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BULLETIN 14-15

Date: June 12, 2014

To: All P&C Insurance Companies

Re: COMAR 31.08.12 -- Temporary Moratoriums and Weather Events

The purpose of this Bulletin is to:

- 1) Rescind Bulletin 10-26; and
- 2) Remind all property and casualty insurers of the amendments made to COMAR 31.08.12 – Temporary Moratoriums and Weather Events, which were effective as of April 14, 2014.

A complete copy of COMAR 31.08.12 is attached to this Bulletin.

Before an insurer can activate a temporary moratorium triggered by an emergency or event specifically listed, a moratorium protocol for that line of business must be filed with the Maryland Insurance Administration (Administration) as a rating rule or an underwriting standard. Any insurer that fails to file a temporary moratorium protocol and attempts to activate a temporary moratorium will be informed that the moratorium is invalid and the company may be subject to further administrative action. Therefore, insurers should take this opportunity to review their records, and if necessary, draft, amend and file with the Administration temporary moratorium protocols that include all activation and deactivation triggering events for all lines of business to which they apply.

Insurers also should be aware of the changes to COMAR 31.08.12.06 -- Notice to the Commissioner. An insurer that intends to activate a temporary moratorium must provide notice to the Commissioner through SERFF. No filing fees will be required for these notices. Filing instructions for notice to the Commissioner of the activation of a temporary moratorium have been updated in SERFF and are attached to this Bulletin, as well.

An insurer cannot provide notice by a means other than SERFF unless the insurer has obtained prior written permission from the Commissioner. Requests to provide notice by a means other than SERFF should be addressed to Sandra.castagna@maryland.gov. If the request is granted, the written response will provide further information regarding how the company is to provide the required notice.

Any questions or comments regarding these filing requirements should be addressed to Geoffrey Cabin, Director of P & C Rates and Forms at Geoffrey.cabin@maryland.gov. If there are any questions, Mr. Cabin can be reached at 410-468-2310.

**Therese M. Goldsmith
Insurance Commissioner**

By:  signature on original
**Sandra Castagna
Associate Commissioner
Property and Casualty**

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 08 PROPERTY AND CASUALTY INSURANCE

Chapter 12 Temporary Moratoriums and Weather Events

Authority: Insurance Article, §§2-108, 2-109, 19-107, and 27-501, Annotated Code of Maryland

.01 Purpose.

The purpose of this chapter is to ensure that all authorized insurers that utilize temporary moratoriums on the writing of property and casualty insurance, the addition of endorsements for additional coverages, or other policy changes do so in a way that balances the interests of consumers, insurers, producers, and Maryland businesses.

.02 Filing a Temporary Moratorium Protocol.

- A. An insurer that intends to activate a temporary moratorium in response to an event or emergency listed in Regulation .03C of this chapter shall file its moratorium protocol with the Administration.
- B. The moratorium protocol shall:
- (1) Be filed with the Commissioner as an underwriting standard or as a rating rule prior to its use;
 - (2) Be filed for all lines of insurance business to which the underwriting standard or rating rule applies;
 - (3) Identify the events or emergencies listed in Regulation .03C of this chapter that will trigger the activation of the temporary moratorium; and
 - (4) Identify the events that will result in the deactivation of the temporary moratorium.
- C. If a moratorium protocol under §B of this regulation is not filed with the Administration, a temporary moratorium as described in §A of this regulation is not valid and may subject the insurer to appropriate administrative action.
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.03 Moratorium Protocol.

- A. An insurer shall design a temporary moratorium protocol to have the least impact on the conduct of insurance business throughout the State as reasonably possible.
- B. An insurer may not utilize the activation of a temporary moratorium to suspend the binding or writing of all of its lines of insurance business unless the suspension is reasonably related to the event or emergency that triggered the activation of the temporary moratorium.
- C. A temporary moratorium may not become effective until triggered by at least one of the following events or emergencies:
 - (1) The National Weather Service issues a hurricane or tropical storm watch, warning, or advisory for part of the State or the entire State. For the purpose of this subsection, the "National Weather Service" shall mean the National Weather Service, National Hurricane Center in Miami, Florida, and its regional National Weather Service Forecast Office covering a part of the State.
 - (2) The Governor or other governmental entity declares a state of emergency for part of the State or the entire State;
 - (3) The announcement of an evacuation, whether mandatory or voluntary, for part of the State or the entire State;
 - (4) The imposition of a special curfew for part of the State or the entire State; or
 - (5) The onset of an earthquake that is in an area within:
 - (a) 50 miles of the epicenter of an earthquake that measures 5.0 to 5.9 on the Richter scale; or
 - (b) 100 miles of the epicenter of an earthquake that measures greater than 5.9 on the Richter scale.
- D. The temporary moratorium shall be limited to parts of the State:
 - (1) For which the National Weather Service has issued a hurricane or tropical storm watch, warning, or advisory;
 - (2) That are included within a government-declared state of emergency;
 - (3) That are under an evacuation order, whether mandatory or voluntary;
 - (4) That are under a special curfew; or

(5) That are within:

- (a) 50 miles of the epicenter of an earthquake that measures 5.0 to 5.9 on the Richter scale; or
- (b) 100 miles of the epicenter of an earthquake that measures greater than 5.9 on the Richter scale.

E. A temporary moratorium shall apply only to lines of insurance business that are reasonably expected to be affected by the events or emergencies listed in §C of this regulation that triggered the activation of the temporary moratorium.

.04 Exceptions.

An insurer may not utilize the activation of a temporary moratorium to deny binding authority or coverage for the following transactions:

- A. Property insurance that was bound prior to the activation of the temporary moratorium;
- B. Automobile liability insurance purchased in connection with the purchase of a new or used motor vehicle by a consumer;
- C. Issuance of a policy for which the risk of loss is unrelated to the events or emergencies listed Regulation .03C of this chapter; or
- D. The purchase of additional coverages, endorsements, or limits for an existing policy during its renewal period, subject to any change becoming effective on the renewal date of the policy. For the purpose of section, “renewal period” means the 45-day period immediately prior to the renewal date of a policy.

.05 Deactivating a Temporary Moratorium.

- A. An insurer shall regularly monitor its activated temporary moratorium.
- B. A temporary moratorium that is activated based on an event listed under Regulation .03C(1) of this chapter may not continue for more than 24 hours after the termination of the last hurricane or tropical storm watch, warning, or advisory issued by the National Weather Service for part of the State or the entire State.
- C. Earthquake.
 - (1) A temporary moratorium that is activated because of an earthquake under Regulation .03C(5) of this chapter shall be deactivated no later than 72 hours after the onset of the earthquake.

- (2) An aftershock that measures 5.0 or greater on the Richter scale that occurs during a temporary moratorium that was activated because of an earthquake under Regulation .03C(5) of this chapter may be treated as the onset of a new earthquake, resulting in the beginning of a new 72-hour period during which an insurer may continue to suspend binding authority.
- D. Except as otherwise provided under §G of this Regulation, a temporary moratorium that is activated based on a declaration of a State of Emergency by the Governor or other governmental entity for part of the State or the entire State ends at the expiration of the State of Emergency.
- E. Except as otherwise provided under §G of this Regulation, a temporary moratorium that is activated based on the announcement of an evacuation, whether mandatory or voluntary, for part of the State or the entire State ends at the expiration of the evacuation period.
- F. Except as otherwise provided under §G of this Regulation, a temporary moratorium that is activated based on the imposition of a special curfew for part of the State or the entire State ends at the expiration of the special curfew.
- G. The Commissioner may order the end of a temporary moratorium before the expiration of a State of Emergency, evacuation period, or special curfew, if the Commissioner determines that there is no longer a need for the temporary moratorium for purposes of enforcing the Insurance Article.

.06 Notice to the Commissioner.

- A. Except as otherwise provided in §B of this Regulation, an insurer shall notify the Commissioner of its activation of a temporary moratorium protocol filed pursuant to Regulation .02 of this by filing a notice through the System for Electronic Rate and Form Filing (SERFF), indicating the filing type as “activate moratorium.”
- B. An insurer may provide the notice of activation of a temporary moratorium required by §A of this Regulation by a means other than SERFF only if the insurer obtains written permission to provide the notice by a means other than SERFF from the Commissioner before activating the temporary moratorium.
- C. The notice required by §A of this regulation shall be provided when a temporary moratorium has been activated.
- D. The notice required by §A of this regulation shall:
- (1) Be supplied in SERFF in a format designated by the Commissioner;

- (2) Provide the name of each insurer;
- (3) Provide the National Association of Insurance Commissioners (NAIC) number of each insurer;
- (4) Specify the time when the temporary moratorium shall be activated;
- (5) Specify the lines of insurance business to which the temporary moratorium shall apply;
- (6) Specify the parts of the State to which the temporary moratorium shall apply; and
- (7) Provide the SERFF tracking numbers assigned, where applicable, and the page numbers containing the temporary moratorium protocol when the temporary moratorium protocol was filed as required by Regulation .02 of this chapter.

Effective date: March 22, 2010 (37:6 Md. R. 480)

Regulation .02 amended effective April 14, 2014 (41:7 Md. R. 423)

Regulation .03 amended effective April 14, 2014 (41:7 Md. R. 423)

Regulation .04 amended effective April 14, 2014 (41:7 Md. R. 423)

Regulation .05 amended effective April 14, 2014 (41:7 Md. R. 423)

Regulation .06 amended effective April 14, 2014 (41:7 Md. R. 423)

State Instance: MarylandPC

Name: Notification of Activation/Implementation of a Temporary Moratorium

UPDATE

Description: Insurers may only implement or activate temporary moratoriums if, previously, a temporary moratorium protocol was filed with, and accepted by the MIA. Unless insurers sought and received permission to provide notice of activation of a temporary moratorium by means other than SERFF, the notice of activation **must** be provided through SERFF.

SERFF INSTRUCTIONS

Please follow the following instructions when submitting notice of activation in SERFF:

- 1) An insurer choosing to activate/implement a temporary moratorium must comply with all provisions of COMAR 31.08.12.
- 2) The notice of activation of the temporary moratorium must comply with the provisions of COMAR 31.08.12.06 A., C. and D. Effective April 14, 2014, COMAR 31.08.12.06 was amended and a copy is attached.
- 3) The insurer must submit separate filing(s) for each line of business using the TOI/SubTOI.
- 4) Please use filing type: Rule
- 5) Under the General Information tab, for the "Project Name" use the wording Activate Moratorium Request (include the name of the storm).

Example: Project Name: Activate Moratorium Request – Hurricane Irene

- 6) Under the General Information tab, in the Filing Description, please state the following:
REQUEST TO ACTIVATE MORATORIUM. (Name of Insurer/NAIC Number) is advising the Maryland Insurance Administration (MIA) of its intent to implement a temporary moratorium.
 - The date and time the temporary moratorium is being activated/implemented;
 - The geographic areas of the State where the moratorium is being applied; and
 - Provide the SERFF Filing Number (Rule Filing - Moratorium Protocol) and the page numbers containing the temporary moratorium protocol.

Attachment: 31.08.12 Moratoriums