June 4, 2013

CIRCULAR LETTER TO ALL MEMBER COMPANIES


The North Carolina Commissioner of Insurance has approved the Homeowners 2011 Policy Program for use by all member companies in North Carolina. This new Homeowners Policy Program replaces the current Homeowners 2000 Policy Program. This Program becomes effective in accordance with the following Rule of Application:

These changes are applicable to all new and renewal policies effective, on an optional basis, June 1, 2013; however, the revisions are effective on a mandatory basis for new and renewal policies effective on or after April 1, 2014.

Copies of the Homeowners 2011 Policy Program, including manual revisions, may be obtained from the links below. If you prefer to obtain the policy program from ISONet the material will be available approximately July 1, 2013.

Homeowners 2011 Policy Forms
Homeowners 2011 Manual Revisions

COPYRIGHT INFORMATION

Please keep in mind in preparing to implement this Program that it contains copyrighted material of ISO, used with their permission under a limited copyright license granted by ISO to the North Carolina Rate Bureau. Under the terms of the limited copyright license, the Rate Bureau is copyrighting the manual, forms and endorsements included in this Program. Member companies are advised that when they reprint, copy or otherwise use the manual or any forms or endorsements included in the Program, one of the following notices must appear:

1. Where ISO copyrighted material is reprinted, copied or otherwise used as a whole without deviation (ex: the HO 00 03), it must reflect the copyright notice actually shown on such material, the following credit legend must be used at the bottom of each page:

   “Copyright, Insurance Services Office, Inc., 2010”
2. Where ISO copyrighted material is reprinted, copied or otherwise used in part together with North Carolina Rate Bureau material (ex: the HO 32 32), the following credit legend must be used at the bottom of each page:

“Copyright, North Carolina Rate Bureau 2011”

“Includes copyrighted material of Insurance Services Office, Inc., with its permission”

The Program as filed in North Carolina may be used only by members of the North Carolina Rate Bureau, may be used only in North Carolina, and may not be used outside this State.

NOTIFICATION TO POLICYHOLDERS

G.S. 58-36-45 provides in part that whenever an insurer changes the coverage in a policy, it shall give the policyholder notice of such coverage change at least 15 days in advance of the effective date and provide a copy of such notice to the agent. Further, case law in North Carolina has held that when an insurer renews a policy, the policyholder may assume that the renewal policy will be the same as the earlier policy unless reductions in coverage are clearly, conspicuously and unambiguously called to the policyholder’s attention. North River Insurance v. Young, 117 N.C. App. 663, 453 S.E. 2d 205 (1995). The necessity and manner of notifying policyholders of coverage revisions is an individual company responsibility. However, the Rate Bureau will be sending out, for your consideration, within the next few weeks a sample Notice To Policyholders prepared by ISO. You may also want to consider the advisability of notifying the policyholder that the HO 2011 is a new contract rather than a renewal of the prior contract. It is suggested that you consult with your legal counsel as to the necessity, method, detail and language of your policyholder notification.

COINSURANCE CONTRACT

Under G.S. 58-3-15 the term “coinsurance contract” must be appropriately printed or stamped on policies that constitute coinsurance. The North Carolina Court of Appeals held in Surratt v. Grain Dealers, 74 N.C. App. 288, 328 S.E. 2d 16 (1985) that the language in certain policies and endorsements rendered them coinsurance contracts, and this interpretation would likely apply to the HO 2011 Policy Program. The Department of Insurance has previously directed that the term “coinsurance contract” should be the size or type sufficient to comply with G.S. 58-38-20; i.e., in a typeface “at least as large as 10 point modern type, 1 point leaded...”. The Department also has suggested that the term be located (1) on the Declarations Page or policy jacket and (2) also on any applicable endorsement attached to the policy. Placement of the term is the responsibility of each member company. You are advised to consult with your counsel to assure compliance. Based on a study by a Rate Bureau Subcommittee, at least the following policies and endorsements in the HO 2011 program are, or may be construed to contain, coinsurance provisions under the court’s definition:
Policy Forms

HO 00 02 Broad Form
HO 00 03 Special Form
HO 00 05 Comprehensive
HO 32 11 Additional Limits for Liability Coverages A, B, C & D
HO 32 20 Specified Additional Limits for Coverage A
HO 32 50 Functional Replacement Cost Loss Settlement-North Carolina
HO 32 56 Special Loss Settlement
HO 32 78 Multiple Company Insurance

Please make sure that this information is brought to the attention of interested personnel within your Company.

Very truly yours,

F. Timothy Lucas

Personal Lines Manager

FTL:dms

Attachment

P-13-6