

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

**Public Notice of Proposed Rule-Making**

Pursuant to the provisions of R.I. Gen. Laws § 27-5-3.7, 27-29-4(7) and 27-29-4.1 and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation hereby gives notice of its intent to amend Insurance Regulation 110 – Residential Property Insurance – Hurricanes.

The purpose of this amendment is to effectuate statutory amendments to 27-5-3.7 and to clarify existing language regarding nonrenewal and cancellation.

The proposed amended regulation and concise summary of non-technical amendments are available for public inspection at [www.dbr.ri.gov](http://www.dbr.ri.gov), in person at Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or requested by email [edwyer@dbr.state.ri.us](mailto:edwyer@dbr.state.ri.us) or by calling Elizabeth Kelleher Dwyer at (401) 462 9520.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by October 21, 2009 at 10:00 am to Elizabeth Kelleher Dwyer, Department of Business Regulation, 1151 Pontiac Avenue, Cranston, Rhode Island 02920, [edwyer@dbr.state.ri.us](mailto:edwyer@dbr.state.ri.us). A public hearing to consider the proposed amendment shall be held on October 21, 2009 at 10:00 am at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 at which time and place all persons interested therein will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing or by calling (401) 462 9520 or TDD 711.

A. Michael Marques  
Director, Department of Business Regulation

**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 Summary of Proposed Non-technical Amendments**  
**to**  
**Insurance Regulation Number 110**

In accordance with the Administrative Procedures Act, Section 42-35-3(a)(1) of the General Laws of Rhode Island, following is a concise summary of proposed non-technical amendments:

1. Section 3 adds definition of National Weather Service in accordance with 2009 legislative amendments to R.I. Gen. Laws § 27-5-3.7.
2. Section 4(F) is proposed to be amended to bring it into compliance with the 2009 legislative amendments to R.I. Gen. Laws § 27-5-3.7.
3. Section 8 is proposed to be amended to clarify when a nonrenewal plan must be filed with the Department and the content of those plans.
4. Section 9(G) is proposed to be repealed.

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

**INSURANCE REGULATION 110**

**RESIDENTIAL PROPERTY INSURANCE - HURRICANES**

**Table of Contents**

Section 1	Authority
Section 2	Purpose
Section 3	Definitions
Section 4	Deductibles
Section 5	Notice of Hurricane Deductibles
Section 6	Mitigation Measures
Section 7	Waiver of Deductible
Section 8	Nonrenewal and Cancellation
Section 9	Rate and Policy Form Filings
Section 10	Surplus Lines Insurance and Insurance Producers
Section 11	Severability
Section 12	Effective Date

***Section 1***      **Authority**

This Regulation is promulgated in accordance with R.I. Gen. Laws §§ 27-5-3.7, 27-29-4(7), 27-29-4.1 and 42-14-17.

***Section 2***      **Purpose**

The purpose of this Regulation is to implement R.I. Gen. Laws § 27-5-3.7. This regulation applies to residential property insurance policies insuring dwelling houses issued or renewed in Rhode Island on or after July 1, 2008. This regulation is not applicable to commercial insurance policies.

***Section 3***      **Definitions**

As used in this Regulation:

- A. “Deductible” shall mean a policy provision that requires the insured to be responsible for a specific amount or percentage of a loss and the insurer to pay covered losses in excess of that amount.

- B. "Hurricane" shall mean a weather related event for which the National ~~Hurricane Center~~ Weather Service has issued a hurricane warning for any part of Rhode Island.
- C. "Hurricane Deductible" shall mean a Deductible applicable to an event which is a Hurricane. This term does not include traditional all perils deductibles.
- D. "National Weather Service" means the weather information service, of which the National Hurricane Center is a part, which is a line office of the National Oceanic and Atmospheric Administration (NOAA).
- ~~D.E.~~ "Residential property insurance " shall mean a personal lines insurance policy providing coverage to a domicile
- ~~E.F.~~ "Rhode Island Building Code" means SBC-2 Rhode Island One and Two Family Dwelling Code.
- ~~F.G.~~ "Windstorm deductible" shall mean a deductible applicable to an event involving damage to property as a result of wind which is not a Hurricane. This term does not include traditional all perils deductibles.
- ~~G.H.~~ "Zone" means the Wind Zone pursuant to SBC-2 Rhode Island One and Two Family Dwelling Code, as indicated on the attached maps, in which the property is located.

***Section 4     Deductibles***

Insurers are not required to include a deductible in residential property insurance policies. If a Hurricane Deductible is not included in the policy or is not applicable to a particular loss the policy may provide for application of a policy deductible. If an insurer chooses to include a deductible relating specifically to weather related events, the insurer must comport with the following:

- A. Windstorm deductibles may not be included in residential property insurance policies.
- B. The maximum hurricane deductible that can be offered and/or included in a residential property insurance policy is a deductible of five percent (5%) of the insured value of the dwelling (i.e. Coverage A).
- C. Insurers may not offer optional hurricane deductibles in excess of five percent (5%).
- D. Insurers may offer a flat dollar hurricane deductible in place of or in addition to a percentage deductible.

1. If a flat dollar deductible is offered, in place of or in addition to a percentage deductible, that total deductible may not exceed five percent (5%) of the insured value of the property.
- E. All deductibles must provide for a premium credit that is actuarially supported.
- F. The trigger of a hurricane deductible must be clearly stated and must be applicable only to losses due to a hurricane during the period commencing with the issuance of a hurricane warning for ~~any~~the applicable part of the state (as defined by F(1) and (2) below) by the National ~~Hurricane Center~~Weather Service and concluding 24 hours after the termination of the last hurricane warning for any part of the state. All terms are defined by the National Weather Service.
1. For the application of the hurricane deductible in Block Island, a loss is due to a hurricane when a hurricane results in hurricane force sustained winds on Block Island as reported by the National Weather Service.
  2. For the remainder of the state, a loss is due to a hurricane when a hurricane results in hurricane force sustained winds anywhere in the state other than Block Island as reported by the National Weather Service.

***Section 5***      ***Notice of Hurricane Deductibles***

- A. Insurers are required to provide clear and prominent notice of all hurricane deductibles. Notices of hurricane deductibles must comply with the provisions of this regulation as well as the provisions of Insurance Regulation 97.
1. The notice shall be included in the policy issuance or renewal package or by a separate mailing sent at the time of policy issuance or renewal.
  2. The notice shall clearly and fully disclose all details pertaining to all hurricane deductibles.
    - a. While the information provided will vary depending upon the specifics of the deductible, at a minimum the insurer must explain how the deductible will be applied (e.g. applied as a percentage of loss or as a percentage of Coverage A) and the details regarding the trigger of the

deductible regardless of whether it is stated as a percentage or otherwise.

- b. The purpose of the notice is to assure that the insured will have all information necessary to make an informed decision concerning the coverage, exclusions and deductibles in the policy.
  - c. Insurers are strongly encouraged to include the actual dollar amount of the deductible on the notice. If the insurer is unable to do so, the notice must specify that the actual dollar amount is included on the declarations page.
- B. Insurers must offer at least two practical examples of how the hurricane deductible(s) work.
- 1. If the insurer is offering both flat dollar and percentage hurricane deductibles, the insurer must provide at least one example of each.
  - 2. The examples do not have to be tailored to the insured value of the specific property but must show clearly how the deductible works in a hurricane scenario (i.e. a five percent (5%) deductible on a home with an insured value of \$200,000 means that the insured must pay the first \$10,000 of the covered loss).
  - 3. The actual dollar amount of a percentage deductible applicable to the policy must be shown on the declaration page.
- C. The provisions of this regulation provide the minimum that must be included in the notice. Insurers may provide any other information to assist in the insureds understanding of the deductible and its application to the insurance policy.
- D. The institution and/or modification of a hurricane deductible is considered a material change and is subject to the requirements of Insurance Regulation 97.

***Section 6***     ***Mitigation Measures***

For purposes of the application of R.I. Gen. Laws § 27-5-3.7(c)(iv) and (e) the mitigation measures approved by the Commissioner are:

- A. With regard to properties within Rhode Island Building Code (“SBC2”) Zone 1:

1. Insurers may not require any mitigation measures, however, if an insured voluntarily implements any of the mitigation measures allowed for Zones 2 and 3 the insurer shall waive the hurricane deductible.
- B. With regard to properties within Rhode Island Building Code Zone 2:
1. The maximum mitigation measure that can be required is plywood shutters cut to fit over all window and door openings. Installation must meet SBC2 standards and the plywood must be pre-cut, in good condition and stored onsite in an accessible, dry and secure location on the property. Anchorage hardware must be pre-installed on all window and door openings.
  2. If an insured voluntarily implements this mitigation measure or any of the mitigation measures allowed for Zone 3, subject to inspection by the insurer and/or submission of satisfactory proof of installation, the insurer shall waive the hurricane deductible.
- C. With regard to properties within Rhode Island Building Code Zone 3:
1. The maximum mitigation measures that can be required are
    - a. Plywood shutters cut to fit over all window and door openings. Installation must meet SBC2 standards and the plywood must be pre-cut, in good condition and stored onsite in an accessible, dry and secure location on the property. Anchorage hardware must be pre-installed on all window and door openings and
    - b. Roof tie downs in accordance with SBC2.
  2. If an insured voluntarily implements this mitigation measure, subject to inspection by the insurer and/or submission of satisfactory proof of installation, the insurer shall waive the hurricane deductible.
- D. Permanent storm shutters or hurricane glass or an equivalent or higher mitigation procedure delineated in SBC2 are acceptable alternatives to plywood shutters. Although the insurer may not require such alternatives to be installed, if the insured makes such installation the insurer shall waive the hurricane deductible. Before waiving the deductible, an insurer may require that permanent storm shutters and/or hurricane glass meet SBC2 requirements or other recognized manual or local equivalents and that such installations be subject to inspection by the insurer and/or submission of satisfactory proof of installation.

- E. In all Rhode Island Building Code Zones mobile homes must meet the current FEMA regulations governing mobile homes in order to qualify as “mitigated.”

***Section 7***      ***Waiver of Deductible***

- A. If the insured installs the mitigation measures set forth in section 6 above, the policy must provide that upon installation and use of such mitigation measure, subject to inspection by the insurer and/or submission of satisfactory proof of installation, the hurricane deductible applicable to the policy shall be waived.
- B. If the insurer has reserved its rights to inspection or receive proof of installation, upon successful completion of that process the insurer may issue a new policy or modify its existing policy in accordance with statute and regulation to provide for waiver of the hurricane deductible.
- C. An insured may elect in writing to decline the waiver of deductible, despite meeting the mitigation requirements delineated herein, in order to accept a lower policy premium. The writing should indicate the deductible to be applied and the difference in premium.
- D. Insurers are required to provide clear and prominent notice of mitigation requirements and any change in mitigation requirements is considered a material change and is subject to Insurance Regulation 97.
- E. If the insurer requires the installation of any of the mitigation measures delineated in section 6 above, the insurer shall provide the following information to the insured in writing:
  - 1. Explain the mitigation measure(s) which the insurer is requiring be installed.
  - 2. Describe the credit to be applied to the premium (stated in terms of dollars) if the mitigation measure(s) is installed and used by the insured.
  - 3. Affirmatively state the length of time during which the credit given for the mitigation measure(s) will apply.
  - 4. That the insurer will not non-renew the insured as a result of a risk associated with a catastrophic loss.
- F. In the event a Hurricane Deductible does not apply to a loss, an insurer may apply the all perils deductible as included in the policy to the loss.

**Section 8**      **Nonrenewal and Cancellation**

- A. No insurer shall subsequently non-renew an insured who has taken the mitigation steps requested by the insurer for reasons of the insurers exposure to catastrophe loss, unless for non-payment of premium, fraud, breach by the insured of a provision of the policy, reversal or a lack of maintenance of the mitigation steps, or insurer solvency concerns or adverse loss history or on any other grounds not prohibited by statute or regulation.
- B. ~~If an insurer nonrenews a book of business or a group of policies on the basis of over concentration of risk, In the following circumstances, the insurers~~ must file a comprehensive nonrenewal plan with the department at least 90 days prior to the proposed date of implementation. ~~demonstrating that such actions are in accordance with R.I. Gen. Laws §§ 27-29-4(7) and 27-29-4.1.~~
1. If an insurer plans to nonrenew or cancel policies for failure to comply with mitigation measures requested by the insurer.
  2. If an insurer plans to nonrenew a book of business or group of policies which constitute more than twenty five percent (25%) of the insurers premium volume in the state or more than twenty five percent (25%) of the insurers premium volume in homeowners insurance in any one building code Zone in the state.
  3. If an insurer plans to nonrenew contracts with agencies that will result in nonrenewal of the policies placed through those agencies which constitute more than twenty five percent (25%) of the insurers premium volume in the state or more than twenty five percent (25%) in homeowners insurance of the insurers premium volume in any one building code Zone in the state.
- C. Comprehensive nonrenewal plans must include the following:
1. A demonstration that the proposed nonrenewals are in accordance with R.I. Gen. Laws §§ 27-5-3.7, 27-29-4(7) and 27-29-4.1. Any proposed plan of non-renewal must be filed with the Department at least 90 days prior to the proposed date of implementation.
  2. The insurer must identify all plan variables (i.e. percentage of business non-renewed, the time period for full implementation of the plan, the selected methodology for individual risks to be nonrenewed, etc.) and demonstrate how each variable will be fair and reasonable to Rhode Island policyholders as well as relevant and proportionate to the risk of adverse impact to the insurer.

~~3. This section does not apply to nonrenewal or cancellation of risks unrelated to the geographic location of the property.~~

43. This section does not apply to nonrenewal or cancellation of individual policies for specific reasons related solely to that property.

***Section 9*** ***Rate and Policy Form Filings***

- A. All filings must provide sufficient actuarial justification for rate variances, premium offsets and premium credits for deductible programs.
- B. Insurers must demonstrate that rates are not excessive, inadequate or unfairly discriminatory.
- C. Insurers that choose to utilize hurricane models in the setting of rates must identify the model(s) used (including the version of the model(s) used) as well as provide a complete explanation of (1) the reason(s) that the particular model(s) was chosen and (2) the effect of use of the model(s) on the rates requested. Any changes in the model(s) utilized from a prior filing must be fully explained.
- D. If an insurer is requesting an increase in premium due to increased reinsurance costs, the insurer must provide an explanation of the increased cost. This explanation should include an explanation of alternatives to reinsurance (i.e. CAT bonds, surplus notes, etc.). Insurers should fully disclose how reinsurance costs are allocated to Rhode Island. The Department considers the explanation of alternative to reinsurance considered to be exempt from the Access to Public Records Act by virtue of R.I. Gen. Laws § 38-2-2(4)(i)(B), therefore, an insurer may request that this portion of their filing be retained as confidential.
- E. For policies issued or renewed on or after July 1, 2008, insurers may not continue to use forms and rates previously approved which are not in compliance with this regulation and R.I. Gen. Laws §§ 27-5.3-7.
- F. Residential property filings falling under this regulation may not be made under R.I. Gen. Laws §§ 27-6-8.1 (Flex Rating Statute).

~~G. For filings submitted between April 30, 2008 and July 1, 2008 only, the Department will issue a conditional approval to allow insurers to immediately implement the filings in order to meet the July 1, 2008 effective date. Should the Department find, after its review, any portion(s) of the filing not in compliance with this Regulation or Rhode Island law, it will notify the insurer of such non-compliance. Insurers must immediately~~

~~amend the filings within 30 days of the Department's notification of non-compliance and apply such changes on a retroactive basis to July 1, 2008, or the date of policy issuance if after July 1, 2008.~~

***Section 10***     ***Surplus Lines Insurance and Insurance Producers***

- A.     The provisions of this regulation and R.I. Gen. Laws §§ 27-5-3.7 do not apply to residential property insurance issued by approved surplus lines insurers.
  
- B.     Upon policy renewal insurance producers and surplus line brokers should review existing surplus lines business to determine if it qualifies for the voluntary market or the RI FAIR Plan if available coverage meets the customers needs.
  
- C.     Insurance producers should reach out to their customers to fully explain the coverages and exclusions and assist the insured in selecting the best product for their circumstances.

***Section 11***     ***Severability***

If any provision of this Regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Regulation are severable.

***Section 12***     ***Effective Date***

This Regulation shall apply to all residential property policies issued or renewed on or after July 1, 2008.

EMERGENCY ADOPTION: April 30, 2008

EFFECTIVE DATE: August 24, 2008

AMENDMENT: November , 2009