

**900 Consumer Rights**

**907 Records Relating To Consumer Complaints**

**1.0 Authority**

This regulation is adopted by the Commissioner pursuant to the authority granted by 18 **Del.C.** §§310, 311, 2301 et. seq. and 2501 et. seq., and promulgated in accordance with the Delaware Administrative Procedures Act, 29 **Del.C.** Chapter 101.

**2.0 Scope**

Except as indicated herein, this regulation applies to all complaints relating to insurance, as defined below.

**3.0 Definitions**

**“Complaint”** shall mean any expression of a grievance against an insurer made in any form to the Delaware Department of Insurance. An allegation of insurance fraud, as defined at 18 **Del.C.** §2407, shall be treated pursuant to procedures authorized under 18 **Del.C.** Chapter 24 of the **Delaware Code** and shall not be considered a complaint for purposes of this regulation. Statements that contain allegations of insurance fraud as well as complaints that would not, if true, constitute insurance fraud shall be treated in relevant part according to 18 **Del.C.** Chapter 24 and this regulation.

**“Department”** means the Delaware Department of Insurance.

**“Founded,”** with respect to a complaint, means:

that the insurer’s act, acts, omission, or omissions did not comply with a provision of Title 18 of the **Delaware Code**, regulations promulgated by the Department, or other applicable Delaware statute or regulation; or

that the insurer’s act, acts, omission, or omissions contravened or were inconsistent with a rate filing, form filing, or other filing made with the Department; or

that the insurer’s act, acts, omission, or omissions contravened or were inconsistent with a provision or provisions of the agreement to which the individual making the complaint was a party or third party beneficiary; or

that the insurer’s act, acts, omission, or omissions contravened or were inconsistent with formal standards or practices of the insurer which were relied upon by the insurer in satisfying the requirements any examination conducted by the Department , alone or in conjunction with the Insurance Departments of other states.

**“Insurance”** shall have the meaning assigned to it at 18 **Del.C.** §102(2).

**“Insurer”** shall have the meaning assigned to it at 18 **Del.C.** §102(3).

**4.0 Tracking of Complaints**

It is the policy of the Department that Delaware consumers should be aware of the volume and type of founded complaints that have been resolved against insurers with whom they do business or are contemplating doing business under the provisions of this regulation.

**5.0 Intake of Complaints**

Any communication with the Department that constitutes a complaint shall be formally recorded as such by the Department, assigned an identifying number, and tracked until it is resolved through one of the methods described in Section 6.0.

**6.0 Resolution of Complaints**

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Complaints shall be resolved in one of the following manners:

- 6.1 **Complaints Lacking Merit.** The Department may determine that the complaint did not have merit in which case it shall not be deemed to be founded.
- 6.2 **Resolved In Favor of Consumer.** The Department, through negotiation or mediation, may resolve a complaint, absent any formal proceeding, with some benefit accruing to the consumer. Any resolution in favor of the consumer shall be considered a complaint resolved in favor of the consumer.
- 6.3 **Referral for Formal Process.** The Department may initiate a proceeding to make a formal determination as to whether the complaint is founded. The Department shall provide a 60 day written notice to the insurer that the complaint has been received and that the complaint will be referred for a formal determination under section 7.0 of this regulation unless the complaint is otherwise resolved within 60 days. Absent a notice from the insurer that the complaint is not subject to informal resolution within 60 days from the time the insurer receives notice of the complaint, the Department will proceed to resolve the complaint formally or informally, in its discretion after the 60 day period without further notice to the insurer. If, within the 60 day notice period, the insurer notifies the Department that the matter is not subject to resolution, such notice shall be a waiver of the balance of the notice period and the Department can proceed to a formal determination. Any resolution in favor of the consumer shall be considered founded complaint. At any time after notice or before the conclusion of a formal proceeding, the parties shall have the right to resolve the complaint informally under sections 6.1 and 6.2 of this regulation.
- 6.4 **Other.** The Department shall classify complaints resolved in a manner other than those listed in subsections 6.1 through 6.3 as "other" in which case the complaint will not be considered founded.

**7.0 Formal Determinations**

If the Department initiates a proceeding to determine whether a complaint is founded, it shall follow the procedures outlined in 18 **Del.C.** §§323 through 329, and, where consistent with those sections, shall also treat that proceeding as a case decision under 29 **Del.C.** Chapter 101. A complaint may be resolved in favor of a consumer after a formal proceeding is initiated. This Regulation shall not prohibit the Commissioner from taking any action otherwise permitted by the **Delaware Code** on behalf of a consumer or consumers related to a complaint prior to the completion of formal proceedings.

**8.0 Publication of Findings**

The Department shall make available to the public the following information:

- 8.1 The details of each founded complaint and action taken by the Insurance Department in response thereto, with information related to the identify of the complaining party deleted;
- 8.2 Statistical information regarding the number of founded complaints against each insurer licensed to do business in the State of Delaware, including information permitting consumers to assess such statistics in the context of the total amount of business done in the state by each insurer.

**9.0 Severability**

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

**10.0 Prior Bulletins and Regulations**

This Regulation shall supersede any prior bulletin or regulation of the Department to the extent that such bulletin or regulation is inconsistent with the provisions of this Regulation.

**11.0 Inconsistent Statutes**

This regulation shall not apply to any type of complaint that the Department is expressly required by the Delaware Code to treat in a manner inconsistent with this regulation.

**12.0 Effective Date**

This Regulation shall become effective October 11, 2005, and information shall be made public pursuant to Section 8.0 commencing January 1, 2006.

**9 DE Reg. 598 (10/01/05)**