

Adopted Regulation Bulletin

April 6, 2020

Topic:	New York DFS Issues Guidance for Producers on Grace Periods/Moratorium
Jurisdiction(s):	New York
Line(s) Affected:	Not Line Specific
APCIA Contact:	Sheila Williams 847-553-3757 sheila.williams@apci.org
APCIA Regional Staff:	Kristina Baldwin 518-443-2220 kristina.baldwin@apci.org

Overview

The New York Department of Financial Services ("DFS") has issued guidance for producers relative to the notice obligations contained in the emergency regulation implementing the grace period/moratorium.

Details

On March 29, 2020, New York Governor Cuomo issued [Executive Order 202.13](#), which imposed a moratorium on insurers cancelling, nonrenewing, or conditionally renewing insurance policies for 60 days. Subsequently, NY DFS issued an [emergency regulation](#) to implement the moratorium provisions of Executive Order 202.13. The DFS is issuing the guidance due to challenges that insurance producers ("Producers") are facing to comply with the notice obligations below ("Notice Obligations") required for Insurance Regulation 216, Insurer Practices During the COVID-19 Pandemic (11 NYCRR § 229.5(b)) and 3 NYCRR § 405.6(b)(4)(Premium Finance Agencies).

First, regarding obtaining consumers' consent to electronic communications, please see the DFS's "Current [Guidance](#) Regarding Electronic Signatures, Transactions, and Filings with DFS."

Second, for the duration of the current state of emergency, Producers may comply with the Notice Obligations by emailing the notices to the consumers for which the Producers have email addresses, regardless of whether the consumers have consented to receiving this notice via email. Model notices, designed for Producers to use in meeting the Notice Obligations for property/casualty insurance producers, can be found [here](#).

Producers with websites should post the information on their websites as soon as possible. DFS also encourages supplemental dissemination of the content of the Notice Obligations by other means, including social media.

Finally, Producers should maintain records of their communications with consumers, electronic or otherwise, used to satisfy the Notice Obligations for a period of time sufficient to satisfy applicable statutes of limitation and, where an action or claim is pending, for such period of time until the matter is resolved. See Office of [General Counsel Opinion 05-03-32](#) (March 24, 2005). In addition, if a Producer obligated itself by contract with its principal, the insurer or insured, to retain records for a period of time, then such obligation, if legally enforceable, must be satisfied, subject to an alternative acceptable to the principal. These communications used to satisfy the Notice Obligations may be subject to Department review, including but not limited to, on examination.

Below is a summary of the insurance producer requirement in the relevant emergency regulations.

The emergency regulations require a licensed insurance producer who procured a property/casualty insurance policy for the policyholder or contract holder to mail or deliver notice to the policyholder or contract holder of the provisions of 11 § NYCRR 229 and 3 NYCRR § 405.6 within 10 business days following their promulgation. The regulations were promulgated on March 30, 2020.

IMPORTANT REMINDER: The Notice Obligations to property/casualty policyholders only apply to certain kinds of policies affected by the emergency regulations and therefore may only be sent to holders of those specific kinds of policies to avoid confusion. The types of policies are explained in general terms in the model [property/casualty notice](#). The precise categories of policies are set forth in detail in the emergency regulations. Specifically, see 11 NYCRR § 229.2(m) in the [emergency regulations](#) for the definition of "Property/casualty insurance policy."

Attachment

A copy of the guidance is available below as an attachment.

Related Information

[NY Guidance for Producers.pdf](#)