

**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 §§ 27-76-1 *et seq.*, 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 – Property Insurance and Weather Related Claims.

The purpose of this amendment is to bring the regulation into conformance with the provisions of R.I. Gen. Laws §§ 27-76-1 *et seq.*

The proposed 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 by email [edwyer@dbr.ri.gov](mailto:edwyer@dbr.ri.gov) 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 July 8, 2013 to Elizabeth Kelleher Dwyer, Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, [edwyer@dbr.ri.gov](mailto:edwyer@dbr.ri.gov). A public hearing to consider the proposed amendment shall be held on July 8, 2013 at 10:30 am at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 at which time and place all persons interested therein will be heard.

All are welcome at the Rhode Island Department of Business Regulation ("DBR"). If any reasonable accommodation is needed to ensure equal access, service or participation, please contact DBR at 401-462-9551, RI Relay at 7-1-1, or email [directorofficeinquiry@dbr.ri.gov](mailto:directorofficeinquiry@dbr.ri.gov) at least three (3) business days prior to the hearing.

Paul McGreevy  
Director, Department of Business Regulation

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**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 1 makes changes to statutory references due to amendment of the controlling statute.
2. Section 2 makes changes to statutory references due to amendment of the controlling statute.
3. Section 3 adds definitions of “Department” and “Written.”
4. Section 4 adds a provision concerning application of hurricane deductibles in the event of more than one hurricane in a calendar year in accordance with the enactment of R.I. Gen. Laws § 27-76-1 *et seq.*
5. Section 6 makes changes to statutory references due to amendment of the controlling statute.
6. Section 8 provides provisions related to nonrenewals, cancellations and premium increases and surcharges in accordance with the enactment of R.I. Gen. Laws § 27-76-1 *et seq.*
7. Section 9 makes changes to statutory references due to amendment of the controlling statute.
8. Section 10 makes changes to statutory references due to amendment of the controlling statute.
9. Section 11 outlines the mediation program for claims related to a hurricane in accordance with the enactment of R.I. Gen. Laws § 27-76-1 *et seq.*
10. Section 12 outlines the emergency measures related to a hurricane in accordance with the enactment of R.I. Gen. Laws § 27-76-6.

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**INSURANCE REGULATION 110**

**RESIDENTIAL PROPERTY INSURANCE - HURRICANES AND WEATHER  
RELATED CLAIMS**

**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, <del>and</del> Cancellation <u>and Premium Increases</u>
Section 9	Rate and Policy Form Filings
Section 10	Surplus Lines Insurance and Insurance Producers
<u>Section 11</u>	<u>Mediation Program</u>
<u>Section 12</u>	<u>Emergency Measures</u>
Section <del>11</del> 13	Severability
Section <del>12</del> 14	Effective Date

***Section 1***      **Authority**

This Regulation is promulgated in accordance with R.I. Gen. Laws §§ 27-~~5-3.7~~  
76-1 et seq., 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~~76-1 et seq. Other than the provisions of section 12, ~~¶~~ this regulation applies to residential property insurance policies insuring dwelling houses issued or renewed in Rhode Island ~~on or after July 1, 2008.~~ Other than the provisions of section 12, ~~¶~~ this regulation is not applicable to commercial insurance policies. The provisions of section 12 apply to all insurance policies issued to Rhode Island residents regardless of the line of insurance.

***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 or the percentage of insured value on the policy and the insurer to pay covered losses in excess of that amount.

B. “Department” shall mean the Insurance Division of the Department of Business Regulation.

BC "Hurricane" shall mean a weather related event for which the National Weather Service has issued a hurricane warning for the applicable part of Rhode Island as indicated in section 4(F) below.

CD. "Hurricane Deductible" shall mean a Deductible applicable to an event which is a Hurricane. This term does not include traditional all perils deductibles.

DE. “National Weather Service” means the weather information service, of which the National Hurricane Center is a part, that is a line office of the National Oceanic and Atmospheric Administration (NOAA).

EF. "Residential property insurance" shall mean a personal lines insurance policy providing coverage to a domicile

FG. “Rhode Island Building Code” means [SBC-2 Rhode Island One and Two Family Dwelling Code](#).

GH. "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.

I. “Written” means a writing or electronic communication in accordance with R.I. Gen. Laws § 42-127.1-1 *et seq.*

HJ. “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 the applicable part of the state (as defined by F(1) and (2) below) by the National 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 in 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.
- G. If an insured incurs a loss from more than one hurricane in a calendar year, the insurer may only apply the hurricane deductible provided in the policy once for all hurricane occurrences in that calendar year.
  - 1. If the amount of the loss in the first of multiple hurricanes in one calendar year is less than the hurricane deductible provided for in the policy, the insurer may at its option apply the remaining portion of the hurricane deductible or the all perils deductible to the subsequent loss(es).
  - 2. To determine the amount to be applied to the deductible the insurer may require the policyholder to produce documents of the first loss.

**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-~~576-3.72~~(c)(iv4) 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~~ and Premium Increases**

**A. Nonrenewal**

**A1.** 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.

**2. No insurer shall nonrenew or cancel solely as a result of:**

- a. a policy or claim inquiry, a loss with no payout or a loss with a payout of less than \$500 unless there has been more than one non-catastrophic claim in a three year period which has resulted in a loss payout;**
- b. a loss sustained as a result of a catastrophic event; or**
- c. prior claims experience of the property while under ownership of someone other than the current insured unless the risk from which the claim originated has not been mitigated.**

**B. Nonrenewal Plans**

**B1.** In the following circumstances, insurers must file a comprehensive nonrenewal plan with the department at least 90 days prior to the proposed date of implementation.

- 1a.** If an insurer plans to nonrenew or cancel policies for failure to comply with mitigation measures requested by the insurer.
- 2b.** 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.

3c. 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.

€2. Comprehensive nonrenewal plans must include the following:

4a. A demonstration that the proposed nonrenewals are in accordance with R.I. Gen. Laws §§ 27-576-3.71 *et seq.*, 27-29-4(7) and 27-29-4.1.

2b. 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.

3c. This section does not apply to nonrenewal or cancellation of individual policies for specific reasons related solely to that property.

C. Cessation of New Business

If an insurer plans to cease wringing new residential property insurance polieis, a comprehensive plan must be filed with the Department at least ninety (90) days prior to the proposed date of implementation demonstrating that such plan is in accordance with R.I. Gen. Laws §§ 27-29-4(7)(iii) and 27-29-4.1.

D. Premium Increase or Surcharge

1. No insurer shall impose a surcharge or increase in premium solely as a result of:

a. a policy or claim inquiry, a loss with no payout or a loss with a payout of less than \$500 unless there has been more than one non-catastrophic claim in a three year period which has resulted in a loss payout;

b. a loss sustained as a result of a catastrophic event; or

c. prior claims experience of the property while under ownership of someone other than the current insured unless the risk from which the claim originated has not been mitigated.

**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, i~~Insurers may not continue to use forms and rates previously approved which are not in compliance with this regulation and R.I. Gen. Laws § 27-76-2 (formerly 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).

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

- A. The provisions of this regulation and R.I. Gen. Laws §§ ~~27-5-3-776-1 et seq.~~ 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 Mediation Program**

A. Following a hurricane, the Department may issue a Bulletin that subjects all claims under personal lines insurance policies that occurred as a result of damage to residential property caused by a specific hurricane to nonbinding mediation at the election of the insured in accordance with this regulation.

1. A Bulletin announcing of the establishment of a mediation program will be related to a specific hurricane and will be posted on the Department's website and sent to all persons who have requested notice of insurance division announcements.
2. The decision as to whether to announce a mediation program due to a specific hurricane will be determined in part by the number and nature of claims in Rhode Island.
3. The Department may announce a mediation program due to more than one hurricane that happen within twelve (12) months of one another.
4. Flood insurance claims insured through the National Flood Insurance Program ("NFIP") pursuant to 42 U.S.C. § 4011 et seq. will not be available for participation in the mediation program.

**B. Definitions**

For purposes of this section the following terms shall have the following meanings:

1. "Administrator" means the entity administering the mediation program as designated by the Department by Bulletin with regard to a specific hurricane. The Department may administer the program itself or with the assistance of other governmental agencies or may enter into a contract with an outside vendor or any combination of these alternatives.
2. "Claim" means a dispute between an insurer and the policyholder(s) of a personal lines insurance policy arising out of damage to residential property caused by a hurricane and relating to a material issue of fact, except for a dispute with respect to:
  - (a) coverage under the insurance policy;
  - (b) the amount in controversy is less than an amount specified by the Department in the Bulletin establishing the mediation program;

(c) a loss has been incurred that was not related to the hurricane; or

(d) the denial is based on the nonexistence of the policy at the time of the loss;

4. “Insurer” means an insurance company authorized to transact the business of insurance in Rhode Island, an eligible surplus lines insurer transacting business in Rhode Island, the Rhode Island FAIR Plan and a risk retention group operating in Rhode Island.

5. “Mediation” means a procedure in which a mediator facilitates communication between the parties concerning the matters in dispute and explores possible solutions to promote reconciliation, understanding and settlement.

6. “Mediator” means an individual approved by the Department to mediate claims pursuant to this Regulation.

7. “Parties” means the insurer and the policyholder.

#### C. General Requirements

1. All policyholders with open and unresolved claims against insurers arising from the designated hurricane may request a mediation conference pursuant to the procedures described below and any additional technical procedures to be established by the Department and announced in the Bulletin establishing the mediation program.

2. Participation in the mediation program by policyholders is voluntary and it is their option to request a mediation conference

3. Insurers authorized or admitted to transact business in Rhode Island and the Rhode Island FAIR Plan shall be required to participate in the mediation program and resulting mediation conferences. Surplus lines insurers and risk retention groups may elect whether or not to participate in such mediation conferences on a case-by-case basis

4. Insurers (other than surplus lines insurers and risk retention groups) shall provide written notice to insureds with open and unresolved personal lines insurance policy claims arising out of damage to residential property caused by a hurricane of the opportunity to request a mediation conference, and the process to request a mediation conference, as provided herein. A sample notice for issuance to policyholders shall be provided as an attachment to the Bulletin activating the mediation program.

5. Unless otherwise provided herein, the fees of the mediator and the Administrator shall be borne by the insurer, including surplus lines and risk retention groups that opt to participate in the mediation program. All other mediation costs, fees, or expenses shall be borne by the party incurring such costs, fees, or expenses unless otherwise provided in a settlement agreement;
6. The Department shall act as an Administrator for the program alone or with the assistance of other state agencies or may select a private party to act as Administrator on its behalf. The selection of an Administrator along with detailed contact and fee information will be included in the Bulletin issued to establish the mediation program for a particular hurricane.
7. The mediation program shall not be operative until issuance of the Department's Bulletin advising of same.

D. Requests for Mediation

1. Policyholders shall be able to request mediation conferences by written request transmitted to the Administrator as detailed in the Bulletin establishing the mediation program.
2. Requests for mediation by policyholders shall include the following information:
  - a. Name, address, and daytime telephone number of the policyholder and location of the property (if applicable and if different from address of policyholder);
  - b. The claim number and policy number for the policyholder at issue;
  - c. A brief description of the nature of the dispute;
  - d. The name of the insurer and any contact person at the insurer if known to the policyholder; and
  - e. Information with respect to any other policies of insurance that may provide coverage of the insured property for named perils such as flood or windstorm.
3. Upon receipt of a request for mediation, the Administrator shall review same to determine whether the matter satisfies the definition of "claim" above.
4. After review, the Administrator shall notify the policyholder and the

insurer within three (3) business days of receipt of the request for mediation that either: (i) the request for a mediation conference is rejected and specify the reason for the rejection, or (ii) the request has been accepted. If the insurer is a surplus lines insurer or a risk retention group, the Administrator shall include in the notice a request that the insurer advise the Administrator whether it will participate in a mediation conference within 5 business days of the insurer's receipt of the notice.

E. Scheduling of Mediation Conferences and Mediator Requirements or Disqualification Requests:

1. If the mediation request is accepted, the Administrator shall select a mediator and schedule the mediation conference so as to limit the travel and expense to the parties. The Administrator will notify each party of the date, time and place of the mediation conference at least ten (10) days prior to the date of the conference, unless a shorter period is agreed to by the parties.
2. All mediation conferences shall be scheduled no later than 30 days after receipt of a request for mediation if deemed eligible for participation in the Mediation Program by the Administrator.
3. The Department will establish a list of mediators prior to the issuance of the Bulletin establishing the mediation program. In doing so the Department shall look to the list of mediators utilized by the Rhode Island Superior Court mediation program and shall consider the objectivity and qualifications of the mediators.
4. A party may move to disqualify a mediator for good cause at any time. The request shall be directed to the Administrator if the grounds are known prior to the mediation conference. Good cause includes a conflict of interest between a party and the mediator, inability of the mediator to handle the conference competently, or other reasons that would reasonably be expected to impair the conference.

F. Conduct of Mediation Conferences:

1. The mediator shall provide each party with the opportunity to present their side of the controversy.
2. Parties may present relevant documents and bring individuals with knowledge of the issues to the mediation conference, such as adjusters, appraisers and contractors.
3. The mediator may meet with the parties separately, encourage meaningful communications and negotiations, and otherwise assist the parties in

reaching a settlement.

4. The representative of the insurer attending the mediation conference shall bring a copy of the policy and the entire claims file to the conference. He or she shall possess knowledge of the facts and circumstances of the claim, be knowledgeable of the provisions of the applicable policy and have authority to settle the full amount of the claim and to disburse the settlement amount at the conclusion of the mediation conference.
5. The parties may be represented by counsel or public adjusters at the mediation conference provided that five (5) days' notice of the representation is provided to the opposing party and the Administrator or assigned mediator.
6. The mediator may terminate the conference if he or she determines that either party is not negotiating in good faith, (e.g. is continuously disruptive, becomes unduly argumentative or adversarial, or otherwise inhibits the negotiations as determined by the mediator).
7. If the parties achieve an agreement on resolution of the claim at the mediation conference, the resolution shall be memorialized in writing by the mediator. If the resolution includes payment of settlement funds by the insurer to the policyholder, the insurer's representative shall disburse the settlement amount to the policyholder and any lienholder(s) as required by the insurer's business practices at the conclusion of the mediation conference, unless both parties agree otherwise.
8. The Department may, at its discretion, have a representative attend and be present at any mediation conference.

G. Post Mediation:

1. The mediation shall be non-binding. However, if a settlement is reached at the mediation conference, the policyholder shall have three (3) business days within which he or she may rescind any settlement agreement, provided that the policyholder has not cashed or deposited any check or draft disbursed to him or her for the disputed matters as a result of the mediation conference.
2. If a settlement agreement is reached and is not rescinded by the policyholder within three (3) business days as provided above, it shall act as a full and final release of all specific claims that were presented and actually settled at the mediation conference.
3. Mediation conferences shall be confidential. If a settlement agreement is not reached, oral or written statements made during the mediation

conference shall not be admissible as evidence in a civil action concerning the claim, except with respect to any proceeding concerning an investigation of insurance fraud. Evidence otherwise admissible in a civil action shall not be excluded merely because it was disclosed during the mediation conference.

H. Mediation Fees and Bills:

1. The fees of the mediator and the Administrator shall be borne by the insurer as provided above unless the insured fails to appear at a scheduled mediation conference and fails to have good cause for the failure to appear. Good cause shall consist of severe illness, injury or other unforeseen and uncontrollable emergency that could not have been reasonably remedied prior to the conference. If the policyholder fails to present good cause for a failure to appear at the mediation conference, then the costs of the cancelled mediation conference and any rescheduled conference shall be split evenly between the parties.
2. The Administrator shall submit a bill to the insurer for the Administrator and mediator fees of each mediation conference. At the discretion of the Administrator and with the consent of the insurer, alternate billing arrangements are permissible, such as monthly or bulk billings.
3. The bill to the insurer shall be itemized and shall conform to the fee structure set forth in the Department's Bulletin establishing the Mediation Program.

Section 12 Emergency Measures

1. The Insurance Division will utilize the declaration of a catastrophe by the Insurance Services Offices ("ISO") or its successor organization for purposes of the declaration of emergency measures pursuant to R.I. Gen. Laws § 27-76-6.
2. When ISO declares a catastrophe the Insurance Division may require insurers to take any of the following actions:
  - a. Allow grace periods for the payment of insurance premiums for a time period established by the Insurance Division;
    1. The Department will establish the time period indicated above by considering the severity of the catastrophe and the number and severity of claims.
    2. The Department shall order a maximum grace period of 90 days by bulletin. This requirement does not prevent the Department from

amending this regulation during the grace period to establish a longer grace period.

3. At the end of the grace period insurers may bill insureds that have elected to take advantage of the grace period for the premium accumulated during the grace period as long as the insurer has notified the insured at the time of the request that premium will accumulate during the grace period.
4. Insurers may treat nonpayment of accumulated premium in the same manner as nonpayment of premium under the policy as long as the insurer has notified the insured at the time the request for the grace period is requested that the premium will be due upon expiration of the grace period or at whatever longer interval is established by the insurer.

b. Suspending performance of other duties under the policy for persons displaced by the catastrophic event.

1. The insureds duty under the policy to mitigate damages shall not be excused.
2. The Department will determine what duties will be suspended by consideration of the severity of the catastrophe and the number and severity of claims in Rhode Island.
3. The Department will notify insurers of the exact duties for a specific catastrophe by issuance of a bulletin or industry alert.

c. Suspension of cancellations and non-renewals of insurance policies for a time period established by the Insurance Division;

1. The Department will establish the time period by taking into consideration the severity of the catastrophe and the number and severity of claims.
2. The Department shall order a maximum period of 90 days by bulletin.
3. This requirement does not prevent the Department from moving to amend this regulation to establish a longer grace period.

d. The Department may establish additional emergency measures depending upon the circumstances of the catastrophe. In such a circumstance the Department will, at the same time the bulletin or industry alert establishing

the requirement is issued, begin the process of amending this regulation to solicit comment on the emergency requirements.

***Section 1~~13~~3*** **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 1~~23~~4*** **Effective Date**

This Regulation shall apply to all residential property policies issued or renewed on or after July 1, 2008. The 2012 amendments to sections 4 and 8 are effective for policies issued or renewed on or after January 1, 2013. All other amended sections are effective on the date of amendment.

EMERGENCY ADOPTION: April 30, 2008

EFFECTIVE DATE: August 24, 2008

AMENDMENT: November 23, 2009

AMENDMENT: August , 2013

