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BULLETIN 06-22

To: All Property & Casualty Insurers

RE: HB 570 – Insurance – Notice – Cancellation, Nonrenewal, and Premiums

Date: October 13, 2006

The purpose of this bulletin is to notify property and casualty insurers of certain changes to the Insurance Article that become effective on **January 1, 2007**, as a result of the enactment of House Bill 570 during the 2006 session of the Maryland General Assembly.

HB 570 made changes to several sections of the Insurance Article, including those sections contained in Title 27, subtitle 6. Those changes include the addition of several sections to Title 27, subtitle 6 and the renumbering of all current sections in the subtitle. This bulletin does not identify or address every statutory change, but only those that the Administration wishes to highlight because of the substantial substantive changes contained therein. Insurers that write business in the State must comply with all changes effected by HB 570, regardless of whether those changes are addressed in this Bulletin.

Section 12-106

This section of the Insurance Article has been changed to allow insurers to create an underwriting period for certain lines of insurance.

Effective January 1, 2007, §12-106 allows carriers to subject all **new** binders or policies of private passenger motor vehicle, homeowners, dwelling, credit loss, or commercial property insurance or liability insurance issued in the State to a 45 day underwriting period, at the option of the insurer.

- Pursuant to subsection (a), the underwriting period may only apply to **new** binders or policies of private passenger motor vehicle, homeowners, dwelling, credit loss, or commercial property insurance or liability insurance
- Pursuant to subsection (b), the underwriting period starts with the effective date of the coverage.
- Pursuant to subsection (c), a carrier who elects to utilize an underwriting period may cancel its binder or policy during the 45 day underwriting period, if the risk does not meet the company's underwriting standards.

Section 12-106(d) requires a carrier that intends to utilize an underwriting period to give written notice to the applicant or policyholder.

- Specifically, a carrier that opts to utilize an underwriting period is required to notify the applicant or policyholder that the binder or policy in question is subject to a 45-day underwriting period and may be cancelled during that 45 day underwriting period.
- The notice must be in writing and must be given to the insured at the time of the application, or when the binder¹ or policy is issued,

Section 27-106(e) sets forth the requirements of a notice of cancellation issued to an insured during the underwriting period.

- If, during a 45-day underwriting period, the carrier determines that the risk does not meet the company's underwriting standards, the carrier may cancel the binder or policy by giving written notice of cancellation to the insured.
- The Notice of Cancellation must clearly and specifically set forth the insurer's actual reason for cancelling the binder or policy.
- The Notice must be sent within 45 days of the effective date of the coverage being cancelled.
- In addition, the cancellation cannot be effective less than 15 days after the **mailing** of the notice.

If during the 45-day underwriting period a **previously unknown** risk factor is discovered and the carrier determines that an insured is eligible for coverage, but not on the terms previously quoted, the carrier should cancel the binder or policy in accordance with this section and offer to re-write the insurance on the new terms.

¹ A binder may be oral or written. When an oral binder is given, the carrier seeking to cancel the binder during the underwriting period should issue a written notice of cancellation in accordance with §12-106(d).

To assist carriers in complying with §12-106, the Maryland Insurance Administration (“MIA”) has prepared a sample “Notice of Underwriting Period” (Sample A) that sets forth the information to be provided to the applicant or policyholder at the time of application or when the binder or policy is issued.

Section 27-601

Section 27-601 creates definitions for both “commercial insurance” and “personal insurance.” Homeowners’ insurance falls within the definition of personal insurance and, generally, homeowners’ insurance policies exclude the commercial activities of the insured. However, certain of the offerings that a homeowner’s insurer is required (or may elect) to make at the time a homeowners insurance policy is issued or delivered may include coverage for commercial activities, such as the operation of a family day care facility within a home.

It is the position of the Maryland Insurance Administration that any endorsements that are added to a homeowner’s insurance policy as a result of a mandatory offering or that are incidental to the homeowner’s policy will be treated by the Administration as personal insurance even if such endorsements provide coverage for commercial activities.

Please note that the definition of “personal insurance” expressly excludes motor vehicle liability insurance that is regulated under section 27-613, as well as policies issued by the Maryland Automobile Insurance Fund or by the Joint Insurance Association and surety insurance.

Section 27-602

Section 27-602 governs the cancellation or nonrenewal of **personal insurance policies** that have been in effect for more than 45 days.

If a carrier proposes to cancel or nonrenew a personal insurance policy for a reason other than nonpayment of premium, the carrier must send Notice of Cancellation or Nonrenewal must be sent by certificate of mail at least 45 days in advance of the proposed action and the insurer must maintain proof of mailing in a form authorized by the United States Postal Service (See Property and Casualty Bulletin 05-15 which authorizes the use of PS Form 3817 (individual certificate of mail) and PS Form 3877 (firm certificate of mail)).

If a carrier proposes to cancel or nonrenew a personal insurance policy for nonpayment of premium, the carrier must send notice of its intent to cancel by certificate of mail at least 10 days before the date on which the carrier proposes to cancel the policy. As above, the carrier must maintain proof of mailing.

Please note that delivery via a commercial mail delivery service is not authorized for a Notice of Cancellation or Nonrenewal of personal insurance policies.

Section 27-603

§27-603 applies to the cancellation or nonrenewal of **commercial insurance policies** (other than those issued to an exempt commercial policyholder under §11-206) that have been in effect for more than 45 days

Section 27-603(c) governs the cancellation or nonrenewal of commercial insurance policies for reasons **other than nonpayment of premium**.

- Effective January 1, 2007, a carrier's Notice of Cancellation or Nonrenewal of a commercial insurance policy must be sent at least 45 days in advance of the proposed action, by either certificate of mail or a commercial mail delivery service.
- Insurers may choose to use either the United States Postal Service or a commercial mail delivery service to send the Notice of Cancellation or Nonrenewal of a commercial insurance policy. If the insurer elects sends the notice through the United States Postal Service, the insurer must maintain proof of mailing in a form authorized by the United States Postal Service (See Property and Casualty Bulletin 05-15 which authorizes the use of PS Form 3817 (individual certificate of mail) and PS Form 3877 (firm certificate of mail)). If the insurer utilizes a commercial mail delivery service, the insurer must maintain the form used by the commercial mail delivery service to show the date of receipt by the commercial mail delivery service.
- The required notice may be given by the insurer or by an insurance producer on behalf of an insurer.
- No notice is required if the insured has replaced the insurance.

Pursuant to section 27-603(b), if a commercial insurance policy is cancelled or nonrenewed for a reason other than nonpayment of premium, the Notice of Cancellation or Nonrenewal that must be sent under 27-603(c) must also advise the policyholder of the possibility of replacing coverage through a plan for which the insured may be eligible. If a policy contains more than one type of coverage (e.g., a commercial package policy with a single policy number, but multiple coverages), the notice shall contain the name, address and telephone number of all of the appropriate plans that may apply. For example, if a policy has both automobile and property coverages, the Notice of Cancellation or Nonrenewal must advise the insured of the possibility of replacing the automobile coverage through the Maryland Automobile Insurance Fund and the property coverage through the Maryland Property Insurance Availability Act.

Section 27-603(d) governs the cancellation of a commercial insurance policy **for nonpayment of premium only.**

- Notice of cancellation of a commercial insurance policy for nonpayment of premium must be sent to the insured by certificate of mail at least 10 days before the date the insurer proposes to cancel the policy.
- The insurer must maintain proof of mailing in a form authorized by the United States Postal Service (See Property and Casualty Bulletin 05-15 which authorizes the use of PS Form 3817 (individual certificate of mail) and PS Form 3877 (firm certificate of mail)).
- Please note that the statute does NOT authorize an insurer to send notice of cancellation of a commercial insurance policy for nonpayment of premium via a commercial mail delivery service. Service of such a notice of cancellation can ONLY be made through the US mail via certificate of mail.

Section 27-603(e) contains an alternative method of cancelling a commercial insurance policy for nonpayment of a **renewal** premium. If the insurer has given the insured the renewal policy and notice of premium due at least 45 days before the renewal date of the policy and the insured fails to make the required premium payment by the renewal date, the insurer may, but is not required, to send the insured a notice offering to reinstate the policy without lapse in coverage, if the insured makes the required premium payment in not less than 10 days of the date of the notice. This offer to reinstate must be sent via certificate of mail. If the insured fails to make the required premium payment within the time frame identified by the insurer in the offer to reinstate, the insurer may terminate the policy as of the renewal date without further notice to the insured **Please note the insurer's option to offer to reinstate is applicable only to commercial insurance policies.**

Section 27-607

Section 27-607 requires an insurer to provide notice of renewal premium for all policies of personal insurance and for policies issued under the Maryland Property Insurance Availability Act at least 45 days prior to the date of renewal. **Please note - this notice must be sent 45 days in advance for ALL personal insurance policy renewals regardless of the percentage increase in the premium, in any.**

- The notice must be sent to the named insured and to the insurance producer.
- The notice must state both the amount of the renewal policy premium and the amount of the expiring policy premium.
- The notice must be sent by first class mail.
- The notice may, but need not necessarily, be sent with the renewal policy.

Section 27-608

Section 27-608 applies to all policies of commercial insurance. It requires any insurer that seeks to increase the renewal premium by 20% or more to send a notice of the increase to the named insured and insurance producer, if any, 45 days prior to the renewal date of the policy. This information must be sent via first class mail. It may be sent with the renewal policy.

- The notice must include both the amount of the **expiring** policy premium and the amount of the renewal policy premium. The expiring policy premium is the premium applicable to the coverage as of the last day of the policy period, so that if the premium has altered during the course of the policy to accommodate changes in risk, it is the premium as calculated on the policy as of the termination date, not the inception date or any interim date, that must be included on the notice.
- The notice must provide the named insured with the telephone number for the insurer or insurance producer along with a statement that the insured may call to request additional information regarding the increase in premium.

Under subsection (d), if an insurer's rating methodology requires the insured to provide specific information to enable the insurer to calculate the premium, the insurer is required to provide only a reasonable estimate of the renewal policy premium for a commercial insurance policy if:

- The insurer actually requested the information from the insured; and
- The insurer did not receive the requested information in sufficient time for the insurers to calculate the actual premium.

The reasonable estimate permitted under subsection (d) must be based on the information available to the insurer at the time that the notice is sent.

Subsection (e) of §27-608 sets out what changes are not considered when calculating the amount of an increase in premium.

Section 27-610

Section 27-610 addresses the notice of renewal premium that must be provided to a policyholder with respect to policies of personal insurance policies and to private passenger automobile insurance policies subject to §27-613. It requires an insurer that is going to renew such policies to send a notice of renewal premium 45 days before the "due date." The Administration views the "due date" as the date on which payment is due or the insured will face adverse consequences should the monies not be received, as opposed to a date on which the insured may make payment. For example, the "due

date” would be the date on which the policy becomes subject to cancellation based on the non-payment of premium.

Other Sections of Effected by HB 570

Other sections of the Insurance Article that were affected by HB 570 may be addressed through regulations or are self-explanatory. As noted above, insurers that do business in the State must be familiar with all changes effected by HB 570, whether they are addressed in this bulletin or by regulation.

Any questions or comments regarding this Bulletin and the Sample Notice should be addressed to Cathy Ruppel, Lead Analyst, Property & Casualty Unit, 410-468-2316 or cruppel@mdinsurance.state.md.us.

R. Steven Orr, Insurance Commissioner

By: _____
P. Randi Johnson
Associate Commissioner
Property & Casualty

Sample A

Notice of Underwriting Period

We are notifying you that the binder or policy you have just agreed to purchase is subject to a 45 day underwriting period beginning on the effective date of your coverage. Your coverage may be cancelled during the underwriting period if your risk does not meet our underwriting standards. If we decide to cancel the binder or policy, we will send you a written Notice of Cancellation advising you of the reason(s) for the cancellation and the date on which your policy will be cancelled.

