NEW YORK STATE
DEPARTMENT of
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

Insurance Circular Letter No. 1 (2013)
February 27, 2013

TO: All Insurers Authorized to Write Property/Casualty Insurance in the State of New York ("insurers")

RE: Superintendent's Expectations for Post-Moratorium Treatment of Policyholders

STATUTORY REFERENCES: Insurance Law Articles 24, 53, and 54 and Sections 3425 and 3426 and Financial Services Law Section 302(a)

Summary

The purpose of this Circular Letter is to advise insurers of how the Superintendent of Financial Services expects them to treat policyholders whose policies were subject to the moratorium on terminating, canceling, or non-renewing policies that was issued in the wake of Storm Sandy ("Moratorium") when the Moratorium is lifted. In sum, the Superintendent expects insurers to work with impacted policyholders who are paying premiums that would have come due during the Moratorium period by providing sufficient notice of premium due and allowing repayment plans or providing further extensions in paying amounts due in full as needed.

Background

On October 26, 2012, in anticipation of an impending storm, Governor Cuomo issued Executive Order 47 declaring a State of Disaster Emergency for all 62 counties in the State of New York.

As anticipated, Storm Sandy struck on October 29, 2012, causing extensive power outages, loss of life and property, and ongoing harm to public health and safety, heavily impacting the counties of New York, Bronx, Kings, Richmond, Queens, Nassau, Suffolk, Westchester, Rockland, and Orange. In addition, a nor'easter struck New York just a week later, adding to the damage and dislocation.

The Superintendent found that, in the wake of Storm Sandy, certain modifications to the Insurance Law were necessary to protect storm-affected policyholders. Therefore, effective October 26, 2012, for the residents of New York, Bronx, Kings, Richmond, Queens, Nassau, Suffolk, Westchester, Rockland, and Orange counties ("Designated Counties"), the Superintendent ordered:

- A 30-day moratorium on the termination, cancellation, or non-renewal of any "covered policy," as that term is defined by the Insurance Law;

- That any automatic policy renewal provision contained within a covered policy would not be effective during the Moratorium;

- That an owner of any covered policy could voluntarily terminate that policy during the Moratorium; and

- That the Moratorium would not apply to any covered policy where the headquarters or principal base of operations of the policyholder was not located in one of the Designated Counties.

Effective November 25, 2012, the Superintendent extended the Moratorium for an additional 21 days.

Effective December 16, 2012, the Superintendent extended the Moratorium for an additional 21 days in the counties of New York, Bronx, Kings, Richmond, Queens, Nassau and Suffolk, requiring the continuation of the following aspects of the original order for an additional 21 days until January 6, 2012:

- The Moratorium against the termination, cancellation, or non-renewal of any "covered policy"; and

- The provisions relating to automatic renewals and voluntary policy terminations.

Effective January 6, 2013, the Superintendent extended the December 16 order for an additional 10 days.

Effective January 16, 2013, the Superintendent extended the January 6 order for an additional 14 days in certain listed zip code regions in the counties of New York, Bronx, Kings, Richmond, Queens, Nassau and Suffolk.

Effective January 30, 2013, the Superintendent extended the January 16 order for an additional 14 days in a reduced number of zip code regions in the counties of New York, Bronx, Kings, Richmond, Queens, Nassau and Suffolk.

Effective February 13, 2013, the Superintendent extended the January 30, 2013 order for an additional 14 days in a further reduced number of zip code regions in the counties of New York, Kings, Richmond, Queens, Nassau and Suffolk.

Discussion

The property damage caused by Storm Sandy has created financial hardship for many New York policyholders, who might be unable to pay premiums due under their policies on a timely basis. In many instances, policyholders have made other living arrangements while reconstruction of their residences is underway. Many losses are not covered because of flooding, and policyholders are spending significant amounts of resources to rebuild.

The purpose of this Circular Letter is to provide guidance to insurers on how to handle the collection of premiums due once the Moratorium is no longer in effect.

The Superintendent expects insurance companies to take into consideration that individuals in heavily impacted areas may be unable to pay the premiums due all at once. The Superintendent expects insurance companies to work with impacted policyholders on a non-discriminatory basis to help them repay the premiums that would have come due during the Moratorium period by providing sufficient notice of premium due and allowing repayment plans or providing further extensions in paying amounts due in full as needed.

More specifically, the Superintendent expects insurers to do the following:

- Provide notice with the first post-Moratorium premium bill of a toll free number that policyholders can call to discuss their billing and make alternative payment arrangements in situations where the policyholders continue to suffer financial hardship because of the storm;

- Provide a new notice to policyholders who were issued non-payment cancellation notices prior to the Moratorium that states that their policies remains in force and the amount that is now due, and provides options to pay over time;

- Advise producers of the company's willingness to work out reasonable payment plans with the producer and policyholders in situations where the policyholder continues to suffer financial hardship because of the storm; and

- Be reminded that they may not send cancellation notices that include amounts that are not yet due. Insurers should therefore be certain that the amount on a cancellation notice reflects overdue premium that had previously been billed to the consumer.

In addition, the Superintendent expects insurers to implement one or more of the following:

- Provide payment options, including the flexibility of making reduced payments or changing their billing plan, for those policyholders that contact the company's customer service or billing department and express that they are having difficulty making payments;

- Recalculate premium bills to allow customers to spread their premium balances over their remaining payment opportunities or for another extended period if appropriate;

- Send a bill with the total amount due and provide insureds a reasonable amount of time before non-payment cancellation notices are generated.

Finally, insurers should consider policyholder requests for further leniency as circumstances warrant.

Questions regarding this Circular Letter should be directed to John Capuano via e-mail at John.Capuano@dfs.ny.gov or by phone at 518-486-9107.

Very truly yours,

Robert H. Easton
Executive Deputy Superintendent
Insurance Division