

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF PROPERTY AND CASUALTY

Fire and Casualty Insurance

Renewal, Cancellation, and Nonrenewal of Commercial and Homeowners Insurance Policies

Prohibition of Certain Cancellation and Nonrenewal Activity

Orderly Withdrawal of Insurance Business

Homeowners Insurance: Standard Hurricane Deductibles and Expedited Process for Homeowners Insurance Rate Changes

Proposed Amendments: N.J.A.C. 11:1-5.5, 20.1, and 22.1; and 11:2-29.2 and 42.2

Authorized By: Kenneth E. Kobylowski, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 17:17-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2013-083.

Submit comments by July 19, 2013 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance (Department) is proposing amendments to N.J.A.C. 11:2-42.2 to provide a definition of “homeowners insurance” and to change the references thereto in various rules. While N.J.A.C. 11:2-41 was repealed in 2011 as part of the readoption of N.J.A.C. 11:2 (see 42 N.J.R. 2199(a) and 43 N.J.R. 309(a)), the definition of homeowners insurance set forth therein continued to be referred to by reference in the following rules: N.J.A.C. 11:1-5.5(a) (relating to notices regarding flood damage), 11:1-20.1(b) (relating to renewal, cancellation and nonrenewal of commercial and homeowners insurance), 11:1-22.1(b) (relating to the prohibition of certain “block” cancellation and nonrenewals), and 11:2-29.2 (relating to the orderly withdrawal of insurance business). Each of these rules refers to “homeowners insurance” as defined in N.J.A.C. 11:2-41.2. As noted above, the Department had repealed that definition as part of the repeal of Subchapter 41 and inadvertently did not recodify the definition and amend the references thereto in the rules set forth above.

Accordingly, the Department is proposing to amend N.J.A.C. 11:2-42.2 to incorporate therein the definition of “homeowners insurance” set forth in N.J.S.A. 17:36-5.33, which statute governs the use of hurricane deductibles and expedited rate filing process for homeowners insurance rates. The proposed definition is: “Homeowners insurance’ means personal lines insurance provided against loss to real and personal property as defined in the standard fire policy and extended coverage endorsement thereon, a dwelling policy, the homeowners multiple

peril policy, insurance against the perils of vandalism, malicious mischief, burglary, or theft, or liability insurance or any combination thereof, or any other such policy delivered, issued, or renewed or approved by the Commissioner for issuance, delivery, or renewal in this State.”

The Department is also proposing to amend the rules referenced above to revise the references therein from N.J.A.C. 11:2-41.2 to 11:2-42.2. These proposed amendments will reflect the applicable definition, with appropriate references thereto where appropriate.

Finally, in various rules the apostrophe after “homeowners” is deleted to conform the rules to how the term “homeowners insurance” is set forth in N.J.S.A. 17:36-5.33.

A 60-day comment period is provided for this notice of proposal, and, therefore, pursuant to the provisions of N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendments will have a positive social impact by eliminating confusion and codifying the definition of “homeowners insurance” established by the Legislature, with correct references to that definition in various rules.

Economic Impact

No negative economic impact will result from the proposed amendments. As set forth above, the proposed amendments reflect the statutory definition of “homeowners insurance” as referenced in various rules and provide the correct internal references thereto. A failure to adopt these amendments will cause continued confusion by retaining references to a definition in a rule that has been repealed. No new professional services will be required to

comply with the proposed amendments. The proposed amendments thus should provide a beneficial economic impact by restoring certainty regarding the definition referenced in the various rules noted above. These benefits far outweigh the negligible, if any, negative economic impact of the proposed amendments.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are not subject to any Federal requirements or standards.

Jobs Impact

The Department does not anticipate that any jobs will be generated or lost as a result of the proposed amendments.

The Department invites commenters to submit any data or studies on the potential jobs impact of the proposed amendments together with their comments on other aspects of the proposal.

Agriculture Industry Impact

The proposed amendments will not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed amendments will apply to “small businesses,” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. To the extent that the proposed

amendments apply to small businesses, they will apply to insurers and producers domiciled in this State. The proposed amendments do not impose any new reporting, recordkeeping, or other compliance requirements on small businesses. As noted above, the proposed amendments reflect the statutory definition of “homeowners insurance” in N.J.S.A. 17:36-5.33, codified at N.J.A.C. 11:2-42.2, and change the internal references thereto in various rules to reflect the current codification citation.

Housing Affordability Impact Analysis

The proposed amendments will not have an impact on housing affordability in this State in that the proposed amendments restore the long-standing definition of “homeowners insurance.”

Smart Growth Development Impact Analysis

The proposed amendments will not have an impact on smart growth in this State and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey in that the proposed amendments restore the long-standing definition of “homeowners insurance.”

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 1

ADMINISTRATION

SUBCHAPTER 5. FIRE AND CASUALTY INSURANCE

11:1-5.5 Notice regarding flood damage coverage

(a) All fire and casualty insurers, including the New Jersey Insurance Underwriting Association (FAIR Plan), that write homeowners insurance, as defined in N.J.A.C. 11:2-[41.2]**42.2**, shall provide their policyholders at least annually with a notice that includes the following information:

1. – 7. (No change.)

(b) (No change.)

SUBCHAPTER 20. RENEWAL, CANCELLATION, AND NONRENEWAL OF COMMERCIAL AND HOMEOWNERS INSURANCE POLICIES

11:1-20.1 Scope

(a) (No change.)

(b) This subchapter shall also apply to all policies of homeowners['] insurance as defined at N.J.A.C. 11:2-[41.2]**42.2** which are in force, issued, or renewed on or after January 17, 1995.

(c) – (d) (No change.)

SUBCHAPTER 22. PROHIBITION OF CERTAIN CANCELLATION AND NONRENEWAL ACTIVITY

11:1-22.1 Scope; definitions

(a) (No change.)

(b) This subchapter shall also apply to all policies of homeowners['] insurance as defined at N.J.A.C. 11:2-[41.2]**42.2** which are in force, issued, or renewed on or after January 17, 1995.

(c) – (d) (No change.)

CHAPTER 2

INSURANCE GROUP

SUBCHAPTER 29. ORDERLY WITHDRAWAL OF INSURANCE BUSINESS

11:2-29.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

“Homeowners['] insurance” is as defined at N.J.A.C. 11:2-[41.2]**42.2**.

...

SUBCHAPTER 42. HOMEOWNERS['] INSURANCE: STANDARD HURRICANE DEDUCTIBLES AND EXPEDITED PROCESS FOR HOMEOWNERS['] INSURANCE RATE CHANGES

11:2-42.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...

“Homeowners insurance” means personal lines insurance provided against loss to real and personal property as defined in the standard fire policy and extended coverage

endorsement thereon, a dwelling policy, the homeowners multiple peril policy, insurance against the perils of vandalism, malicious mischief, burglary, or theft, or liability insurance or any combination thereof, or any other such policy delivered, issued, or renewed or approved by the Commissioner for issuance, delivery, or renewal in this State.