Department of Commerce & Insurance

Bulletin

TO: All Licensed Property and Casualty Insurance Companies

FROM: Julie Mix McPeak, Commissioner Julie Mix McPeak

RE: Sinkhole Coverage for Residential Properties

DATE: August 12, 2015

The purpose of this Bulletin is to reassert the Department's previously stated position regarding sinkhole coverage and the filings required by Tenn. Code Ann. § 56-7-130 for homeowner property insurance in light of legislative amendments effective July 1, 2015.

Tenn. Code Ann. § 56-7-130(b) provides:

> Every insurer offering homeowner property insurance in this state shall make coverage available for insurable sinkhole losses, including contents of personal property contained in the dwelling. The insurer may require an inspection of the property before issuance of sinkhole loss coverage. Nothing in this section mandates that sinkhole loss coverage be included in any homeowner property insurance policy, but only that insurers offering homeowner property insurance make such coverage available for optional purchase on request by policyholders.

Tenn. Code Ann. § 56-7-130(c) provides:

> Every insurer offering homeowner property insurance in this state shall make a proper filing with the department to comply with this section. The insurer may make sinkhole loss coverage available in the homeowner policy itself, by endorsement, or through other coverage that the insurer may arrange, and the insurer may make an additional charge for the coverage.

The definition of "homeowner property insurance", found in Tenn. Code Ann. § 56-7-130(a)(5), was amended through the passage of Public Chapter No. 162 of the 109th General Assembly, effective July 1, 2015, to mean "an insurance policy that includes coverage for a residential dwelling." In addition, the definition of "covered structure" found in Tenn. Code Ann. § 56-7-130(a)(3) was amended to mean "any structure, including personal property contained in the structure, to the extent covered under the terms of the policy." The revisions clarify that sinkhole coverage made available by insurers offering homeowner property insurance in this state would include coverage for all structures on the property, including personal property contained in the structure, rather than limiting coverage to the residential building on the property.

The amendments to the language do not affect the position taken by the Department in a previous

related Bulletin issued June 12, 2014. The Department reasserts the previously stated position that the "make available" provision found in Tenn. Code Ann. § 56-7-130(b) may not limit the availability of coverage for insurable sinkhole losses to the inception of the policy, but rather must make such coverage available upon the request of a consumer.

In addition, the Department asserts that the July 1, 2015, revisions to the definition of "homeowner property insurance" do not affect the position taken in an August 18, 2006, Bulletin which stated that the term extends the application of the section to all policy forms intended for owner occupied one (1) to four (4) family residences. This would include owner occupied dwelling fire, farm owners, mobile homeowner, modular or manufactured homeowners, condominium and townhouse owner policies in addition to the homeowner's multi-peril policy, and any future policy intended to cover owner occupied one (1) to four (4) family residences.

Any questions about the intent of this Bulletin should be directed to the Insurance Division's Policy Analysis Section, 7th Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee, 37243, and/or (615) 741-2825.