

DEPARTMENT OF INSURANCE
Statutory Authority: 18 Delaware Code, Sections 311(a) and 2304(1)
(18 Del.C. §§311(a) and 2304(1))
18 DE Admin. Code 702

702 Required Disclosures For Residential Homeowners Policies

PUBLIC NOTICE

INSURANCE COMMISSIONER MATTHEW DENN hereby gives notice that a PUBLIC HEARING will be held on Wednesday, March 30, 2005 at 10:00 a.m. in the Consumer Services Conference Room of the Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, Delaware. The hearing is to receive public comment on proposed **Regulation 702** relating to **REQUIRED DISCLOSURES FOR RESIDENTIAL HOMEOWNERS POLICIES**.

The purpose for proposing Regulation 702 is to require insurance companies to deliver a separate form to policyholders on an annual basis explaining information about coverage limitations. That form would, among other things: explain that Delaware homeowners insurance does not cover flood damage, and will explain to the homeowner how flood insurance can be obtained; explain how to assure replacement coverage; explain limitations on reimbursement for theft from the home and how to obtain additional coverage for theft; and to require explanations for an insurer's decision not to renew a homeowner's policy at the end of the term.

The hearing will be conducted in accordance with 18 **Del.C.** §311 and the Delaware Administrative Procedures Act, 29 **Del.C.** Chapter 101. Comments are being solicited from any interested party. Comments may be in writing or may be presented orally at the hearing. Written comments, testimony or other written materials concerning the proposed change to the regulation must be received by the Department of Insurance no later than 4:30 p.m., Tuesday, March 29, 2005, and should be addressed to Deputy Attorney General Michael J. Rich, c/o Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, or sent by fax to 302.739.5566 or email to michael.rich@state.de.us.

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 risks or claims, to the extent that they do not have such 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. If this is the case, 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 full value of certain 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 factors and conditions considered by the insurer regarding non-renewal of the policy on the basis of claims asserted by the policyholder. The following language shall be sufficient to ensure compliance with this subsection 5.4: “Certain events may lead to the non-renewal of your homowners policy. Those factors include, but are not limited to: (list factors and conditions that are likely to cause non-renewal of a policyholder’s policy). Be sure to contact (the company or) your insurance agent to learn more.” 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.

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

6.0 Review and Approval of Forms

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

7.0 Separability

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.

8.0 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.

9.0 Effective Date

The effective date of this regulation shall be July 1, 2005.

8 DE Reg. 1264 (3/1/05)