

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Acting Commissioner of the Department of Insurance, Securities and Banking, pursuant to the authority set forth in sections 117 and 125 of Insurance Trade and Economic Development Amendment Act of 2000, effective April 3, 2001 (D.C. Law 13-265; D.C. Official Code §§ 31-2231.17 and 31-2231.25), hereby gives notice of the adoption, on an emergency basis, of the following amendments to Chapter 50 (Unfair Trade Practices) of Title 26-A (Insurance) of the District of Columbia Municipal Regulations (DCMR).

The District of Columbia (District), together with cities across the nation, recently experienced mass demonstrations and protests against police brutality and racial discrimination. During these events, personal and real property were vandalized and damaged. Given the nature and extent of the damage, and the public interest in having claims resolved expeditiously so businesses may reopen when permitted by law, the Acting Commissioner has determined that immediate action is necessary to protect consumers and ensure the public's safety and welfare.

The purpose of this rulemaking is to enhance the transparency and accountability when insurance claims are investigated and resolved. The new rules establish: (1) fixed time periods for insurers to investigate and resolve insurance claims; and (2) with respect to any claim filed on or after May 30, 2020 for a loss resulting from the consequences of the mass gatherings and protests in the District, that insurers shall (a) reimburse policyholders for reasonable expenses incurred without prior approval to secure real property to protect the public safety and welfare, (b) accept photographs and video recordings as evidence of proof of loss, and (c) file weekly reports to the Commissioner regarding any such claim not resolved within the time periods provided in these rules.

This emergency rulemaking was adopted on June 12, 2020 and became effective on that date. The emergency rules shall remain in effect for not longer than one-hundred and twenty (120) days from the date of adoption, expiring October 10, 2020, unless superseded by a Notice of Final Rulemaking. The Acting Commissioner also gives notice of the intent to adopt this proposed rulemaking in not less than thirty (30) days after publication in the *D.C. Register*.

Chapter 50, UNFAIR TRADE PRACTICES, of Title 26-A DCMR, INSURANCE, is amended as follows:

A new Section 5002 is added to read as follows:

5002 DUTY TO PROMPTLY INVESTIGATE AND RESOLVE CLAIMS

5002.1 For the purposes of this section, the term "claim" means a written notice of or request for reimbursement for a loss covered under a property and casualty insurance policy filed on or after May 30, 2020 but before the expiration of this emergency rulemaking and resulting from the consequences of the mass demonstration and protest in the District. To substantiate a claim, the policyholder

may be required by the insurer to document and submit proof of the loss to any personal or real property.

- 5002.2 Every insurer shall establish procedures to commence an investigation of any claim within 15 business days of receiving notice. Within business 15 days of receiving a notice of claim, an insurer shall acknowledge the claim in writing and provide all forms, instructions and any other information the insurer reasonably believes is necessary to investigate and resolve the claim. A claim filed with an agent of an insurer shall be deemed to have been filed with the insurer unless the agent is not authorized to receive notices of claims and informs the person filing the claim in writing.
- 5002.3 Within 15 business days of receipt of a properly executed claim and supporting proof of loss, the claimant shall be advised in writing of the acceptance or rejection of the claim by the insurer. If a claim involves fire damage, then the insurer shall have 30 business days to accept or reject the claim.
- 5002.4 If the insurer needs more time to determine whether the claim should be accepted or rejected, then it shall notify the policyholder in writing prior to expiration of the time periods provided in subsection 5002.3 of this section. The notification shall include an explanation of why additional time is needed to investigate or resolve the claim. Any request for additional time may not exceed 30 business days. If more than one additional extension is necessary, then the insurer shall submit a renewed notification that includes an updated explanation of why the additional time is needed and each successive extension shall be limited to 30 business days.
- 5002.5 When an insurer decides to approve or reject a claim, in whole or in part, then the insurer shall inform the policyholder in writing and include any amounts offered to settle the claim or provide copies of the applicable policy provisions limiting coverage.
- 5002.6 Where necessary to protect the public safety and welfare, reasonable expenses incurred by a policyholder to secure or repair real property without prior approval or a physical inspection shall be reimbursed by the insurer.
- 5002.7 Photographs or video recordings, material samples, and receipts for any repairs to or replacement of property, among other acceptable forms of evidence, may be used to establish proof of damage to real or personal property.
- 5002.8 If a policyholder has not been advised in writing of whether the insurer has accepted or rejected the claim within the time frames provided in this section, then the insurer shall submit a weekly report on each Tuesday, or if a holiday, then the next business day, to the Commissioner and shall include the following information:
- (a) The date of the loss;

- (b) The address where the loss occurred;
- (c) The date the claim was received by the insurer;
- (d) The date the claim was perfected, including a properly executed proof of loss and supporting documentation;
- (e) The amount claimed by the policyholder for the loss;
- (f) The number of extensions requested, and the explanations provided;
- (g) The anticipated date a final determination will be made on the claim.

Persons desiring to comment on these emergency and proposed rules should submit comments by email to Christian Washington, at christian.washington@dc.gov. Comments must be received not later than thirty (30) days after the publication of this notice in the *D.C. Register*. Copies of the emergency and proposed rules may be obtained from the Department by email request.