

QUESTION: We have a manufacturer/warehouse/winery risk that is with a company that has ISO forms plus their own proprietary coverage. The proprietary coverage does not mention that the Agreed Value optional coverage applies. The underwriter is asking for a business income worksheet from the insured or the business income coverage will be deleted. The policy renewed on September 10, 2022. Can they legally do this?

ANSWER: If the policy was issued by an admitted carrier, the carrier cannot do this.

[Section 3426 of the New York Insurance Law](#), titled *Commercial lines insurance; cancellation and renewal provisions*, states:

(a) *Definitions.* As used in this section:

(1) "Covered policy" means, for purposes of this section, a policy of commercial risk insurance, professional liability insurance or public entity insurance, and shall include any contract, certificate or other evidence of such insurance.

(2) "Required policy period" means a period of one year from the date as of which a covered policy is renewed or first issued. ...

(e)(1) A covered policy shall remain in full force and effect pursuant to the same terms, conditions and rates unless written notice is mailed or delivered by the insurer to the first-named insured, at the address shown on the policy, and to such insured's authorized agent or broker, indicating the insurer's intention: ...

(B) to condition its renewal upon ... reduction of coverage ...

(2) A ... conditional renewal notice as specified in subparagraph (B) ... of paragraph one of this subsection shall contain the specific reason or reasons for nonrenewal or conditional renewal, ... and describe in plain and concise terms the nature of any other proposed changes specified in paragraph one of this subsection. ...

(3) The notice required by paragraph one of this subsection shall be mailed or delivered at least sixty, but not more than one hundred twenty, days in advance of the expiration date of the policy ...

(5) (C)(i) In the event that a late conditional renewal notice ... is provided by the insurer on or after the expiration date of the policy, coverage shall remain in effect on the same terms and conditions of the expiring policy for another required policy period, and at the lower of the current rates or the prior period's rates unless the insured during the additional required policy period has replaced the coverage or elects to cancel, in which event such cancellation shall be on a pro rata premium basis. ...

(l) (2) This section shall not apply to ... policies written on an excess line basis ...

If an insurer wants to reduce the coverage on the renewal of a policy of commercial risk insurance, it must send the insured and the insured's agent a written notice 60 to 120 days before the expiration date describing the reduction and explaining the reasons for it. If the insurer sends the notice on or after the expiration date, the expiring coverage remains in effect for another full year on the same terms and conditions. This requirement does not apply to excess line policies. Therefore, if the carrier is admitted, and the carrier did not send the insured a notice between May 10 and July 10 advising that they would remove Business Income coverage from the renewal if the insured failed to submit a completed Business Income Work Sheet, then the Business Income coverage continues for another one-year policy term.

That said, completing a Business Income Work Sheet annually is a good practice because it helps avoid coinsurance penalties. Your client might want to consider filling it out as an exercise to make sure the policy limits are adequate.