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§ 113.81. Definitions.

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise:

Act-The act of July 3, 1986 (P. L. 396, No. 86) (40 P. S. § § 3401-3409).

Affiliated insurer-An insurer who, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with another insurer.

Agent-An individual, partnership or corporation, licensed by the Department, who contracts with an insurer to sell insurance on behalf of the insurer. With respect to policies of insurance covering commercial property and casualty risks issued by eligible surplus lines insurers, the term means a surplus lines licensee as defined in section 1602 of The Insurance Company Law of 1921 (40 P.S. § 991.1602).

Commercial property and casualty risk insurance-Insurance within the scope of this chapter which is not personal risk insurance. The term includes insurance issued for commercial auto, farm owner's, business, professional or other commercial risks, such as business owner's and commercial multi-peril policies, aviation, credit, mortgage guaranty, and worker's compensation risks, except title insurance, fidelity and surety bonds, ocean marine risks, and workers compensation insurance covering employees subject to the Jones Act (40 U.S.C.A. § § 731, 733a, 734, 737, 741a, 742, 745, 747-749, 751, 752, 863-865, 868, 870-872, 874 and 891-893), and Federal employees.

Insurer-An insurer authorized by the Department to transact business in this Commonwealth or designated as an eligible surplus lines insurer as defined in section 1602 of The Insurance Company Law of 1921.

Named insured-The insureds named on the declaration page of the insurance policy.

Non-renewal-The failure by an insurer to issue and deliver a policy superseding at the end of the policy period one previously issued and delivered by the same insurer or affiliated insurer, where the renewal policy provides types and limits of coverage substantially equivalent to those contained in the policy being superseded. The term also includes the failure to issue and deliver a certificate or notice extending the term of a policy beyond its policy period or term with types and limits of coverage substantially equivalent

to those contained in the policy being extended. The term does not include coverage provided under a policy of insurance that is renewed by the insurer under a new policy form approved by the Department if an appropriate disclosure notice is forwarded to the first named insured.

Personal risk insurance-Property or casualty insurance issued for personal, family or household purposes. Examples of policies of insurance issued for personal, family or household purposes are:

- (i) Policies used solely to provide homeowner's insurance, dwelling fire insurance on one to four family units if owner-occupied, or individual fire insurance on dwelling contents.
- (ii) Policies principally used to provide primary insurance on private passenger automobiles which are individually owned and used for personal or family needs.
- (iii) Policies of personal inland marine, personal theft, residence glass, personal liability insurance and personal excess.
- (iv) Policies on pleasure watercraft which are used for personal, or family needs.

Policy of insurance-A policy, certificate or binder issued or delivered in this Commonwealth by an insurer or agent covering commercial property or casualty risks. A policy with a policy period or term of less than 12 months or a policy period with no fixed expiration date is considered as written for successive policy periods of 12 months.

Source - The provisions of this § 113.81 amended March 27, 1998, effective March 28, 1998, 28 Pa.B. 1518. Immediately preceding text appears at serial pages (231811) to (231812).

§ 113.82. Notice of premium increase.

(a) Insurers shall provide the named insured advance notice of any increase in renewal premium at least 30 days before the upcoming policy renewal date.

(b) An insurer may authorize its agents to provide the notice of premium increase to the named insured. The insurer is responsible for the agent's failure to provide a notice of premium increase 30 days or more in advance of policy renewal.

(c) A notice of premium increase shall be provided to the named insured when a policy is issued by an insurer of a group of affiliated insurers that supersedes a policy issued by an insurer from the same group of affiliated insurers, and the premium will increase as a result of the superseding policy.

(d) Insurers are responsible for documenting that advance notice was provided to the named insured. Insurers may satisfy this requirement by doing one of the following:

1. Maintaining a copy of the advance written notice provided to the named insured.
2. Documenting its file to reflect the date and time advance notice was provided to the named insured.
3. Providing documentation from its agent reflecting compliance with either paragraph (1) or (2).
4. Providing other documentation such as renewal offers or other methods which are accepted and common within the industry as would reasonably demonstrate compliance. The documentation will be evaluated at the sole discretion of the Department.

Source - The provisions of this § 113.82 amended March 27, 1998, effective March 28, 1998, 28 Pa.B. 1518. Immediately preceding text appears at serial page (231812).

§ 113.84. Certification procedure for loss of or substantial decrease in reinsurance.

The procedure for certification of loss of or substantial decrease in reinsurance is as follows:

1. If the loss of reinsurance is the result of cancellation of the reinsurance agreement by the reinsurer, a copy of that portion of the reinsurance contract that is directly applicable and a copy of the

reinsurance cancellation notice shall accompany the certification. The insurer shall also certify that the loss of reinsurance directly affects in-force policies.

2. If the loss of or substantial decrease in reinsurance is the result of an amendment to the reinsurance contract by the reinsurer, a copy of the reinsurance contract and a copy of the amendment shall accompany the certification.
3. If the loss of or substantial decrease in reinsurance is the result of the difference between the expiration of a reinsurance contract and a new reinsurance contract, a copy of both reinsurance contracts shall accompany the certification.
4. Certification shall be in the form of a written statement, signed by an officer of the insurer, identifying the specific lines of insurance affected by the loss of the reinsurance, providing a reasonably accurate estimate of the number of Pennsylvania in-force policies affected, describing attempts to replace reinsurance and verifying that the insurer shall cancel only policies specifically affected by the loss of the reinsurance.
5. Certification shall be submitted to the Commissioner by certified mail, or an equivalent means of delivery that provides for proof of delivery, on or before the date of issuance of cancellation notices to the affected insureds. If the Commissioner finds that no basis for cancellation exists, immediately upon his notification to the certifying insurer, cancellation notices shall be rescinded.
6. If an insurer makes a determination that the loss of or substantial decrease in a reinsurance contract will materially affect its overall financial condition, it may at the time of certification request that the Commissioner approve a shorter period in which to provide notice of cancellation than that which is provided for in section 3(a)(3) of the act (40 P. S. § 3403(a)(3)).
7. If a copy of the reinsurance contract is not available because the contract or an amendment thereto has not been received by the insurer, a general explanation in writing of the effect of the loss of reinsurance shall accompany the certification.

§ 113.85. Midterm cancellation for material failure to comply with policy terms, conditions or contractual duties.

An insurer may cancel in midterm a policy of insurance covering commercial property and casualty risks for material failure to comply with policy terms, conditions or contractual duties which require the insured to comply with safety standards and loss control recommendations, if the following apply:

1. The policy specifically provides that material failure to comply with safety standards and loss control recommendations may constitute a basis for cancellation.
2. The insurer has provided the named insured with written notice of the failure to comply with safety standards and loss control recommendations.
3. The insurer has provided the named insured with a reasonable opportunity to cure deficiencies with respect to safety standards and loss control recommendations.
4. The deficiencies with respect to safety standards and loss control recommendations have not been cured.

Source - The provisions of this § 113.85 amended March 27, 1998, effective March 28, 1998, 28 Pa.B. 1518. Immediately preceding text appears at serial page (231814).

§ 113.86. Notices of non-renewal or cancellation forwarded by agents.

An insurer shall be deemed in compliance with the requirement that notices of midterm cancellation or non-renewal be forwarded by the insurance company directly to the named insured if an agent, who is authorized by an insurer to act on its behalf for purposes of providing notice of midterm cancellation or non-renewal forwards notices of midterm cancellation or non-renewal to the named insured. The insurer is responsible for the authorized agent's failure to meet the requirements for providing notice of midterm cancellation or non-renewal to the named insured.

Source - The provisions of this § 113.86 amended March 27, 1998, effective March 28, 1998, 28 Pa.B. 1518. Immediately preceding text appears at serial page (231814).

§ 113.87. Return of unearned premiums.

An insurer is responsible for the return of unearned premium to the named insured within the time period

required by the act. An insurer may authorize its agents to return unearned premium to the named insured. The insurer is responsible for the agent's failure to return unearned premium to the named insured as required by the act.

Source - The provisions of this § 113.87 amended March 27, 1998, effective March 28, 1998, 28 Pa.B. 1518. Immediately preceding text appears at serial page (231814).

§ 113.88. Issuance of non-renewal and cancellation notices.

The reason given for non-renewal or cancellation shall be clear and complete. It shall be stated so that a person of average intelligence and education can understand it. Phrases such as "losses" or "underwriting reasons" are not sufficiently specific reasons for non-renewal or cancellation.

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