

DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING

NOTICE OF FINAL RULEMAKING

The Commissioner of the Department of Insurance, Securities, and Banking, pursuant to the authority set forth in section 125 of the Insurance Trade and Economic Development Amendment Act of 2000, effective April 3, 2001 (D.C. Law 13-265; D.C. Official Code § 31-2231.25)(2001), hereby gives notice of his intent to amend section 5000 of Chapter 50 (Unfair Trade Practices) of Title 26 (Insurance) of the District of Columbia Municipal Regulations in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*. The proposed amendment will modify the permissible reasons for which an insurer may non-renew or cancel a policy of homeowners' insurance, and for the use of claims history information.

Section 5000 of Chapter 50 (Unfair Trade Practices) of Title 26 (Insurance) of the District of Columbia Municipal Regulations is amended to read as follows:

5000 PERMISSIBLE REASONS FOR NON-RENEWAL/CANCELLATION AND USE OF CLAIMS HISTORY INFORMATION

5000.1 An insurer shall not refuse to renew a policy of homeowners' insurance solely due to claim or loss frequency unless there have been two (2) or more claims during the preceding three (3) year period. For the purposes of this subsection, an insurer shall not consider:

- (a) The first claim for a loss caused by weather, unless the insurer can provide evidence that the insured unreasonably failed to maintain the property and such failure to maintain contributed to the loss;
- (b) Any claim that was reported to the insured's agent or insurer as an inquiry for which no payment was made by the insurer;
- (c) A loss for which there was no investigation or other claim activity; or
- (d) Any losses caused by a catastrophic event. For the purposes of this paragraph, the term "catastrophic event" means a manmade or natural event that causes twenty-five million dollars (\$25,000,000) or more in insured property losses and affects multiple property and casualty policyholders or insurers.

- 5000.2 An insurer shall not refuse to renew a policy of homeowners' insurance solely because of damages requiring repairs that are discovered during a renewal or loss inspection, unless the insurer has allowed the insured a reasonable time-frame in which to repair the damages.
- 5000.3 An insurer shall comply with the rate making standards of section 3 of An Act to provide for regulation of certain insurance rates in the District of Columbia, and for other purposes, approved May 20, 1948 (62 Stat. 243; D.C. Official Code § 31-2703 (2001)) with respect to any increase in the premium on a policy of homeowners' insurance that is due to claim or loss frequency, including any policy surcharge, movement between classes or tiers, or the removal or reduction of a discount. All such increases (does this include surcharges and rescinded discounts?) in premium shall be consistent with the insurer's filed rate plan.
- 5000.4 An insurer shall provide a notice to its homeowners' insurance policyholders that the insurer considers claims history in determining whether to renew the policy. Such notice may be on the declarations page or on a separate notice that accompanies the policy so long as the notice is conspicuous and includes the following statement: "Your insurer may consider your claims and loss history when determining whether to renew your policy."
- 5000.5 Anytime an insurer attempts to cancel or non-renew a policy of homeowner's insurance based on an insured's claims or loss history, the insurer shall specify the reasons for such action and such reasons shall include the date of the claim or loss, the amount of the claim or loss, the type of insurance applicable to the claim or loss, the name of the insurer of the claim or loss, and a brief statement of the circumstances that caused the claim or loss. Such specification of reasons shall include enough information so that the insured can have an adequate basis for refuting the accuracy of any claim or loss history specified as reasons for the cancellation or non-renewal decision of the insurer.
- 5000.6 An insurer may refuse to renew a policy of homeowners' insurance due to claim or loss frequency based upon standards more restrictive than those set forth in this section if, at the time of policy issuance or renewal, the insurer provided the insured with a conspicuous, written copy of the more restrictive underwriting standards upon which the insurer proposes to base its non-renewal decisions, and an explanation of how the more restrictive underwriting standards differ from those established by any District law or regulation.

Persons desiring to comment on these proposed rules should submit comments in writing to Ms. Leslie E. Johnson, Hearing Officer, Department of Insurance, Securities and Banking, 810 First Street, N.E., Suite 701, Washington, D.C. 20002. Comments must be received not later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Copies of the proposed rules may be obtained from the Department at the address above.