



Minnesota Workers' Compensation
Insurers Association, Inc.
7701 France Avenue South ▪ Suite 450
Minneapolis, MN 55435-3200

SPECIAL ATTENTION — RATE FILING STAFF

March 12, 2002

ALL ASSOCIATION MEMBERS

Circular Letter No. 02-1384

Re: Minnesota Department of Commerce Notification

The Minnesota Department of Commerce recently released Bulletin 2002-2 to remind carriers of their filing obligations under the law pertaining to the renewal of workers' compensation insurance policies using a less favorable rate schedule. A copy of Commerce's Bulletin is attached for your convenience.

Please contact Tammy Lohmann, Senior Commerce Analyst at 651.296.2327 if you have any questions or need further information concerning this matter.

**STATE OF MINNESOTA
DEPARTMENT OF COMMERCE**

Bulletin 2002-2
Issued this 22nd day of February, 2002

To: All Property and Casualty Insurers Licensed in Minnesota

This bulletin is intended to clarify Minnesota Statute 60A.351, which requires insurers renewing a commercial liability and/or property policy at less favorable terms to provide the insured with notice of the changes at least 60 days prior to the expiration of the policy. The statute reads as follows:

60A.351 RENEWAL OF INSURANCE POLICY WITH ALTERED RATES.

If an insurance company licensed to do business in this state offers or purports to offer to renew any commercial liability and/or property insurance policy at less favorable terms as to the dollar amount of coverage or deductibles, higher rates, and/or higher rating plan, the new terms, the new rates and/or rating plan may take effect on the renewal date of the policy if the insurer has sent to the policyholder notice of the new terms, new rates and/or rating plan at least 60 days prior to the expiration date. If the insurer has not so notified the policyholder, the policyholder may elect to cancel the renewal policy within the 60-day period after receipt of the notice. Earned premium for the period of coverage, if any, shall be calculated pro rata upon the prior rate. This subdivision does not apply to ocean marine insurance, accident and health insurance and reinsurance.

This section does not apply if the change relates to guide "a" rates or excess rates also known as "consent to rates".

This statute means that if upon renewal an insured will be paying a higher premium due to a change in its base rates, deductible or application of the rating plan (e.g. credits, debits, surcharges) the insurer must provide the insured with notice of the exact impact the change will have on its premium. **The statute covers any increase, regardless of the amount.** Providing the insured with an approximation or a possible range of the impact is not adequate notice. Notice from the insurer's agent is considered notice by the insurer. Changes to the rating plan include but are not limited to changes mandated by law, moving the insured to a different rating plan within the same company or to a different company within the same group, and changes in the levels of credits or debits being offered, including schedule rating plans. This notice does not apply if the less favorable term changes on renewal are due to a change in the risk insured.

For workers' compensation policies: If a premium change occurs as a result of a change in the experience modification factor and the insurer has attached the Experience Rating Modification Factor Endorsement WC 00 04 03 to the policy, the insurer can revise the factor used to issue the current policy in compliance with the rules contained in the Experience Rating Plan Manual. If a change in payroll, appropriateness of classification or nature of the business occurs during the term of the policy, the premium may be adjusted at the time of audit to reflect the change and 60 days notice to the insured is not required.

Failure to provide the insured with the required 60-day notice prior to the expiration date of the policy will result in the policy term being extended for an additional 60 days from the date the notice is given. The new, less favorable terms cannot be applied until the 60 days has passed. The purpose of this requirement is to provide the insured with an opportunity to explore its options.

Example: If the insured's policy expires on July 1, 2002, notice of a renewal at less favorable terms would need to be sent no later than May 2, 2002.

Example: If the insured's policy expires on July 1, 2002 and notice is not sent until May 15, the policy would be extended under its current rates and terms until July 14, 2002.

If you have further questions regarding this subject please contact Mike McLain, Insurance Investigator at (651) 282-5863.

JAMES C. BERNSTEIN
Commissioner of Commerce