

Part 5 Chapter 3: (2006-2) Insurers to Inform Policyholders of Flood and Earthquake Exclusions in Homeowners and/or Windstorm Residential Policies.

Rule 3.01: Purpose

The purpose of this Regulation is to set forth a requirement that all property and casualty insurers who sell personal lines residential property insurance coverage ("homeowners") and/or residential windstorm property coverage ("windstorm") shall provide written notice to the policyholder at the time of issuance of the policy and thereafter at each renewal of any flood exclusion and/or earthquake exclusion in the homeowners and/or windstorm residential insurance policy, and to further provide notice of such exclusions directly within the Declarations Page(s) of each policy.

Source: Miss. Code Ann. §§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.02: Authority

This Regulation is promulgated by the Commissioner of Insurance pursuant to the authority granted to him by Miss. Code Ann. §§ 83-5-1; 83-5-29 through 83-5-51, as well as the provisions of Mississippi Department of Insurance Regulation No. 88-101, said regulation being the Rules of Practice and Procedure before the Mississippi Insurance Department.

Source: Miss. Code Ann. §§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.03: Scope

This Regulation shall apply to all insurers selling homeowners and/or windstorm residential property coverage insurance policies in the State of Mississippi.

Source: Miss. Code Ann. §§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.04: Definitions

- A. "Insurer" means those companies subject to the jurisdiction of the Department as provided in Miss. Code Ann. § 83-5-1 (Rev. 1999), and which provide personal residential property insurance coverage in the State of Mississippi. The term insurer shall include eligible non-admitted insurers/surplus lines insurers doing business in Mississippi pursuant to Miss. Code Ann. § 83-21-17, et seq. (Rev. 1999), the Mississippi Windstorm Underwriting Association (MWUA), and the Mississippi Residential Property Insurance Underwriting Association (MRPIUA).

- B. "Homeowners coverage" means any personal lines residential property insurance coverage including any homeowner, dwelling, mobile home, tenant or condominium unit owner form of coverage. For the purposes of this Regulation, this shall include mobile home/ manufactured housing property coverage.
- C. "Windstorm coverage" means any personal lines residential property insurance coverage which provides insurance coverage for any loss due to a windstorm, hurricane or hail.

Source: Miss. Code Ann. §§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.05: Requirements

- A. An insurer shall, after January 1, 2007, provide at the time of issuance and thereafter at each time of renewal a notice that provides a statement that said policy contains a flood and/or earthquake exclusion. The notice shall be provided to the policyholder along with the insurance policy at the time of issuance of the policy, and thereafter shall be sent by first class mail at each time of renewal to the address of the policyholder as indicated by the records of the insurer. The notice should contain at a minimum the following language in 10-point print:

- 1. Flood Exclusion:

- Your policy excludes coverage for damage caused by flooding of all types. This exclusion may exclude any and all damages resulting from storm surge from a hurricane, surface water, flash floods, waves, tidal water, tidal waves, wind driven rain or water, or any other overflow of water, and spray from any of these events. For further details, please see the language of your policy. The language of your policy will control the obligations of the parties.

- 2. You are further advised that to be covered for such a loss, you will have to obtain a separate flood insurance policy through the National Flood Insurance Program (NFIP). Your insurance agent or company representative can provide you with information regarding obtaining flood insurance from the NFIP and whether it is available in your location. The NFIP can provide both structure and contents coverage.

- 3. Earthquake Exclusion: (if applicable)

- Your policy excludes coverage for any damages caused or precipitated by an earthquake or earth movement. This exclusion generally excludes all damages caused or in any way resulting from an earthquake, earth movements, tremors and

aftershocks, and also excludes earth movement, land shock waves, aftershocks or tremors before, during or after a volcanic eruption. For further details, please see the language of your policy. The language of the policy will control the obligations of the parties.

You are further advised that to be covered for such a loss, you will have to obtain a separate earthquake endorsement or special earthquake policy. Not all insurance companies provide earthquake coverage. Your insurance agent or company representative can provide you with information on coverage for damage due to an earthquake.

- B. Each insurer that writes homeowners and/or windstorm coverage in the State of Mississippi shall, by September 1, 2006, send a copy of the appropriate notice required in Section 5(A) to their residential policyholders in this State informing them of any exclusion contained within their policy.

- C. Furthermore, each insurer that writes homeowners and/or windstorm coverage in the State of Mississippi shall provide a copy of the appropriate notice required in Section 5(A) at the time of the issuance of the policy to the policyholder of any new residential policy written in this state between September 1, 2006, and December 31, 2006, informing them of any exclusion contained within their policy.

Source: Miss. Code Ann. §§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.06: Notice of Exclusion to be Stated on Declarations Page

No later than January 1, 2007, each insurer shall clearly provide within the main Declarations Page(s) of each policy, or attached to the Declarations Page(s), a statement in 10-point print that informs the policyholder that the policy contains a flood and/or earthquake exclusion. The statement should include one or both of the following statements, whichever is applicable:

"This policy contains a flood exclusion. Flood coverage may be purchased separately from the National Flood Insurance Program, if available in your area."

"This policy contains an earthquake exclusion. Contact your agent for information concerning the availability of earthquake coverage."

Source: Miss. Code Ann. §§ 83-5-1; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.07: Violations and Penalties

Failure of an insurer writing homeowners and/or windstorm coverage in this State to comply with a material provision of this regulation shall be considered a violation of Miss. Code Ann. § 83-5-17 and §§ 83-5-29 through 83-5-51 (Rev. 1999), but does not change the coverage selected and paid for by the policyholder and does not in any way operate to expand coverage beyond the terms of the insurance policy. Violation of said statutes may subject the insurer to the suspension or revocation of the insurer's Certificate of Authority, the imposition of an administrative fine, or both.

Source: Miss. Code Ann. §§ 83-5-1; 83-5-17; 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.08: Limitation of Regulation

Nothing stated or required in this Regulation is intended to change any insurance coverage selected and paid for by the policyholder and does not in any way operate to expand coverage beyond the terms of the insurance policy.

Source: Miss. Code Ann. §§ 83-5-29 through 83-5-51 (Rev. 2011)

Rule 3.09: Severability

If any section or portion of a section of this Regulation or the application thereof is held by a court to be invalid, such invalidity shall not affect any other provision of that section or application of the Regulation which can be given effect without the invalid provision or application, and to this end the provisions of the Regulation are declared to be severable.

Source: Miss. Code Ann. §83-5-1 (Rev. 2011)

Rule 3.10: Effective Date

The effective date of this Regulation shall be thirty (30) days after filing with the Secretary of State's Office.

Source: Miss. Code Ann. §25-43-3.113 (Rev 2010)