R.C. 1906

To the Members of the Board

Re: Construction Employment Payroll Limitation Program

As previously noted in R.C. Bulletin 1878 dated July 8, 1998, Legislative Bills S.7744 and A.11294, which incorporate a payroll limitation for certain construction employments, were enacted into law and will apply to policies having an anniversary rating date on or after October 1, 1999.

Policy writing rules that will govern the implementation of the Law, for inclusion in the New York Workers Compensation and Employers Liability Manual, were filed with the New York State Insurance Department and are currently pending review by the Department.

Attached to this bulletin is a sample Notice to Employers that briefly explains the parameters of the new law as it may relate to those insureds subject to the Program. Since the proposed changes to the New York Manual rules are still under review by the Insurance Department, and your company may need to begin processing October 1999 renewals, it is suggested that you attach a facsimile of this notice to employers who are currently eligible for a credit under the New York Construction Classification Premium Adjustment Program (NYCCPAP). The NYCCPAP rules contain construction classification codes that may also be subject to the Payroll Limitation Law. The notice may be reproduced on your letterhead provided your notice contains the details of the sample notice. Additional information concerning the Program rules will be provided at a later date following filing approval.
NOTICE TO EMPLOYERS

The Construction Employment Payroll Limitation Law, enacted under Senate Bill S7744 and Assembly Bill A11294, provides a more equitable distribution of premium between high wage paying and low wage paying employers in the construction industry. The Law applies to employers with an anniversary rating date on or after October 1, 1999. One or more of the classification codes applicable to your policy may be subject to the Payroll Limitation Law. The Law does not, however, apply to employments engaged in the construction of one or two family residential housing.

Your overall premium may increase or decrease depending upon geographic territories and/or payroll limitations. The actual weekly payroll of each employee performing employments subject to an eligible classification code is subject to the following limitations:

- a maximum of $900 per week plus ½ of the difference between the employee’s total payroll and the limited payroll for policies with effective dates beginning October 1, 1999 and ending September 30, 2000;
- a maximum of $900 per week for policies with effective dates beginning October 1, 2000 and ending September 30, 2001;
- a maximum of $800 per week for policies with effective dates beginning October 1, 2001 and ending September 30, 2002; and
- a maximum of the greater of $750 or the weekly wage upon which the maximum weekly benefit is based for policies with effective dates on or after October 1, 2002.

The construction employment geographic territories are:

Territory 1 – Counties of The Bronx, Kings, New York, Queens and Richmond
Territory 2 – Counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester
Territory 3 – All other counties within the State

Please note that since your operations may be subject to the law, an employer with an eligible classification code is required to maintain true and accurate weekly records for each employee that shows:

1. Each employee’s total weekly wages and hours worked;
2. The type of work performed;
3. The geographic territory in which the work was performed; and,
4. Whether or not the work was performed on commercial structures or on one/two family residential housing.

If you have any questions regarding this law, please contact your agent, broker or insurance carrier underwriter.