

LEGISLATIVE UPDATE For New York State Insurers

In the final moments of the New York Legislature's 2003 regular session ending on June 20, 2003, the Senate and Assembly overcame gridlock on certain issues and the "*Property/Casualty Insurance Availability Act*" (Senate Bill 5700) was passed. The Bill was delivered to Governor Pataki on June 24, 2003, but, Governor Pataki has not yet signed Senate Bill 5700 into law. He is expected to sign the Bill into law in early July.

Highlights of the Act include the following:

- An extension of the New York Property Insurance Underwriting Association ("NYPIUA" or the "Fair Plan") to April 29, 2004;
- A reinstatement (from the effective date of the Act through June 29, 2006) of the one-year required policy period for personal lines automobile insurance policies;
- A reinstatement (from the effective date of the Act through June 29, 2006) of the 2% and 2-for-1 non-renewal and conditional renewal rules of §3425(f) of the New York Insurance Law;
- The addition of private passenger automobile insurance to the list of the lines of insurance under §2305(b) for which rates must be filed with the Superintendent and specifically approved (or not disapproved within 30 days);
- A reinstatement (from the effective date of the Act through June 30, 2006) of "file-and-use" for rates of certain non-excluded lines of insurance (such as homeowners);
- An extension (through April 29, 2004) of §2351 of the New York Insurance Law which specifically permits multi-tiering programs for homeowners' insurance in the voluntary market; and
- A reinstatement (from the effective date of the Act through June 30, 2006) of flex-rating for certain commercial lines policies.

The reinstatement of a one-year policy period for personal lines automobile insurance policies and the 2% and 2-for-1 rules of §3425 has a number of consequences for insurers writing personal lines automobile insurance policies in New York. For example, if Senate Bill 5700 is signed into law by Governor Pataki, in instances of terminations "not for cause", an insurer terminating a New York independent insurance agent will have to continue to pay particularly close attention to the date that each personal lines automobile insurance policy placed with the insurer by that agent was *initially* voluntarily written in order to ensure that the proper "offer letter" of continued coverage through that agent is provided and that each insured is non-renewed (if appropriate) in accordance with the applicable requirements. This is discussed in further detail in our July 2003 **Insights on Insurance** newsletter article "*Terminating an Independent Insurance Agent – Breaking Up is Hard to Do*".

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