

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
1511 Pontiac Avenue
Cranston, RI 02920

INSURANCE REGULATION 58

**PROCEDURE FOR SURRENDER AND NON-RENEWAL OF
LICENSES BY INSURERS AUTHORIZED TO WRITE
INSURANCE IN RHODE ISLAND**

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Section 1 **Purpose, Scope and Authority**

(a) Purpose and Scope.

This Regulation establishes the procedure by which an insurer licensed to write insurance in Rhode Island may surrender or non-renew its existing license and requires submission of a withdrawal plan that will protect the residents of the state. The plan shall be approved by the Commissioner of Insurance prior to becoming effective.

The purpose of this Regulation is to limit and prevent, where possible, market disturbances and to preserve the rights of insureds and others affected by the withdrawal of insurers from the Rhode Island insurance market, while permitting insurers to phase out their business in an orderly fashion consistent with their obligations under applicable laws.

(b) Authority.

This Regulation is promulgated in accordance with the authority granted to the Director of the Department of Business Regulation R.I. Gen. Laws §§ 27-1-1 *et seq*, 27-2-1 *et seq*, 27-3-1 *et seq*, 27-7.1-1 *et seq*, 27-7.2-1 *et seq*, 27-13-1 *et seq*, 27-16-1 *et seq*, 27-18-1 *et seq*, 27-19-1 *et seq*, 27-20-1 *et seq*, 27-20.1-1 *et seq*, 27-20.2-1 *et seq*, 27-20.3-1 *et seq*, 27-20.4-1 *et seq*, 27-29-1 *et seq*, 27-41-1 *et seq*, and 27-46-1 *et seq*, 42-14-1 *et seq* and 42-62-1 *et seq*.

Section 2 Applicability and Effective Date

This regulation applies to any insurance company that has obtained a license pursuant to Title 27 and that intends to surrender or to not renew such license for any line or all lines of business.

No applicant may implement a withdrawal plan until that plan is approved by the Commissioner in accordance with the provisions of this regulation.

Section 3 Definitions

As used in this Regulation, the following terms shall mean:

- (a) Applicant: an insurer who proposes to surrender, not renew, or amend any license to delete approval, in whole or in part, to engage in the business of insurance in the State of Rhode Island and seeks approval of a withdrawal plan to implement that proposal.
- (b) Affiliate: any corporation or business of any type which controls the applicant or any corporation or business of any type which is either controlled by the applicant, or by a corporation or business which controls the applicant. "Control" shall have the meaning ascribed to it in R.I. Gen. Laws § 27-35-1(c).
- (c) Commissioner: the Commissioner of Insurance appointed pursuant to R.I. Gen. Laws § 42-14-1 et seq., or his or her designee.
- (d) Department: the Department of Business Regulation, established pursuant to R.I. Gen. Laws § 42-14-1 et seq.
- (e) Insurer: any company licensed under Title 27 or R.I. Gen. Laws § 42-62-1 et seq of the General Laws of Rhode Island.
- (f) License: any license, certificate of authority, certificate of compliance, or other formal approval granted or issued by the Department of Business Regulation, Division of Insurance, allowing an insurer to transact the business of insurance in Rhode Island. License shall not mean a formal approval to an excess or surplus lines insurer.
- (g) NCCI: National Council on Compensation Insurance.
- (h) NWCRP: National Worker's Compensation Reinsurance Pool.
- (i) Policy: any policy of insurance, annuity, rider, endorsement or other contract which provides benefits to any Rhode Island resident.
- (j) Producer: an insurance "agent" or "broker" or a person who solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance or who offers advice, counsel, opinion or service in this state

licensed in accordance with the General Laws of Rhode Island, as amended. An insurance producer does not include an excess or surplus lines agent or broker licensed pursuant to R.I. Gen. Laws § 27-3-38.

- (k) Rhode Island Resident: a person who is domiciled in Rhode Island or a corporation or business entity doing business or having any employees in Rhode Island.
- (l) Surrender: voluntary relinquishing of a license or part of a license, the intentional failure to renew a license or part of a license, or the amendment of any license to delete a line or lines of business.
- (m) Withdrawal Plan: a plan submitted by an applicant in accordance with the provisions of this regulation which describes how the applicant proposes to surrender or not renew any or all licenses.
- (n) Workers' Compensation Insurance Fund: the plan and entity established by R.I. Gen. Laws § 27-7.2-1 *et seq.* which serves as a voluntary and residual market mechanism for workers' compensation insurance.

Section 4 Filing Requirements

- (a) Effect of Filing: Nothing contained in this Regulation shall preclude the Commissioner from initiating a proceeding to revoke or suspend the applicant's license or licenses.
- (b) Timing: An applicant intending to surrender any license or part of any license shall submit all documents required by Section 5(c) of this Regulation no less than ninety (90) days before the proposed effective date of the withdrawal.
- (c) Content of Plan: The applicant shall submit to the Commissioner a withdrawal plan which shall contain the following:
 - (1) A copy of all Rhode Island licenses currently held by the applicant, indicating the date on which such licenses were issued;
 - (2) An organizational chart indicating the relationship among the applicant and its affiliates;
 - (3) A provision that the insurer will comply with all lawful fair claims practice requirements contained in the insurance laws and applicable regulations of the Department;
 - (4) A provision that insureds and producers of record of affected inforce policies will be advised of the insurer's intention to surrender a Rhode Island license. Such notice must be given no later than thirty (30) days after the insurer files the withdrawal plan

with the Commissioner. Copies of the prototype notice the applicant intends to send to its insureds and prototypes of any other notices of nonrenewal or cancellation shall be submitted to the Commissioner. All such notices shall include the following statement:

"[Name of applicant] has submitted a withdrawal plan for approval by the Commissioner of Insurance of the State of Rhode Island which will result in the [applicant's] cessation of [Insert line(s) of insurance] insurance in Rhode Island. Should the withdrawal plan be disapproved, you will be notified."

- (5) A list of all of the applicant's producers of record of affected Rhode Island business as of the date of submission of the withdrawal plan.
- (6) A written statement that the insurer will comply with all lawful rulings and directives pertaining to cessation of business in Rhode Island issued by the governing bodies of the following entities:
 - (a) NWCRP;
 - (b) the Rhode Island Life and Health Insurance Guaranty Association;
 - (c) the Federal Riot Reinsurance Reimbursement Fund;
 - (d) the Rhode Island Insurers' Insolvency Fund;
 - (e) the Workers' Compensation Insurance Fund;
 - (f) Rhode Island Auto Insurance Plan; and,
 - (g) any other residual market facility or other entity required by law.
- (7) A list and the amount of all the applicant's deposits currently held by the General Treasurer of the State of Rhode Island.
- (8) A provision that for as long as there exist any potential claims arising from any insurance policy written by the applicant which insures a Rhode Island resident:
 - (i) the applicant will fully honor its obligations arising from any such policy;
 - (ii) the applicant will fully service all outstanding policies, bonds, and surety lines or credit, including processing all usual and customary endorsements that become effective

while such policies are in effect, subject to the applicant's normal underwriting standards;

- (iii) the applicant will not unfairly discriminate against Rhode Island policyholders in its dividend practices in those cases in which policies remaining in force provide for dividends to be paid;
 - (iv) the applicant will continue to submit annual statements to the Division of Insurance, will continue to submit information to the entities identified in Section 5(c)(6) above upon request, will agree to examination by the Division of Insurance as deemed necessary by the Commissioner, will pay the costs of examination under applicable statutes until notice is given that reports are no longer required, and will continue to operate in accordance with and submit to the Commissioner's jurisdiction under R.I. Gen. Laws § 27-16-1 *et seq*, provided, however, that this subparagraph (iv) shall apply only if applicant is surrendering or nonrenewing its authority to write all lines of insurance; and;
 - (v) the Commissioner of Insurance will continue as applicant's agent for service of process, if applicable.
- (9) A written statement that the applicant will promptly pay all statutory assessments it is legally obligated to pay.
- (10) If the applicant is surrendering or nonrenewing its authority to write all lines of insurance, a provision that the applicant will maintain a security deposit in an amount sufficient to provide security for its outstanding liabilities including but not limited to unearned premiums, policy reserves, policy liabilities, and unpaid losses, including incurred but not reported losses, to Rhode Island policyholders and claimants if the Commissioner so requires.
- (11) A written agreement that, upon the Commissioner's request, the applicant will maintain a staffed service office in Rhode Island and/or a toll free telephone number directly to the insurer's home office for the use of the applicant's policyholders and claimants. The listing of such telephone number in telephone directories in this state will not constitute the solicitation of business in this state. Policyholders, producers, and claimants shall be furnished with the telephone number with each written communication from the insurer.

- (12) A provision that the insurer will have responsible representatives available in Rhode Island for conferences or discussions when required by the Commissioner.
- (d) Incomplete Filings. In the event the Commissioner finds the initial filing of a withdrawal plan incomplete, he or she shall notify the applicant in writing within thirty (30) days after receipt of such filing, and shall specify the additional documents or information required by Section 5(c). The applicant shall file the additional information within fifteen (15) days of its receipt of the notice, or longer if permitted by the Commissioner. Failure to comply with such a request for additional information may delay the approval of the withdrawal plan.
- (e) Complete Filings. A filing shall not be deemed complete until all information required by Section 5(c) has been received by the Commissioner.
- (f) Abbreviated Filings. The Commissioner may permit an abbreviated filing when an applicant proposes to surrender or not renew its license for a line of insurance in which it wrote less than five per cent (5%) of the total Rhode Island premium for that line of business in any of the three (3) most recent years for which data is available, and proposes to otherwise retain at least one other line of insurance. The procedure for this abbreviated filing is as follows:
- (1) The insurer shall file with the Commissioner its proposed abbreviated filing, which shall include:
- (i) a request for an abbreviated filing; and
- (ii) the information it proposes to file as the abbreviated filing.
- (2) The Commissioner shall, within thirty (30) days of receipt of the proposed abbreviated filing:
- (i) grant the request for an abbreviated filing and accept the filing as complete;
- (ii) grant the request for an abbreviated filing and request additional information; or
- (iii) deny the request for an abbreviated filing and require a full filing pursuant to Section 5(c).

If the Commissioner fails to act within thirty (30) days, the request for an abbreviated filing will be deemed to have been granted. In such a case, the Commissioner retains the right to request additional information pursuant to (f)(2)(ii) above.

Section 5 **Review and Approval of Filing**

- (a) The Commissioner shall promptly review a completed withdrawal plan, and may conduct a hearing, if necessary, to inquire into any aspect of the withdrawal plan.
- (b) The Commissioner shall issue a written decision on the applicant's withdrawal plan no later than thirty (30) days from the receipt of a complete filing. The Commissioner shall approve the plan if it conforms with the requirements of Section 5(c). If the decision disapproves the withdrawal plan in whole or in part, the Commissioner shall specify in what respect(s) the plan fails to conform with the requirements of Section 5(c).
- (c) In the event the Commissioner disapproves an applicant's withdrawal plan without hearing, the applicant may request a hearing by filing a written request for a hearing within ten (10) days of its receipt of notice of disapproval. The Commissioner shall schedule the hearing to be held within twenty (20) days of receipt of the request for the hearing. Within thirty (30) days after the conclusion of the hearing, the Commissioner shall either approve, approve with conditions or disapprove the withdrawal plan. The applicant shall have the right to judicial review of the Commissioner's decision in accordance with the provisions of R.I. Gen. Laws § 42-35-1 *et seq.*

Section 6 **Severability**

If any provision of this Regulation or its applicability to any person or entity is held invalid by a court, the remainder of this regulation shall not be affected thereby.

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