 equal monthly installments; and
- Extend to 90 days the period to exercise policyholder and contract holder rights and benefits under life insurance and annuity contracts.

What relief are insurers required to provide for property and casualty contracts?

A. DFS requires property and casualty insurers to provide the following relief to

consumers and small businesses who can demonstrate financial hardship due to COVID-19:

- Provide a 60-day grace period for the cancellation, conditional renewal or non-renewal of a policyholder's insurance policy;
- Allow premiums due but not paid during the 60-day period to be paid over the course of the following year in 12 equal monthly installments; and
- Waive any late payment fees and not report late payments to credit rating agencies during the 60-day period.

What relief are premium finance agencies require to provide?

A. The emergency regulation requires premium finance agencies to provide the same relief to those consumers and businesses which have financed the payments of their premiums, subject to safety and soundness considerations of the premium finance agencies.

DFS requires premium finance agencies to provide the following relief to **consumers and businesses who can demonstrate financial hardship due to COVID-19:**

- Provide a 90-day grace period (for life insurance policies) and a 60-day grace period (for property and casualty policies) for the payment of installment payments under the premium financing agreement;
- Allow installment payments due but not paid during the applicable grace period to be paid over the course of the following year in 12 equal monthly installments; and
- Waive any late payment fees and not report late payments to credit rating agencies during the applicable grace period.