

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

CONCISE EXPLANATORY STATEMENT

Insurance Regulation 97 – Notice of Material Changes upon Renewal of Personal Motor Vehicle, Homeowner and Residential Fire Insurance

The Department of Business Regulation (“Department”) hereby adopts amendments to Insurance Regulation 97 effective July 1, 2015 and makes this statement in accordance with R.I. Gen. Laws § 42-35-2.3. The Department makes these amendments in order to bring the regulation into compliance with the statutory changes made in the last legislative session and effective July 1, 2015. There are five differences between the text of the proposed rule as published in accordance with R.I. Gen. Laws § 42-35-3 and the rule as adopted. Those differences are:

1. Section 2 – removed the exception for hurricane deductible notices pursuant to R.I. Gen. Laws § 27-76.
2. Section 3(c) – added “deductibles not made at the request of the insured” to the definition of Material Change.
3. Sections 4 (a) and (c) – substituted the defined term “Material Change” for the language in the definition.
4. Section 4(d) – declined to implement proposed change removing “few” from subsection (3).
5. Section 5 – removed language concerning more favorable coverage since the amended statute only applies to reductions in coverage.

The Department received other comments which it declined to address by changes in the regulation. Those comments were as follows:

1. The Department did not include a requested change to section 4(e) concerning cases in which an inflation coverage adjustment triggers a higher hurricane deductible because it is the Departments position that in such a case the insurer must provide notice of the hurricane deductible under R.I. Gen. Laws §27-76.

Attached is the regulation showing the proposed amendments and the differences between the proposed text and regulation as adopted.

Dated – June 9, 2015

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INSURANCE REGULATION 97

**NOTICE OF MATERIAL CHANGES UPON RENEWAL
OF PERSONAL MOTOR VEHICLE, HOMEOWNER
AND RESIDENTIAL FIRE INSURANCE**

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Section 1 **Authority**

This Regulation is promulgated pursuant to R.I. Gen. Laws §§ 27-~~5-3.776~~, 27-8-11 and 42-35-3.

Section 2 **Applicability**

This Regulation shall apply to the renewal of (1) personal lines auto insurance, (2) homeowners insurance, and (3) residential fire insurance, or any components thereof. This Regulation requires notification to insureds upon policy renewal of ~~any material changes in policy coverage reductions, elimination or increased-deductibles, limits, coverages, conditions or definitions,~~ unless the change was requested by the insured ~~or R.I. Gen. Laws § 27-5-3.776 is applicable.~~

Section 3 **Definitions**

(a) “Expiration date” shall mean the date upon which coverage under a policy ends or, for a policy written for a term longer than one (1) year or with no fixed expiration date, each annual anniversary date of such policy.

(b) “Insurer” shall mean an individual insurer or an insurance group. For example, if an insured is transferred from one insurer to another within an insurance group, the notice requirements of this regulation apply.

(c) “Material Change” means any coverage reductions, elimination or increased coverage modification which affects the policy deductibles, limits, coverage, conditions or definitions not made at the request of the insured.

(d) “Renewal” or “to renew” shall mean the issuance of, or the offer by an insurer to issue, a policy succeeding a policy previously issued and delivered by the same insurer, or the issuance of a certificate or notice extending the term of an existing policy for a specified period beyond its expiration date.

(e) “Writing” shall include electronic writings if the parties have agreed to conduct the transaction by electronic means in accordance with R.I. Gen. Laws § 42-127.1-1.

Section 4 Notice of Material Changes upon Renewal

(a) Upon an offer to renew, an insurer shall provide, at least thirty (30) days prior to the expiration of the policy, written notice of any ~~Material eChanges~~ in policy ~~deductibles, limits, coverages, conditions or definitions~~ coverage reductions, elimination or increased deductibles to the named insured ~~at the mailing address shown on the policy, and the producer if any.~~ The notice must be prominent, in clear and unambiguous language and must fully disclose all details of the change.

(b) The notice must be included in or sent at the same time as the policy issuance or renewal package.

(c) The notice shall itemize and describe the ~~policy coverages, reductions, eliminations or increased deductibles~~ Material Change.

(d) ~~Examples of notices which are prominent include, but are not limited to: The policyholder shall be notified that the policy renewal contains the "NOTICE OF REDUCTION IN COVERAGE" by one of the following manners:~~

- 1) ~~A separate~~ By mailing the "NOTICE OF REDUCTION IN COVERAGE" separate from the renewal policy package mailing; sent at the same time as the policy issuance or renewal package in at least a point type not smaller than the largest font on the page which is titled “IMPORTANT NOTICE” in bold;
- 2) ~~A notice included as the first page of~~ By printing "NOTICE OF REDUCTION IN COVERAGE ENCLOSED on the policy renewal package in at least a point type not smaller than the largest font on the page which is titled “IMPORTANT NOTICE” in bold

envelope and including said reductions in the first few pages of the renewal policy package;

- 3) ~~A notice in~~ By printing "NOTICE OF REDUCTION IN COVERAGE ENCLOSED" in the first few few pages of the renewal policy package prior to the actual policy language in at least a point type not smaller than the largest font on the page which is titled "IMPORTANT NOTICE" in bold;
- 4) ~~A notice on the policy declaration page in at least a point type not smaller than the largest font on the page~~ If the renewal policy package is made available by email, the email notifying the policyholder of the renewal shall contain a statement that the policy contains a "NOTICE OF REDUCTION IN COVERAGE" and such reductions shall be in the first few pages of the renewal policy package.

(~~d~~ e) This section shall not apply to a material change requested by the insured, including changes requested by the insured at the time of application that would typically occur at the renewal date for as long as the policy is in force, such as inflation coverage adjustment features and other similar policy elements.

- 1) There is no exception to notice of hurricane deductibles under R.I. Gen. Laws § 27-~~5-3.776~~. Therefore, even if the introduction of or the change to a hurricane deductible is requested by the insured, notice as described above must still be given.

~~(e) — For purposes of compliance with this section as to notice to producers, an insurer may use established forms of communications, including but not limited to, electronic mail or other computerized systems that will provide the relevant information directly to producers.~~

Section 5 Failure to Comply

If an insurer fails to provide notice in accordance with this Regulation, the coverage provided to the named insured in the expiring policy shall remain in effect, without the coverage modification, until notice is provided or until the effective date of replacement coverage obtained by the named insured, whichever occurs first regardless of the policy language. ~~If the amended language is more favorable to the insured it shall control, however, failure to provide notice may constitute a regulatory violation.~~ For the purposes of this Regulation, the notice period begins on the date ~~of mailing of the~~ notice is given pursuant to section 4 of this regulation. If the named insured elects not to renew, any earned premium for the period of extension of the terminated policy shall be calculated pro rata at the lower of the current or previous year's premium. If the insured accepts the renewal, the material changes of which the insured was notified in accordance with this Regulation shall be effective on the renewal date.

Section 6 ***Proof of Notice***

An insurer shall be responsible for ensuring that a notice of material changes is provided to the named insured ~~at the address shown in the policy and to the producer if any, as provided in this regulation~~ and shall be able to demonstrate that such notice was provided.

Section 7 ***Applicability***

To the extent that this Regulation conflicts with existing regulation(s), the notice of material changes requirements enumerated herein shall apply.

Section 8 ***Severability***

If any section, term, or provision of this Regulation should be adjudged invalid for any reason, that judgment should not effect, impair, or invalidate any remaining section, term, or provision, which shall remain in full force and effect.

Section 9 ***Effective Date***

This Regulation shall be effective as indicated below, however, the 2008 changes, including those made in the emergency amendment of April 30, 2008, are only effective as to policies issued or renewed after July 1, 2008 ~~and the 2015 amendments to this regulation are only effective as to policies issued or renewed after July 1, 2015.~~

EFFECTIVE DATE: July 16, 2001

EMERGENCY AMENDMENT: April 30, 2008

AMENDMENT: August 6, 2008

AMENDMENT: July 1, 2015