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The Department of Banking and Insurance Orders Insurers to Refund Premiums for New Jersey Policyholders Affected by COVID-19

05/13/20

On May 12, 2020, the Department of Banking and Insurance (the Department) issued [Bulletin No. 20-22](#) (the Bulletin) that orders insurance companies to refund and reduce premiums to New Jersey policyholders adversely impacted by the COVID-19 pandemic and government action taken in response to the pandemic. The Department's requirement applies to insurers of various lines of insurance, including commercial general liability and worker compensation insurers, and applies to premiums charged for each month during which the public health emergency is in effect. In New Jersey, Governor Phil Murphy declared a public health emergency on March 9, 2020, and it will remain in effect until at least June 5, 2020, pending any further extensions the Governor deems appropriate.

Developers, contractors and other businesses in the construction industry are no exception to the list of those affected by the pandemic and responsive government action that would qualify as "adversely-impacted New Jersey policyholders." Among other mandates, all businesses were directed to cease performing all "non-essential construction projects" by April 10, 2020 under [New Jersey Executive Order No. 122](#). With fewer, if any, construction projects being worked on by these businesses, the risks that they sought to protect themselves against and shift to insurers through their policies have unquestionably been reduced.

While some insurers had already voluntarily agreed to reimburse their policyholders, the Department's Bulletin importantly now requires such action by all insurers. Insurers are directed to provide the premium adjustments as soon as practicable, but by no later than June 15, 2020. Along with the refunds, credits or other adjustments, insurers are required to provide an explanation of the basis for the adjustment, which shall include the policy period and any classification or exposure changes serving as the basis of the premium refund. The policyholder shall also be given the opportunity to provide their individual actual or estimated experience.

We recommend reviewing the status of the construction projects in which you were involved during the public health emergency, particularly since Executive Order No. 122 went into effect on April 10, 2020, to ensure that the refund you receive from your insurer is commensurate with the impact the pandemic and government action has had on your business.

If you have any questions about your commercial general liability insurance policies and prior or upcoming reductions to your premiums, please contact Don Taylor at 732.855.6434 or dtaylor@wilentz.com, or Dan Kluska at 732.855.6033 or dkluska@wilentz.com.

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Practice

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