

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	05/05/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 6/13/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

31 08 14 01—.03

3. Name of Promulgating Authority

Maryland Insurance Administration

4. Name of Regulations Coordinator

Katrina Lawhorn

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5. Name of Person to Call About this Document

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6. Check applicable items:

X- New Regulations

- Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: .
 - Repeal of Existing Regulations
 - Recodification
 - Incorporation by Reference of Documents Requiring DSD Approval
 - Reproposal of Substantively Different Text:
 - 40: 20 Md. R 1729-1730 10/14/2013
 - (vol.) (issue) (page nos) (date)
- Under Maryland Register docket no.: 13-302-P.

7. Is there emergency text which is identical to this proposal:

Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Lisa Hall, Assistant Attorney General, (telephone #410-468-2030) on May 2, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Therese M. Goldsmith

Title

Insurance Commissioner

Telephone No.

410-468-2090

Date

May 5, 2014

MARYLAND INSURANCE ADMINISTRATION

Subtitle 08 PROPERTY AND CASUALTY INSURANCE

31.08.14 Coverage for Loss Caused by Water That Backs Up Through Sewers or Drains

Authority: Insurance Article, §§2-109 and 19-202, Annotated Code of Maryland

Notice of Proposed Action

□

The Insurance Commissioner proposes to adopt new Regulations .01 - .03 under COMAR 31.08.14 Coverage for Loss Caused by Water That Backs Up Through Sewers or Drains. Since substantive changes have been made to the original proposal as published in 40:20 Md. R. 1729 – 1730 (October 4, 2013), the action is being repropose.

Statement of Purpose

The purpose of this action is to implement Insurance Article, §19-202, Annotated Code of Maryland by establishing standards for the offer of coverage, under a homeowner's insurance policy, for loss caused by water that backs up through sewers or drains. The purpose of the reproposal is to clarify the scope of the regulations; change the defined terms "Coverage A," "Coverage B," "Coverage C," and "Coverage D" to the more descriptive terms "dwelling coverage," "other structure coverage," "personal property coverage," and "loss-of-use coverage"; clarify the definitions of the terms "dwelling coverage," "other structure coverage," and "homeowner's insurance"; add definitions of the terms "flood" and "water"; delete references to "waterborne material" that have been made unnecessary by the definition of the term "water"; clarify that the offer of coverage is for loss caused by water that backs up into a dwelling or other covered structure; and provide that an insurer that makes an offer of coverage for loss caused by water that backs up through sewers or drains with certain limits, also may offer the coverage with a combined single limit.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

Insurers that issue a homeowner's insurance policy but do not offer coverage for loss caused by the backup of water with limits equal to the coverage limits of the homeowner's insurance policy will be required to file revised rates and forms with the MIA and pay \$125 for each form filed and each rate filing. Insurance consumers will benefit from the availability of coverage for loss caused by the backup of water with limits equal to the coverage limits under their homeowner's insurance policies.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	(R+)	Minimal
B. On other State agencies:	NONE	
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)	Minimal
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:	(+)	Unquantifiable

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. The Insurance Administration will experience a minimal increase in revenue to the Insurance Regulation Fund due to collection of the \$125 filing fee.

D. Insurers that issue a homeowner’s insurance policy but do not offer coverage for loss caused by the backup of water with limits equal to the coverage limits of the homeowner’s insurance policy will be required to file revised rates and forms with the MIA and pay \$125 for each form filed and each rate filing.

F. Insurance consumers will benefit from the availability of coverage for loss caused by the backup of water with limits equal to the coverage limits under their homeowner’s insurance policies.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Katrina Lawhorn, Regulations Coordinator, Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, or call 410-468-2450, or email to katrina.lawhorn@maryland.gov, or fax to 410-468-2020. Comments will be accepted through July 14, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain

funds to implement the regulations?

No

C. If 'yes', state whether general, special (exact name), or federal funds will be used:

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

Implementation of the regulations will not require any additional funds.

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

The regulations apply only to insurance companies.

G. Small Business Worksheet:

Attached Document:

TITLE 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 08 Property and Casualty

31.08.14 Coverage for Loss Caused by Water That Backs Up Through Sewers or Drains

Authority: Insurance Article, §§2-109 and 19-202, Annotated Code of Maryland

.01 Scope.

This chapter does not apply to loss that is caused by a flood.

[[[.01]]] (2) Definitions.

A. (originally proposed text unchanged)

B. *Terms Defined.*

(1) (originally proposed text unchanged)

(2) “**[[[Coverage A]]] Dwelling coverage**” means coverage under a policy of homeowner’s insurance for losses resulting from damage to: **[[[the policyholder’s dwelling and any structure attached to the dwelling.]]]**

(a) The dwelling of the policyholder; and

(b) Any structure of the policyholder that is attached to the dwelling.

(3) “**[[[Coverage B]]] Other structure coverage**” means coverage under a policy of homeowner’s insurance for losses resulting from damage to a structure **of the policyholder** that is on the same property as the policyholder’s dwelling, but is not attached to the dwelling.

(4) “**[[[Coverage C]]] Personal property coverage**” means coverage under a policy of homeowner’s insurance for losses resulting from damage to personal property that is owned by the policyholder or used by the policyholder.

(5) “**[[[Coverage D]]] Loss-of-use coverage**” means coverage under a policy of homeowner’s insurance for loss of use of the policyholder’s dwelling.

(6) “**Drain**” means a line, pipe, or any other part of a system that:

(a) (originally proposed text unchanged)

(b) **Drains water** **[[[or waterborne material]]]** away from the dwelling.

(7) Flood.

(a) "Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(i) The overflow of inland or tidal waters;

(ii) The unusual and rapid accumulation or runoff of surface water from any source; or

(iii) Mudslides that are proximately caused by the unusual and rapid accumulation or runoff of surface water from any source and are similar to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) "Flood" includes a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters due to the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by:

(i) Waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm;

(ii) An unanticipated force of nature, such as a flash flood or abnormal tidal surge; or

(iii) A similarly unusual and unforeseeable event.

[[[(7)]]] **(8) Homeowner's Insurance.**

(a) "Homeowner's insurance" means insurance for residential property provided under:

(i) — (ii) (originally proposed text unchanged)

[[[(iii) A townhome owner's policy;]]]

[[[(iv)]]] **(iii) [[[(vi)]]] (v) (originally proposed text unchanged)**

(b) (originally proposed text unchanged)

[[[(8)]]] **(9) (originally proposed text unchanged)**

(10) "Water" includes sewage and other waterborne waste matter.

[[[.02]]] **.03 Offer of Coverage.**

A. An insurer that issues, sells, or delivers a policy of homeowner's insurance in the State shall at the time of application and renewal offer in writing to provide coverage for loss that:

(1) Is caused by or results from water or [[[(or waterborne material)]]] that backs up into a dwelling or other covered structure through a sewer or drain, regardless of the origin of the water [[[(or waterborne material)]]; and

(2) (originally proposed text unchanged)

B. An insurer that is required to offer coverage under §A of this regulation shall offer the coverage for loss that is caused by or results from water [[[(or waterborne material)]]] that backs up through a sewer or drain with limits equal to the limits of liability for [[[(Coverage A, Coverage B, Coverage C, and Coverage D)]]] **dwelling coverage, other structure coverage, personal property coverage, and loss-of-use coverage under the policy of homeowner's insurance.**

C. If an insurer makes an offer of coverage that meets the requirements of §B of this regulation, the insurer also may offer the coverage for loss that is caused by or results from water [[[(or waterborne material)]]] that backs up through a sewer or drain with [[[(limits that are less than the limits for Coverage A, Coverage B, Coverage C, and Coverage D under the policy of homeowner's insurance.)]]]:

(1) limits that are less than the limits for dwelling coverage, other structure coverage, personal property coverage, and loss-of-use coverage under the policy of homeowner's insurance; or

(2) a combined single limit for dwelling coverage, other structure coverage, personal property coverage, and loss-of-use coverage that is equal to or less than the highest limit of liability under the policy of homeowner's insurance.