



OFFICE OF INSURANCE AND SAFETY FIRE COMMISSIONER

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BEFORE THE COMMISSIONER OF INSURANCE

STATE OF GEORGIA

NOTICE OF EMERGENCY RULEMAKING

New Regulation Section 120-2-19-.01-0.20 entitled "Standard Fire Policy" is being promulgated on an emergency basis to replace the previous Regulation Section 120-2-19-.01-0.18 entitled "Standard Fire Policy." New Regulation Section 120-2-19-.03-0.20 entitled "Severability" is being promulgated on an emergency basis to replace the previous Regulation Section 120-2-19-.03-0.18. New Regulation Chapter 120-2-20-0.21 entitled "Unfair Trade and Claims Settlement Practices" is being promulgated on an emergency basis to replace the previous Regulation Chapter 120-2-20-0.19 entitled "Unfair Trade Practices." A copy of new Regulation Sections 120-2-19-.01-0.20 and 120-2-19-.03-0.20, and new Regulation Chapter 120-2-20-0.21 is attached hereto and made a part hereof by reference. These new Regulations are necessary because the Commissioner finds that a practice exists which is having the effect of preventing consumers from having their claims settled fairly. Specifically, insurers have included contractual limitations in their policies under which no suit or action on said policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of the policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

It can be difficult for even a diligent consumer to comply with all policy requirements within twelve months. The Commissioner has received a number of complaints indicating that insurers are becoming increasingly strict in requiring claimants to comply rigorously with every requirement of the policy. This results in an untenable situation if the consumer is unable to fully comply with all of the policy requirements until more than twelve months after the loss. In that event, the insurer can simply deny even a legitimate claim because the consumer is forever barred from filing suit by the time limitation in the policy.

The Commissioner has received an increasing number of complaints regarding insurers relying on this time limitation provision to avoid suits for recovery of claims. Moreover, these complaints indicate that many consumers are unaware of the fact that an action on the policy must be brought within twelve months, instead of the statutory period for actions on written contracts in general. Although these provisions are included in the policies, insurers make no effort to call the attention of consumers to these limitations in connection with the claims process.

The Commissioner finds that, all too often, insurers are utilizing such provisions, of which the insureds are unaware, as traps for the unwary. This gives the Commissioner reasonable cause to believe: that an act, practice, or transaction is occurring or is about to occur; that the situation constitutes a situation of imminent peril to the public health, safety, or welfare; and that the situation therefore imperatively requires emergency action.

The Commissioner has decided that a two-year time limitation on filing suit would afford protection to consumers and would be more consistent with the laws of other jurisdictions. Nevertheless, the Commissioner will closely monitor the performance of insurance companies under this Regulation, and any consumer complaints related to this provision, to provide assurance that consumers are not harmed by the two-year limitation on their ability to file suit.

Pursuant to O.C.G.A. §33-32-1, the Commissioner is authorized to promulgate by regulation a standard fire policy for use in Georgia. Pursuant to O.C.G.A. §36-6-36, the Commissioner is authorized to promulgate rules and regulations necessary to implement and enforce the provisions of the Unfair Claims Settlement Practices Act. Regulation Sections 120-2-19-.01-0.20 and 120-2-19-.03-0.20, and Regulation Chapter 120-2-20-0.21 shall be effective for a period of 120 days. During the 120-day period the emergency regulation is in effect, a final regulation will be promulgated according to the rulemaking process outlined in O.C.G.A. Section 50-13-1 et seq. This Regulation shall be effective for policies written or renewed on or after June 20, 2006.

Should you have any questions concerning this Notice, please contact the Office of Commissioner of Insurance, Administrative Procedure Division, Room 612, West Tower, 2 Martin Luther King, Jr. Drive, Atlanta, Georgia 30334; (404) 656-5875.

Given under my Hand and Official Seal this 9th day of June, 2006.



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