



Illinois Department of Insurance

PAT QUINN
Governor

ANDREW BORON
Director

TO: ALL INSURANCE COMPANIES AND SELF-INSURED POOLS LICENSED TO
PROVIDE WORKERS' COMPENSATION COVERAGE IN THIS STATE

FROM: ANDREW BORON *A&B*
DIRECTOR OF INSURANCE

DATE: June 20, 2013

RE: COMPANY BULLETIN 2013-09

REAFFIRMATION OF THE DEPARTMENT'S POSITION ON PREMIUM
ADJUSTMENTS AFTER AUDIT PURSUANT TO 215 ILCS 5/143.17a

In order to maintain compliance with the provisions of 215 ILCS 5/143.17a, the Department of Insurance wishes to reaffirm its position concerning how audits are handled for Workers' Compensation, General Liability, and any auditable commercial policy. The Department has experienced a recent increase in inquiries/complaints associated with this issue.

215 ILCS 5/143.17a(b) and 215 ILCS 143.17a(c) respectively state:

(b) A company intending to renew any policy of insurance to which Section 143.11 applies, except for those defined in subsections (a), (b), (c), and (h) of Section 143.13, with an increase in premium of 30% or more **or with changes in deductibles or coverage that materially alter the policy must mail or deliver to the named insured written notice of such increase or change in deductible or coverage at least 60 days prior to the renewal or anniversary date...**

(c) A company that has failed to provide notice of intention to nonrenew under subsection (a) of this Section and has failed to provide notice of intention to renew as prescribed under subsection (b) of this Section must renew the expiring policy under the same terms and conditions for an additional year or until the effective date of any similar insurance is procured by the insured, whichever is earlier. The company may increase the renewal premium. However, such increase must be less than 30% of the expiring term's premium and notice of such increase must **be delivered to the named insured on or before the date of expiration of the current policy period.**

If a company is going to change the class code or shift payroll to another class code, which generates an increase in premium, they must notify the insured prior to the renewal date, as per the aforementioned statutory provision. Once the policy renews, no changes can be made to the terms or conditions of the policy except to reduce premium, unless there is a change in exposure, reinsurance cost, or unless requested by the insured. For example, if an insured is classified by the insurance company in a precision machine shop class code only to find out at audit they should have been classified in a non-precision machine shop code which carries a higher rate, the company is unable to retroactively add the higher rated code. This would have to be done at the next renewal.

An example of a change in exposure would be a carpenter who started roofing in the middle of his policy period. The roofing class code, which carries a higher rate, can be added retroactively at audit by the company.

Another example of a change of exposure would be if an employee who was a salesperson for a parts manufacturer started working in the manufacturing plant during the policy period. The associated payroll could be shifted from the lower rated outside sales class code to the machine shop class code which carries a higher rate.

The obligation is on the insurance company to conduct due diligence in determining the correct class codes for the risk. The insurance company can, and should, do a preliminary audit/inspection within the first 60 days of the inception date. This will ensure the policyholder is properly rated and classified.

Any questions or concerns regarding this matter should be directed to Robert Rapp, Assistant Deputy Director, P&C Consumer Assistance Unit, Illinois Department of Insurance. You may contact him via phone at (217) 557-6954 or via e-mail at Robert.Rapp@Illinois.gov.