

June 4, 2013

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Introduction of Insurance Services Office (ISO)
Homeowners Policy Program (2011 Edition)

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](#)

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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