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Bulletin 06-23

To: All Property & Casualty Insurance Companies

Date: October 16, 2006

Re: HB 245 - Exempt Commercial Policyholders

This Bulletin supersedes and replaces the Maryland Insurance Administration (MIA) Bulletin 00-21 dealing with HB 818 - Exempt Commercial Policyholders, dated October 5, 2000, as a result of the passage of HB 245 during the 2006 legislative session.

Effective October 1, 2006, HB 245 amends §11-206(j) of the Insurance Article by lowering the annual aggregate property and casualty premium threshold from \$75,000 to \$25,000 for which an applicant/policyholder can qualify as an exempt commercial policyholder. However, the other requirements of §11-206(j) must still be met.

As a result of this new legislation, this Bulletin provides the following:

- A revised edition of the "Certification as an Exempt Commercial Policyholder" certification form reflecting the statutory change in the premium threshold from \$75,000 to \$25,000.
- Restates advice and guidance to agents, brokers and insurers as follows:
 1. Maryland law places the responsibility for certification of eligibility as an Exempt Commercial Policyholder solely upon the applicant/policyholder. Before an insurer issues non-filed policies or endorsements to an Exempt Commercial Policyholder, the applicant/policyholder must properly certify to the insurer in writing that it meets the criteria necessary for exemption from form filing requirements.
 2. The form used for Certification of Eligibility by an applicant/ policyholder must be filed with and approved by the MIA **before** it can be used by an insurer. A sample certification

form is attached to this Bulletin and will be approved by the MIA if properly filed by the insurer.

3. In the event that an Exempt Commercial Policyholder has insurance policies with multiple insurers, a properly signed Certification of Eligibility form shall be maintained by each insurer that issues insurance coverage to the policyholder under non-filed forms.
4. Insurers are responsible for maintaining either the original signed Certification of Eligibility or a copy of that form. This Certification of Eligibility form should be maintained by the insurer for a period of three (3) years from the expiration of the particular policy.
5. Agents or brokers will not be required to maintain a copy of the signed Certification of Eligibility, but they may elect to do so at their option.
6. The signed Certification of Eligibility should not be submitted to the MIA unless the MIA specifically requests submission of such form in writing.
7. Exempt Commercial Policyholders are required to assert on the Certification of Eligibility that the annual aggregate property and casualty premiums for all commercial insurance policies issued to the policyholder in the state of Maryland during the current calendar year or preceding calendar year equals or exceeds \$25,000.
8. The relevant statutory definitions for property and casualty insurance are found in §1-101(i) and (gg) of the Maryland Insurance Article.
9. Workers' Compensation policy forms remain subject to prior approval with no change in filing requirements.
10. Recertifications of eligibility are required annually to assure that the policyholder continues to meet the eligibility requirements for an Exempt Commercial Policy under Section 11-206(j) of the Insurance Article.
11. Recertifications of eligibility are required whenever an applicant/policyholder changes insurers.
12. The MIA, during a market conduct examination, may review all insurance policy forms issued and delivered to Exempt Commercial Policyholders by an insurer to determine compliance with applicable Maryland statutes and regulations.
13. The MIA, upon written request to an insurer, may require the insurer to file any forms or endorsements issued to an Exempt Commercial Policyholder.
14. Insurers must comply with all other applicable Maryland laws and regulations with respect to the issuance and delivery of insurance policies to Exempt Commercial

Policyholders. Failure to properly comply will result in appropriate regulatory action by the MIA.

To ensure compliance with HB 245 for new and renewal policies effective October 1, 2006 and later, insurers must file the October 1, 2006 edition of the Exempt Commercial Policyholder Certificate of Eligibility for approval. An insurer may file the attached Certificate of Eligibility as provided in this Bulletin.

If you have any questions about this Bulletin, please contact Cathy Ruppel, Insurance Analyst, Property & Casualty Rate and Form Unit, by telephone at (410) 468-2316, or by email at cruppel@mdinsurance.state.md.us.

R. Steven Orr
Insurance Commissioner

By: _____

P. Randi Johnson
Associate Commissioner
Property & Casualty

**CERTIFICATION OF ELIGIBILITY AS AN EXEMPT
COMMERCIAL POLICYHOLDER
(Ed. 10/01/06)**

Maryland Insurance Article §11-206 permits certain commercial policyholders to certify that the policyholder meets the criteria required to qualify as an Exempt Commercial Policyholder. Certification as an Exempt Commercial Policyholder permits the policyholder to purchase insurance policies that contain forms and endorsements that have not been filed with or approved by the Maryland Insurance Administration.

In order to qualify as an Exempt Commercial Policyholder, you must meet the following criteria:

I. Total premium for current calendar year or preceding calendar year must be \$25,000 or greater:

Are your Commercial Property and Casualty Premiums for Policies Issued in Maryland \$25,000.00 or greater? Yes No

II. And meets any two of the following criteria (check all that apply):

- Generates annual revenues or sales in excess of \$10,000,000.
- Possesses a net worth in excess of \$5,000,000.
- Employs at least 25 full-time employees.
- Is a nonprofit organization or public body with an annual budget of at least \$10,000,000.
- Is a municipal corporation with a population of at least 15,000.

The undersigned commercial insurance policyholder acknowledges that the policy it is receiving from _____ (Name of Insurance Company) may contain forms and/or endorsements that have not been filed with and approved by the Maryland Insurance Administration.

Signature of Authorized Representative

Date

Name and Title of Authorized Representative

Name of Commercial Insured