



April 21, 2020

DFS states moratorium and emergency regulation apply to commercial-lines E&S fire policies

The New York State Department of Financial Services has published a new FAQ changing its position on the applicability of Executive Order 202.13 and the department's emergency regulations, which prevent certain policies from being canceled for nonpayment, with regard to commercial excess-and-surplus-lines policies and policyholders.

The department's original guidance excluded all commercial E&S policies and policyholders from the emergency regulation's requirements. However, the DFS's [revised FAQ](#) states that while the moratorium and emergency regulation generally do not apply to an E&S commercial-lines insurance policy, it *does* apply to any excess-line commercial-fire insurance policy. Previously, the department had indicated that the moratorium and emergency regulation apply to personal-lines E&S policies.

This means that any commercial-lines E&S fire policies will be subject to the moratorium on nonpayment cancellations, as well as the 12-month premium payment grace period. Note this only applies to individual and small-business policyholders (a small business is defined as any business that resides in New York state, is independently owned and operated, and employs 100 or fewer individuals).