

## NOTICES

### INSURANCE DEPARTMENT

#### Use of Aerial Imagery by Homeowners Insurers; Notice No. 2024-06

[54 Pa.B. 2908]

[Saturday, May 25, 2024]

It has recently come to the attention of the Insurance Department (Department) that several insurers have been seeking to non-renew or midterm cancel homeowners or dwelling fire insurance policies based upon the quality of a property's roof. This notice is intended to advise insurers of the Department's concerns regarding the use of aerial imagery technology to evaluate the condition of a roof and to clarify the importance of providing residents in this Commonwealth the opportunity to challenge aerial imagery results or correct confirmed roof deficiencies before they are cancelled or nonrenewed.

The Department reviewed and investigated consumer complaints pertaining to non-renewals and midterm cancellations based on roof condition and found that the aerial images relied upon did not definitively show material roofing degradation or damage. Aerial images alone showing discoloration, streaking or other cosmetic damage should not be used as the sole evidence to support cancellation or nonrenewal actions.

The Department does not seek to broadly restrict the use of aerial imagery. In the absence of unequivocal and material damage shown, it would be prudent for an insurer to conduct a physical inspection to validate the specific type of damage that the aerial image purports to evidence.

The Department has also received consumer complaints that insurers are not providing the insured with a notice of cancellation or refusal to renew stating the specific reasons for the nonrenewal or midterm cancellation or providing the insured the opportunity to challenge the results or correct the identified deficiencies. In consideration of the previously referenced concerns, the Department wants to remind insurers of their statutory obligations under the Unfair Insurance Practices Act (act) (40 P.S. §§ 1171.1—1171.15):

- An insurer must specifically state, on policies in force 60 days or more, both the legal and factual reason permitted by section 1171.5(a)(9) of the act, in its notice of termination.
- An insurer may cancel or non-renew a policy in force 60 days or more if there has been a substantial change or increase in hazard in the risk assumed by the insurer subsequent to the date the policy is issued or a substantial increase in hazards by reason of willful or neglectful acts or omissions by the insured under section 1171.5(a)(9) of the act.
- Prior notice and an opportunity to cure a hazardous condition are prerequisites to a lawful policy termination when the hazard may not be obvious to the insured. *Brock/Bankers Standard*, P16-10-009 (2017).

- Required notice to cure a latent hazardous condition applies whether the hazard is asserted to be from the inception of the policy or because of the asserted negligent or willful acts or omissions of the insureds. *Philadelphia Contributionship/Grochowski*, P20-07-013 (2021).
- In the absence of notice and reasonable time for the insured to cure a latent hazardous condition, the insurer does not establish willful or negligent acts or omissions by the insured. *Brock/Bankers Standard*, P16-10-009 (2017).
- The mere suspicion or question that something has changed is not cause for nonrenewal. *Anderson/Donegal*, P12-07-010 (2013).
- Simply characterizing a condition of a property as unacceptable fails to establish an increase in risk required for policy termination. An insurer must prove not only that the risk has increased but that the increase has been substantial. *J.C. Penney Cas. Ins. Co. v. Commonwealth, Dep't of Ins.*, 402 A.2d 558 (Pa.Cmwlt. 1979); *Lewis/Hartford Fire*, PI89-11-008 (1990). *Ohio Casualty/Milliard*, P12-12-015 (2013).

It is important for an insurer to provide an insured with an explanation of the specific reasons the insurer is seeking to cancel or non-renew the policy so that the insured can take the necessary remedial action or, if the policy is terminated due to repairs not being made, so that the insured is able to seek replacement coverage from other companies.

Questions regarding this notice may be directed to the Bureau of Market Regulation, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, [ra-in-markregulation@pa.gov](mailto:ra-in-markregulation@pa.gov).

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Insurance Commissioner