

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Sections 314 and 3403 (18 Del.C. §§314 & 3403)
18 DE Admin. Code 702

ORDER

Docket No. 2007-527

702 Required Disclosures For Residential Homeowners Policies

FINAL

Proposed changes to Regulation 702 relating to Required Disclosures for Homeowners Policies were published in the *Delaware Register of Regulations* on October 1, 2007. The comment period remained open until November 5, 2007. There was no public hearing on the proposed changes to Regulation 702. Public notice of the proposed changes to Regulation 702 in the *Register of Regulations* and two newspapers of general circulation was in conformity with Delaware law.

Summary of the Evidence and Information Submitted

Public comment was received from the Property Casualty Insurers of America, Allstate Insurance Company and State Farm Mutual Automobile Insurance Company. All three comments raised concern with what was believed by them to be lengthy and, in their words, confusing notification requirements relative to deductibles. Comments also raised the issue of insurers having insufficient time to comply with the Regulation and suggested a later effective date.

Findings of Fact

Based on Delaware law and the record in this docket, I make the following findings of fact:

1. The best interest of Delaware homeowners is served by requiring insurers to make homeowners aware of the types of risks or claims not insured under their policies.
2. The best interest of Delaware homeowners is served by informing them of the specific deductibles required by their policies, as well as defining what a deductible is, describing what triggers each deductible and describing how each deductible is calculated.
3. The best interest of the public is served by requiring insurers to provide to the Department, for its approval, the forms that will be used in compliance with Section 5.1.5.
4. Having drafted the deductibles in question for the policies themselves, and having already complied with Regulation 701 governing readability of insurance policies, insurance carriers are capable of preparing statements that comply with Section 5.1.5 and are also clear to their policyholders.

Decision and Effective Date

Based on the provisions of 18 Del.C. §§314) and 3403 and 29 Del.C. §§10113-10118 and the record in this docket, I hereby adopt Regulation 702 as attached hereto to be effective on December 15, 2007.

IT IS SO ORDERED this 14th day of November 2007.

Matthew Denn, Insurance Commissioner

702 Required Disclosures For Residential Homeowners Policies

1.0 Authority

This regulation is adopted by the Commissioner pursuant to 18 Del.C. §§311(a) and 2304(1). It is promulgated in accordance with 29 Del.C. Chapter 101.

2.0 Purpose

The purpose of this regulation is to ensure that homeowners insurance policyholders are aware that they are not insured for certain types of risks or claims, to the extent that they do not have such coverage, and that they are aware of any deductibles required by their coverage. This regulation does not mandate any coverage by any carrier issuing homeowners insurance in the State of Delaware.

3.0 Applicability

This regulation shall apply to homeowners insurance policies. A homeowners insurance policy for purposes of this regulation means a property or casualty contract of insurance covering residential properties as defined by 18 Del.C. §4120.

4.0 Requirement of Disclosure

Insurers, upon initial delivery of a homeowners policy terms and declaration page, and not less than once annually after delivery, shall provide a form to the policyholder entitled "Important Information About Your Homeowners Insurance." The title of the document shall be in at least 30 point type.

5.0 Content of Disclosure

5.1 Each form presented pursuant to Section 4.0 of this Regulation shall make the following disclosures:

5.1.1 Disclosure that the policy does not cover damage caused by flooding, and sufficient information to allow the policyholder to contact the National Flood Insurance Program in order to purchase flood insurance if so desired. The following language shall be sufficient to ensure compliance with this subsection 5.1: "This policy does not cover damage to your property caused by flooding. Flood insurance is available for communities and property that participate in the National Flood Insurance Program ("NFIP"). Not all communities participate in the NFIP. Flood insurance may be available even if you do not live in a flood hazard area as defined by the NFIP. Please call the NFIP at 1-800-427-4661 to see if your community and property are eligible for coverage. If your community does not participate in the NFIP, you may contact your insurance agent or broker to see if there is other flood insurance coverage available to you." The disclosure may also inform the policyholder that the insurer offers flood insurance as a participant in the NFIP's "Write Your Own" program. The disclosure required by this subsection shall be entitled "Flood Insurance," and the subsection title shall be in at least 18 point type.

5.1.2 Disclosure that the policy may not cover the full cost of replacement without depreciation of the property, and sufficient information to allow the policyholder to purchase such coverage from the carrier if it is offered by the carrier. The following language shall be sufficient to ensure compliance with this subsection 5.2: "This policy may not cover the full cost of replacing your home if your home should be destroyed in an event otherwise covered by this policy. You may purchase additional coverage from us sufficient to cover the full cost of replacing your home, at an additional cost." The disclosure required by this subsection shall be entitled "Replacing Your Home," and the subsection title shall be in at least 18 point type.

5.1.3 Disclosure of any limitations in the policy regarding reimbursement for items stolen from the property, including but not limited to jewelry, furs, fine art, etc. and sufficient information to allow the policyholder to purchase insurance which would not contain such limitation if such coverage is offered by the insurer. The following language shall be sufficient to ensure compliance with this subsection 5.3: "This policy may not cover the value of all items stolen from your home. Please carefully review your policy to determine which items stolen from your home are not covered by this policy." The disclosure required by this subsection shall be entitled "Reimbursement for Stolen Items," and the subsection title shall be in at least 18 point type.

5.1.4 Disclosure of any formal practice followed by the insurer regarding non-renewal of the policy on the occurrence of certain factors or on the basis of claims asserted by the policyholder. The following language shall be sufficient to ensure compliance with this subsection 5.4: "We have a policy of declining to renew homeowners insurance policies under the following circumstances: (list the claim activities or occurrences that are likely to cause non-renewal of a policyholder's policy)." The disclosure required by this subsection shall be entitled "Non-Renewal of Your Policy," and the subsection title shall be in at least 18 point type.

5.1.5 Disclosure of information regarding any required deductibles, which disclosure shall include the following information:

5.1.5.1 A description of what a deductible is, including a statement that the policyholder is responsible for payment of the entire amount of the deductible;

5.1.5.2 A full description of the circumstances that will trigger applicability of each deductible;

5.1.5.3 A description and example(s) of how each deductible will be calculated;

5.1.5.4 The following statement: "Deductibles are not required by state law and are not uniform across insurance companies, and therefore the charge for each deductible may vary between insurers."

The disclosure required by this subsection shall be entitled "Policyholder Payment of Deductibles: and the title shall be in at least 18 point type.

5.2 Where a policy provides full coverage for any of the items required by sections 5.1.1 through 5.1.3, or where the policy does not require payment of a deductible, the insurer may indicate that the disclosure, as to each such item, is not applicable or "N/A."

6.0 Time for Compliance

Insurers required by Section 5.1.5 to provide disclosures regarding payment of insurance deductibles must submit the forms containing the language they propose for compliance with Section 5.1.5 to the Insurance Commissioner for approval by December 15, 2007.

67.0 Review and Approval of Forms

All forms required by this regulation shall be submitted to and approved by the Commissioner, or his representative, pursuant to 18 Del.C. §2712 *et seq.*

78.0 Severability

If any provision of this regulation, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of such provisions, and the application of such provisions to any person or circumstance other than those as to which it is held invalid, shall not be affected.

89.0 Causes of Action

This regulation shall not create, nor form the basis for, a cause of action for any person or entity, other than the Delaware Department of Insurance, against any insurer for violation of the provisions hereof.

910.0 Effective Date

The effective date of this regulation shall be January 1, 2006.

9 DE Reg. 438 (09/01/05)

11 DE Reg. 805 (12/01/07) (Final)