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BULLETIN 12-15

Date: August 9, 2012

To: All P&C Insurance Companies Writing Homeowners Insurance and the JIA

Re: Draft Proposed Regulation 31.08.13 – Application of a Percentage Deductible in the Case of a Hurricane or Other Storm

The purpose of this Bulletin is to notify all property and casualty insurers writing homeowners insurance in Maryland and the JIA of the draft proposed regulations and to solicit comments from interested parties prior to finalizing and formally submitting the proposed regulations to the Joint Committee on Administrative Executive and Legislative Review (AELR) for review and to the Division of State Documents for publication in the *Maryland Register*. The authority for the regulations can be found in Sections 2-109 and 19-209 of the Insurance Article. The regulations are being proposed as a result of information received through the complaints process and a limited examination of insurers' practices in the aftermath of Hurricane Irene.

A copy of the draft proposed regulations is attached to this Bulletin. The regulations would define homeowners insurance; establish when an insurer can apply a percentage deductible; detail the information that must accompany the insurer's filing of an underwriting standard requiring the application of a percentage deductible in the case of a hurricane or other storm; and set out the minimum requirements for the annual statements that must be provided to insureds.

Written comments will be accepted for thirty days from the date of the Bulletin's issuance. All comments should be addressed to Geoffrey Cabin, Director of P & C Rates and Forms at gcabin@mdinsurance.state.md.us. 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 13 Application of a Percentage Deductible in the Case of a Hurricane or Other Storm

Authority: Insurance, §§2-109 and 19-209, Annotated Code of Maryland.

.01 Purpose.

The purpose of this chapter is to implement the provisions of Insurance Article § 19-209, Annotated Code of Maryland.

.02 Applicability.

This chapter applies to all property and casualty insurers authorized to write homeowner's insurance policies in Maryland.

.03 Definitions.

A. In this chapter the following terms have the meanings indicated.

B. Terms Defined.

(1) "Homeowner's Insurance" means insurance for residential property that provides one or more of the following coverages:

(a) Fire;

(b) Extended coverage;

(c) Vandalism and malicious mischief;

(d) Burglary;

(e) Theft; or

(f) Personal liability.

(2) "Insurer" shall have the meaning set forth in Insurance Article § 19-201(c), Annotated Code of Maryland.

(3) "Hurricane Warning" means an announcement by the National Hurricane Center of the National Weather Service that hurricane conditions are expected in a part of the State.

(4) "Mail" means first class mail.

(5) "National Hurricane Center of the National Weather Service" means the National Hurricane Center in Miami, Florida and the regional National Weather Service Forecast Office covering a part of the State.

(6) "Part of the State" means the county in which the residential property is located; provided, however, that the term "county", as used in this chapter, shall include Baltimore City.

(7) "Percentage Deductible" means a deductible equal to a percentage of the "Coverage A – Dwelling Limit" of a homeowner's insurance policy in the case of a hurricane or other storm.

(8) "Underwriting Standard" shall have the meaning set forth in Code of Maryland Regulations 31.04.16.02.

(9) "Waiting Period" means the period of time during which an insurer may not adopt an underwriting standard filed in accordance with regulation .05 of this chapter, pending the Commissioner's approval or the expiration of a 60-day period of review and any extension thereof.

.04 Application of a Percentage Deductible.

A. An insurer may apply a percentage deductible to a claim for a covered loss under a homeowner's insurance policy if the covered loss to the residential property was sustained while a hurricane warning was in effect, or within 24 hours following termination of the last hurricane warning issued, for a part of the State in which the residential property is located.

B. An insurer may apply a percentage deductible that exceeds five percent to a claim for a covered loss under a homeowner's insurance policy if, in addition to satisfying the requirement of § .04A of this regulation, the Commissioner has approved in writing the insurer's underwriting standard that requires the percentage deductible that exceeds five percent.

.05 Underwriting Standard.

A. An insurer shall file with, and obtain prior written approval from, the Commissioner for an underwriting standard that requires a percentage deductible that exceeds five percent.

B. A filing submitted pursuant to § .05A of this regulation shall contain the following information:

(1) the insurer's NAIC number;

(2) a copy of the underwriting standard the insurer proposes to adopt;

(3) the date on which the insurer intends to adopt the proposed underwriting standard;

(4) all of the data upon which the insurer relied in developing the proposed underwriting standard;

(5) a copy of each page in the insurer's rating manual that relates to the proposed underwriting standard;
(6) a copy of any underwriting standard with a percentage deductible currently in use by the insurer for homeowner's insurance, including any SERFF tracking number associated with the underwriting standard, or a statement that the insurer does not currently have an underwriting standard with a percentage deductible for homeowner's insurance; and

(7) any other information the Commissioner deems necessary.

C. The Commissioner may disapprove a filing submitted pursuant to § .05A of this regulation without further review if it does not contain the information required by § .05B(1)-(6) of this regulation.

D. If an insurer receives a request for additional information from the Commissioner, pursuant to § .05B(7) of this regulation, the insurer shall provide the requested information:

(1) Within the time specified by the Commissioner, unless an extension has been granted by the Commissioner; and

(2) in the manner specified by the Commissioner.

E. The Commissioner shall have 60 days from the date on which a filing that is required by § .05A of this regulation is received to review the filing and to approve or disapprove the filing; provided, however, that a request for additional information made by the Commissioner pursuant to § .05B(7) of this regulation shall toll the 60-day waiting period until such time that the Commissioner receives the additional information.

F. During the 60-day waiting period the Commissioner may extend the waiting period up to an additional 60 days, by written notice to the insurer.

G. An insurer may not adopt an underwriting standard that requires the Commissioner's approval under this regulation until the Commissioner approves the underwriting standard in writing or, if the Commissioner has not approved or disapproved the underwriting standard, until the expiration of the waiting period and any extension thereof.

H. A filing is deemed approved unless disapproved by the Commissioner in writing during the waiting period.

.06 Annual Statement.

A. An insurer that has adopted an underwriting standard that seeks to apply a percentage deductible shall provide an annual statement to a policyholder explaining the manner in which the percentage deductible is applied.

B. An insurer shall file a copy of the form of its annual statement with the Commissioner at least 60 days prior to its use.

C. The annual statement shall:

(1) be provided to a policyholder on a separate form;

(2) be provided to a policyholder by mail;

(3) be clear and specific;

(4) state that the percentage deductible will be applied to a covered loss (i) if the residential property is located in a part of the State for which a hurricane warning has been issued by the National Weather Service, National Hurricane Center in Miami, Florida, which includes its regional National Weather Service Forecast Office covering the part of the State in which the residential property is located, and (ii) the covered loss was sustained while a hurricane warning was in effect, or within 24 hours following termination of the last hurricane warning issued, for the part of the State in which the residential property is located; and

(5) include the following statement or a substantially similar statement:

Your homeowner's insurance policy contains a percentage deductible which means that, under certain circumstances, your deductible for a covered loss will be determined by multiplying the dollar amount of your Coverage A – Dwelling Limit of Liability by this percentage. The examples below are for illustrative purposes only.

If, at the time of a covered loss, a homeowner's insurance policy's Coverage A – Dwelling Limit of Liability is \$300,000 and the policy includes a 2% deductible, the policyholder will be responsible for paying a deductible of \$6,000 on a claim for a covered loss (\$300,000 x 2%). This means that, for example:

- If the covered loss to the dwelling is \$25,000 and the covered loss to personal property is \$10,000 for a total covered loss amount of \$35,000, the policyholder is responsible for paying a \$6,000 deductible and the insurer is responsible for the balance of the covered loss, or \$29,000.
- If the covered loss to the dwelling is \$5,000, the policyholder is responsible for paying the entire covered loss because the total amount of the covered loss is less than the percentage deductible, which is \$6,000.

Please review your homeowner's insurance policy to determine your percentage deductible, your Coverage A – Dwelling Limit of Liability, and under what circumstances this percentage deductible will be applied.

D. The annual statement that is required by this regulation may be mailed with the annual summary statement that is required by Insurance Article § 19-205, Annotated Code of Maryland.