

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

Homeowners Insurance Consumer Information Brochure; Summary of Notable Coverages and Exclusions

Adopted New Rules: N.J.A.C. 11:2-41

Proposed: May 5, 2014, at 46 N.J.R. 744(b).

Adopted: February 5, 2015, by Kenneth E. Kobylowski, Commissioner, Department of Banking and Insurance.

Filed: February 5, 2015, as R.2015 d.035, **with non-substantial changes** not requiring additional public notice and opportunity to comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 17:36-5.36 and 5.37.

Effective Date: March 2, 2015.

Expiration Date: January 6, 2018.

Summary of Public Comments and Agency Responses:

Comments were received from Independent Mutual Fire Insurance Company (IMFIC), Cabrillo Coastal General Insurance Company (Cabrillo), the New Jersey Association of Realtors (NJAR), New Jersey Manufacturers Insurance Company (NJM), and The Insurance Council of New Jersey (ICNJ).

COMMENT: A commenter asks whether they are subject to the regulations as the policy they issue is neither a homeowners, dwelling, nor renters policy. The policy they issue is a generic contents policy for named perils with no section II liability coverage.

RESPONSE: The generic contents policy for named perils is subject to the requirement for issuance of one-page Summaries of Notable Coverages and Exclusions (“one-page summary”) because the Department considers such a policy to fall within the definition of homeowners insurance at N.J.S.A. 17:36-5.33 and N.J.A.C. 11:2-42.2. Specifically, the generic contents policy for named perils is a personal lines policy insuring against loss to personal property. The Section II liability coverage would not apply as this coverage is not provided in the policy. To clarify the scope further, the Department has amended N.J.A.C. 11:2-41.1 to reference these existing definitions of homeowners insurance.

COMMENT: Commenters ask if the Homeowners Consumer Information Brochure Summary of Notable Coverages applies to surplus lines and/or non-admitted carriers in the State of New Jersey.

RESPONSE: Only companies required to submit personal lines policy forms that are processed on a prior approval basis as specified in N.J.S.A. 17:29A-1 et seq. and N.J.A.C. 11:1-2.1 would have to comply. Non-admitted and/or surplus lines companies would not have to comply.

COMMENT: A commenter stated that the proposed new rules will assist homeowners to fully understand what their insurance policies cover, which is especially important given that the rules require information on flood insurance be provided to each policyholder with a one-page summary showing what is covered and what is not covered by a homeowners insurance policy.

RESPONSE: The Department thanks the commenter for their support for this proposal to provide information to the policyholders of New Jersey.

COMMENT: Multiple commenters inquire as to the process for reviewing customized one-page summary form filings and the timeframe within which the Department will approve or decline to approve forms other than those set forth as samples in the proposed regulations.

RESPONSE: The one-page summary forms will be reviewed on a file and use basis. As provided in the rules, the company-specific one-page summary form must be submitted to the Department through the NAIC SERFF system. The form submissions under these rules will be reviewed by the Department within 30 days of receipt. After review of the form, the Department will send the company a disposition in SERFF either confirming that the form was placed on file, advising that the Department has questions and the form is still under review, or that the filing is disapproved. Notifications of questions or disapproval will provide the specifics of the Department's action on the filing. N.J.A.C. 11:2-41.3(e) has been amended upon adoption to provide these additional details regarding this process.

COMMENT: A commenter asks for confirmation that the one-page summaries will accompany a new or renewal policy, which is generally mailed up to 35 days prior to the effective date, rather than the renewal notice questionnaire which is sent 70 days prior to policy mailing.

RESPONSE: N.J.A.C. 11:2-41.2(a) states that the notices shall accompany, "all homeowners insurance policies issued, delivered, or renewed in this State..." Therefore, the one-page summary is to be provided with the insured's new or renewal policy, not with the renewal questionnaire.

COMMENT: A commenter asks that the Dwelling Form proposed as Exhibit E be revised so that the form coincides with the ISO DP-1 policy, the most basic dwelling policy form. As currently proposed, the summary form reflects ISO DP-2 or DP-3.

RESPONSE: The Department declines to implement the requested change. The sample one-page summary forms in the subchapter Appendix are intended to be applicable to a cross section of policy forms. Most companies offer the DP-2 and DP-3 forms as options to the basic DP-1 Form, so the sample as drafted is appropriate.

COMMENT: A commenter questions the inclusion of “loss assessments” as Coverage D in the proposed summary list for condominiums (Appendix Exhibit B).

RESPONSE: The Department agrees with the commenter and is deleting the section “Loss Assessment (Coverage D)” from Exhibit B’s listing of common coverages. The Department notes that “Loss Assessment (Coverage D)” appeared in the proposal in error. Coverage D is Loss of Use Coverage that is currently the third bullet on Exhibit B Common Coverages. However, the Department believes it is still appropriate to include “loss assessment” in the common Policy Features section.

COMMENT: A commenter seeks clarification whether forms with the following changes from those in the Appendix will need to be filed with the Department: inclusion of company name and contact information; addition of company form numbers and alteration of the format (but not the content) of the sections pertaining to “Your policy covers losses caused by”; and “Your policy does not cover losses by.”

RESPONSE: The Department considers these revisions to be editorial in nature. Therefore, companies do not have to file with the Department if these are the only types of revisions made to the sample forms.

COMMENT: Commenters question the coverage letter designations, that is, “Dwelling (Coverage A)” in the sample forms stating that they are not standardized among insurers. The

commenters propose that the designations be deleted and that companies be allowed to insert their own corresponding designations. They also ask whether a company's insertion of its own designations would fall within the allowance for "...the company issuing such a policy may revise that text, so as to have it accurately reflect the content of the policy."

RESPONSE: Many companies currently use the terminology Coverages A, B, C, and D, and consequently the Department believes that it is appropriate to retain the designations in the sample one-page summary forms. If a company does not, the Department will consider removal of the references to these terms as an editorial change that does not have to be filed.

COMMENT: A commenter asks to what extent can a company revise the text of the sample one-page summary forms before the revisions are considered extensive enough to indicate that the "...model...is not accurate... (and) ...the insurer shall design and use its own one-page summary form."

RESPONSE: As noted above, the Department will consider removal of references to Coverages such as A, B, C and D, and changes in format as editorial changes that do not need to be filed. Any other revisions in the content or wording of the sample forms in the appendix must be filed for review.

COMMENT: A commenter also inquires how the 30-day filing requirement fits into the 90-day implementation time frame noted as the effective date upon adoption.

RESPONSE: Any company-specific forms must be filed 30 days before use. This 30 days is included in the 90-day implementation period from the date of adoption of the rule. As the rules are adopted effective March 2, 2015, carriers must implement the rules by May 31, 2015, and all forms must be filed for review on or before May 1, 2015, which is 30 days before the

implementation date. This time frame is intended to encourage companies to file these forms on a timely basis in order to meet the 90-day implementation period.

COMMENT: A commenter inquires if there is flexibility in how carriers format the document, such as margins and indentions. There may be spacing challenges if carriers are required to include optional coverages purchased by the policyholder.

RESPONSE: The Department will consider changes of margins, formats, and indents with no revision of the content of the form as editorial changes that do not have to be filed. However, the Department also notes that insurers cannot change the the size of the page, one-side usage of the page, and font size as all are required in the rule at N.J.A.C. 11:2-41.3(c).

COMMENT: A commenter requests that the Department clarify which policy types are required to provide these summaries, that is, owners vs. rental. For example, the Department should clarify whether the template for Dwelling/Fire Insurance applies to Rental Dwelling policies. In addition, the template to be used for Rental Condominium Unit Owner policies, or Farm and Ranch policies, should be clarified.

RESPONSE: The one-page summary is intended to be provided to policyholders based on the policy form that is issued to the insureds. If the policyholder is a renter and the insurer provides that insured with an HO-4 Renters Policy, then the insured would receive the Renters Form One-Page Summary. If a policyholder is insured under a Dwelling Fire policy, the policyholder would receive the Dwelling Fire One-Page Summary. A policyholder insured under a Condo Unit Owners Form should receive the Condominium Unit Owner One-Page Summary. Farm and Ranch policies are not considered personal lines policies and therefore the provisions of this subchapter would not apply.

COMMENT: A commenter suggests the following change in language regarding policy renewals (addition underlined; deletion in brackets): “This subchapter shall apply to all homeowners insurance policies as set forth in N.J.A.C. 11:2-41.1(b) issued, delivered, or for which a renewal notice is mailed [renewed] on or after (the 90th day following the effective date of the adoption of the subchapter).”

RESPONSE: The Department does not agree with the request to substitute “or for which a renewal notice is mailed” for the term “renewed.” The text in the rule is identical to the language of the implementing statute at N.J.S.A. 17:36-5.36. This language makes clear that the summaries must be provided with the policy being issued, delivered, or renewed. To issue the summary with the renewal notice would not satisfy this statutory requirement, would not enable contemporaneous review of the policy and summary by the policyholder, and would fail to capture any changes made by the policyholder upon receipt of the renewal notice.

COMMENT: A commenter also proposes to add the word “Typically” in the headings of the Tables, such that they would be entitled: “Your Policy Typically Covers Losses Caused by” and “Your Policy Typically Does Not Cover Losses Caused by.”

RESPONSE: The Department disagrees with this suggestion. The language in the opening paragraphs on the top of the forms is sufficient to explain that the one-page summary is not a policy but a guide, and it makes clear that the insured should refer to their policy, contact the insurer, or contact their agent for coverage specifics. Furthermore, the addition of “typically” would contradict the statutory requirement in N.J.S.A. 17:36-5.36a(3) that the summary identify the notable coverages and exclusions under the policy that it accompanies. As provided in this rulemaking, insurers are required to customize the summary so that it accurately reflects the

notable coverages and exclusions, including notable purchased endorsements, of the specific insurance policy bought by the policyholder.

COMMENT: A commenter also proposes to insert the term “Unit Owners” in the title and text of the Exhibit B Condominium Insurance summary page so that it will read as “Condominium Unit Owners Insurance.”

RESPONSE: The Department agrees with this comment and will make this change upon adoption, as it is common for many companies to call these policy forms “Condominium Unit Owners Forms.”

COMMENT: A commenter requests that the Department confirm that each of the five model summaries, as well as any summaries designed by a company, are to be used as a static summary for each policy type regardless of any optional endorsements the policyholder may have purchased. The table would reflect the coverages provided/excluded by the base policy and could direct the policyholder to their declarations/renewal certificate for a review of any optional coverages they have purchased.

RESPONSE: The Department disagrees with the commenter. As expressly stated in the proposal Summary and text at N.J.A.C. 11:2-41.3(b)2, the proposed new rules provide, and it is the Department’s intent, that the notable coverages and exclusions by type of loss in one-page summary must exactly match the notable coverages and exclusions in the policy that was bought by the policyholder. If an applicable model summary included in the subchapter Appendix satisfies this requirement, then the insurer may use that model summary. If a purchased and issued policy differs from the applicable model summary with regard to the notable coverages and exclusions by type of loss, then the insurer shall, subject to its being filed with the

Department, use its own summary template, customized as necessary to accurately reflect the notable coverages and exclusions by type of loss in the policy being issued to the consumer. This shall include any different notable coverages and/or exclusions by type of loss that are included as part of the insurer's standard policy; any additional notable coverages purchased as endorsements by the consumer; and any additional notable exclusions unique to the policy to which the summary pertains. The Department recognizes, and it is not the intent of this requirement, that the one-page summary will list all coverages or exclusions in a policy. In the samples in the Appendix, the Department has identified the coverages and exclusions by type of loss that it believes to be most notable. These samples are not exhaustive and can be supplemented by an insurer as deemed appropriate. But, at a minimum, the coverages by type of loss listed in the samples must be included in the insurer's summary and the coverage or exclusion indicated on the summary must be customized to match the policy that was purchased by the policyholder. For example, if an insurer's standard homeowners policy does not cover losses caused by earthquake, but a policyholder purchased an endorsement to cover earthquake losses, then the insurer must send a summary to that policyholder identifying earthquake losses as a covered loss. Simply put, the notable coverages and exclusions on the summary cannot be inaccurate with regard to the coverages in the accompanying policy. To allow such would be misleading and counter to the intent of the enabling statute.

COMMENT: A commenter stated that the New Jersey wraparound policies exclude building and contents coverage to the extent it is available from the New Jersey Insurance Underwriting Association (NJIUA) under a Dwelling Policy Form 1 or Dwelling Policy Form 2. The commenter believes that under the proposed new rules, it would seem that special templates for those situations would need to be developed. The commenter asked if the Department is willing

to exempt these wraparound policies from the summary requirement since most of the coverage is actually coming from the NJIUA policy.

RESPONSE: The Department disagrees with the commenter. The Department does not believe a separate template is necessary for the limited amount of wraparound policies in effect in New Jersey. The Department notes that currently it is appropriate for the policyholders to receive two one-page summaries, one from each carrier for each policy. For example, in the case of wraparound policies, the policyholder will receive two separate policies and each should include their own one-page summaries, namely an Exhibit E, the Dwelling Fire Insurance Form for the NJIUA policy, and a separate Exhibit A Homeowners Insurance Form (with any necessary modifications depending upon the wraparound policy) for the policy insuring other perils not covered under the NJIUA. Additionally, two separate insurers will be issuing the separate policies and thus the separate one-page summaries. The issuance of the two separate one-page summaries to the policyholder will assist them in identifying the different coverages provided under the separate and distinct policies.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rules are not subject to any Federal requirements or standards.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

11:2-41.1 Purpose and scope

(a) (No change from proposal.)

(b) This subchapter applies to all homeowners insurance policies ***as defined in N.J.S.A. 17:36-5.33 and N.J.A.C. 11:2-42.2,*** including, but not limited to:

1.-5. (No change from proposal.)

11:2-41.3 Content of one-page summary

(a)-(d) (No change from proposal.)

(e) An insurer that offers a policy that includes notable coverages and/or exclusions by type of loss that differ from those contained in the applicable model summary, and/or that includes additional notable coverages or exclusions by type of loss, shall file with the Department at least 30 days prior to its use a template of the insurer's one-page summary for each such policy. The templates shall include all of the information required in (a) above. The tables required by (a)4 above shall be capable of being modified to include the different notable coverages (whether available through the purchase of endorsements or included as part of the standard policy offered by the insurer) and/or exclusions by type of loss for each policy. Insurers shall also file the text explaining the different notable coverages and/or exclusions by type of loss that will or may be included in the tables of the one-page summary and indicate where such text will be located on the template. All such filings shall also include a certification by an authorized representative of the insurer confirming that the filing complies with all requirements imposed by this subchapter. All one-page summary templates and other filings required by this subsection shall be submitted through the National Association of Insurance Commissioners' System for Electronic Rate and Form Filing (SERFF) in accordance with N.J.A.C. 11:1-2. ***After review of the form, the Department, within 30 days of filing, will send the company a disposition in SERFF indicating one of the following: confirming that the form was placed on file; advising that**

the Department has questions and the form is still under review; or advising that the filing is disapproved. Notifications of questions or disapproval will provide the specifics of the Department's action on the filing.*

(f) (No change from proposal.)

11:2-41.4 Policies affected

This subchapter shall apply to all homeowners insurance policies as set forth in N.J.A.C. 11:2-41.1(b) issued, delivered, or renewed on or after *[(the 90th day following the effective date of the adoption of the subchapter)]* ***May 31, 2015***.

EXHIBIT B

Condominium *Unit Owners* Insurance

THIS SUMMARY HIGHLIGHTS THE NOTABLE COVERAGES AND EXCLUSIONS ASSOCIATED WITH YOUR CONDOMINIUM INSURANCE POLICY AND IS ONLY PROVIDED AS GUIDANCE IN HELPING YOU UNDERSTAND YOUR POLICY. THIS SUMMARY DOES NOT ALTER YOUR COVERAGE IN ANY WAY. YOUR INSURANCE POLICY IS A CONTRACT THAT GOVERNS YOUR LEGAL RIGHTS. PLEASE CONTACT [YOUR AGENT / US] IF YOU HAVE ANY QUESTIONS.

REFER TO YOUR DECLARATIONS PAGE FOR INFORMATION ON DEDUCTIBLES AND THE SPECIFIC LIMITS OF YOUR POLICY FOR EACH OF THE INCLUDED COVERAGES. REFER TO THE APPLICABLE POLICY PROVISIONS FOR OTHER INFORMATION SPECIFIC TO THESE COVERAGES, AND ON ANY ADDED COVERAGES OR EXCLUSIONS IN YOUR POLICY. FOR ADDITIONAL GUIDANCE AND INFORMATION, SEE THE "INSURING YOUR HOME" GUIDE ON THE N.J. DEPARTMENT OF BANKING AND INSURANCE WEBSITE AT http://www.state.nj.us/dobi/division_consumers/pdf/insuringyourhome.pdf

Most condominium policies in New Jersey include the following common coverages:

- **Dwelling (Coverage A)** Your condominium policy will cover property that is permanently installed in your condo unit that is not otherwise covered by your condominium association's insurance policy.
- **Personal property (Coverage C)** pays if the items in your condo unit (such as furniture, clothing, computers and TVs) are damaged, stolen, or destroyed by a covered loss.
- *[• **Loss of use (Coverage D)** pays your additional living expenses (costs over the normal amount for housing, food, and other essential expenses) if you must temporarily move because damage to your condo unit from a covered loss renders it uninhabitable.]*
- **Loss Assessment (Coverage D)** covers your share of an assessment charged by your condominium association for covered losses under your policy that are incurred by the association.
- **Personal liability (Coverage E)** pays to defend you in court against certain lawsuits and provides coverage if you are found legally responsible for someone else's injury or property damage.
- **Medical payments to others (Coverage F)** pays the medical bills of people hurt on your property. It might also pay for some injuries that happen away from your condo unit, such as your dog biting someone at the park.

Policy Features

- Companies may exclude coverage for certain losses. Even the most comprehensive policy will exclude certain types of damage.
- All policies include an all-peril deductible. The deductible is the portion for which you are responsible on a covered property loss.
- Some policies may include a separate optional wind/hail and/or a mandatory or optional hurricane deductible.
- Companies may offer optional coverages that include loss assessment, coverage for oil tank liability, water back up and sump pump overflow, ordinance or law coverage, earthquake and scheduled personal property such as jewelry, fine arts, furs or silverware.

Your Policy Covers Losses Caused by	Your Policy Does Not Cover Losses Caused by
Fire and lightning	Flooding including tidal surge (Note: Flood insurance may be available through the National Flood Insurance Program (www.floodsmart.gov))
Sudden and accidental damage by smoke	Earthquakes, earth movement, landslides, mudslides & sinkholes
Explosion	Termites, insects, rats, mice, birds or other vermin
Theft	Freezing pipes (unless water was shut off or building was heated)
Vandalism and malicious mischief	Certain losses if your condo unit is vacant for the number of days specified by your policy
Aircraft and vehicles	Wear and tear, rotting, maintenance and pollution
Windstorm or hail	Wind or hail damage to trees and shrubs
Sudden and accidental water damage	Mold, unless it is as a result of a covered loss (for example, mold damage due to flood would not be covered)
Weight of ice, snow or sleet	Water damage resulting from continuous and repeated seepage
Riot and civil commotion	Liability which results from the ownership or use of an automobile and other types of motorized land vehicles, aircraft or certain watercraft
	Intentional acts caused by you or a resident of your home
	War and Nuclear Hazard