NOTICE TO NAIFA-NYS MEMBERS CONCERNING

NYDFS EMERGENCY REGULATION ON PREMIUM RELIEF FOR LIFE INSURANCE POLICYHOLDERS

On March 29th, Governor Cuomo issued Executive Order 202.13 which had the effect of, among other things, modifying the Insurance Law and the Law governing Premium Finance agencies. The order requires New York life insurance companies to extend the grace period for all life insurance policyholders who are facing a financial hardship as a result of the COVID-19 pandemic to 90 days for the payment of premiums and fees, and for the exercise of rights and obligations, under such policies. The purpose of the Executive Order is to ensure that life insurance policies, annuity contracts and fraternal benefit certificates do not lapse due to non-payment and policyholder rights are not lost during the pandemic period. The order also extends the protections to policyholders who have utilized premium financing agencies in their policy purchases.

The Superintendent of Financial Services promulgated an emergency regulation, effective on March 30th, designed to implement the provisions of the executive order and set out industry requirements for notification of all policyholders. The regulation specifies that insurers shall accept an attestation from a policyholder as proof of “financial hardship” as a result of the COVID-19 pandemic. Insurers and premium finance agencies are prohibited from reporting policyholders, covered by the regulation who fail to make a payment, to a credit reporting agency or a debt collection agency. The imposition of late fees are prohibited.

This regulation imposes the obligation on insurance producers to notify in-force policyholders as follows:

1. “A licensed insurance producer who services an in-force life insurance policy, annuity contract or fraternal benefit society certificate, or who procured the property/casualty insurance policy for the policyholder shall mail or deliver notice to the policyholder of the provisions of the regulation within ten business days following promulgation of the regulation.” [11 NYCRR Section 229.5(b)]

2. “A licensed insurance producer who services an in-force contract of insurance providing life insurance or who procured the property/casualty insurance contract for the insured, which contract is listed in a premium finance agreement, shall mail or deliver notice to the insured of the provisions of this section and Part 229 of Title 11 within ten business days following the promulgation of this section.” [3 NYCRR Section 405.6(b)(4)] Emphasis added.
Life insurers are required

- to “notify insurance producers and any third-party administrators with whom or which the insurer does business” of the provisions of the regulation. [Section 229.5(a)(2)]

- Provide policyholders with notice, “with each insurance premium bill” of the regulation within 10 days of the promulgation of the regulation. In addition, insurers must provide a “toll-free number that the policyholder may call to discuss billing and make alternative payment arrangements”. [229.5(a)(1)]

- That if the policyholder does not make a timely payment due to financial hardship as a result of the COVID-19 pandemic, insurers shall permit the policyholder to pay such premium over a 12-month period. [229.5(a)] This provision applies even if the non-payment cancellation notice was issued prior to the Executive order.

Premium Finance Agencies are required

- “to notify insurance producers and any third-party administrators with whom or which the premium finance agency does business of the provisions of this section.” [3 NYCRR Section 405.6(b)(3)(ii)]

- “Within ten business days following the promulgation of this section, provide notice with each installment payment bill of the provisions of this section and a toll-free number that the insured may call to discuss billing and make alternative payment arrangements…” [405.6(b)(3)(i)]

**PRODUCERS MAY COMPLY BY EMAILING THE NOTICE TO IN-FORCE POLICYHOLDERS**

NAIFA-NYS staff has been involved in ongoing discussions with the DFS in an effort to obtain clarification of the provisions of the regulation and to ease the burden of compliance upon insurance producers. While such discussions will be ongoing, they have currently resulted in the Department’s issuance of guidance on April 3rd which provides that the producer notice requirements of the regulation do not have to be “delivered” or “mailed” to policyholders, but may, instead, be sent by email to those policyholders for which producers have email addresses. Producers must post the information about the regulation on their websites as soon as possible. The Department encourages producers to disseminate the contents of the notice obligations by social media avenues.

It is imperative that all producers begin work immediately to issue the required electronic notice to all in-force policyholders. In addition, producers should post the Governor’s Executive Order 202.13 and the emergency regulation and any subsequent notices issued by insurers to
producers on their business websites and social media. Those documents may be found on the NAIFA-NYS website’s dedicated COVID-19 section.

The DFS also advises that producers keep records of all electronic notices issued to enforce policyholders in accordance with all law and rules concerning insurance record keeping.

We will continue to keep our membership apprised of all of the fast-paced pronouncements of the state and federal governments as they pertain to the pandemic. Should our membership have questions or comments please contact us at mail@naifanys.org