



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
25 BEAVER STREET
NEW YORK, NEW YORK 10004

NOTE: WITHDRAWN EFFECTIVE AUGUST 14, 2003

**Circular Letter No. 21 (2001)
August 8, 2001**

TO: All Insurers Licensed to Write Automobile Insurance In New York State

RE: Cancellation and Nonrenewable Provisions Pertaining to Personal Private Passenger Automobile Policies, Pursuant to the Expiration of Portions of Insurance Law Section 3425; Restoration of Prior Approval of Policy Rates

STATUTORY REFERENCES: Article 23 and Section 3425 of the Insurance Law

As a result of the expiration of certain provisions of Section 3425 on August 2, 2001, new voluntary insurance policies covering personal private passenger automobiles in New York State with an effective date on or after August 2, 2001 are subject to different cancellation and non-renewal provisions than automobile insurance policies written voluntarily prior to that date. The purpose of this circular letter is to provide guidance to insurers in meeting their obligations under the law.

Renewal of policies in effect prior to August 2, 2001

Section 3425(m) provisions do not apply to automobile policies written prior to August 2, 2001. Such policies will continue to be governed, for purposes of cancellation and nonrenewal, by those Section 3425 provisions other than subsection (m). Therefore, as long as a policy was written prior to August 2, 2001 and is voluntarily renewed, even when the effective date of the renewal is on or after that date, the policy remains subject to the provisions governing "automobile insurance" as defined and provided for in paragraphs (1), (8), and (9) of Section 3425(a). Nonrenewals of such policies also remain subject to the two-percent limitations provided for in Section 3425(f).

Policies newly issued on or after August 2, 2001

New policies voluntarily written with an effective date on or after August 2, 2001 are subject to a three-year "required policy period" as that term is defined in paragraph (7) of Section 3425(a). Section 3425(m)(3) applies to such policies, and lists the permissible grounds for nonrenewal of such policies during the required policy period. In addition, cancellation of such policies remains subject to the provisions of Section 3425(b) and (c)(1); and the rights of an insured to continue coverage through a terminated agent or broker, as set forth in subsection (j)(1)(a), are still applicable.

Because of the different cancellation and nonrenewal standards that are now in effect, insurers should maintain appropriate separate records, differentiating 'old' (including voluntary renewals) from new business. Such records will be subject to Department examination and audit pursuant to subsection (l) of Section 3425.

In addition to the expiration of certain provisions of Section 3425 as noted above, also expiring effective August 2, 2001 were certain provisions of Article 23 of the Insurance Law relating to the filing of rates. Effectively, rates for the types of insurance that had been subject to the "file and use" provisions of Article 23, are, as of August 2, 2001, no longer eligible for "file and use" treatment. Rate filings for these types of insurance are now subject to the prior approval of the Superintendent.

Insurers are reminded, however, of the Department's optional "Speed-to-Market" procedures that were implemented in August, 2000, as outlined in Supplement No. 3 to Circular Letter No. 11 (1998). The Department will continue to

give priority to the processing of filings that are accompanied by the appropriate filing checklists and certifications, notwithstanding the change in the nature of the statute under which such filings are submitted.

In addition, given the uncertainties that may result from the applicability of different statutory provisions, we are taking this opportunity to remind insurers of their obligation to employ appropriate procedures to prevent fraudulent activity. Specifically with respect to third-party claims situations, while there is no statutory requirement, insurers should notify their policyholders prior to settlement of the claim to verify that the claim resulted from a legitimate incident covered by the policy.

Please acknowledge receipt of this letter, and address any questions or problems concerning this subject, to Alan Goren, Associate Insurance Examiner, Property Bureau, at the above address. Mr. Goren's phone number is 212-480-5598.

Mark Presser
Assistant Deputy Superintendent
and Bureau Chief
Property Bureau