



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

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Bulletin 2010-03

TO: Insurance Carriers Offering, Issuing, or Renewing Home Insurance Products in Massachusetts

FROM: Joseph G. Murphy, Acting Commissioner of Insurance

DATE: February 1, 2010

RE: Coverage Required under Chapter 453 of the Acts of 2008 to be Offered to Home Policyholders for the Costs to Remediate Liquid Fuel Spills

The purpose of this Division of Insurance (Division) Bulletin is to remind insurance carriers¹ that offer, issue, or renew home insurance coverage to owners of residential property of their obligations under Chapter 453 of the Acts of 2008 to make available coverage for the costs associated with the remediation of an oil spill. Such coverage is required to be made available along with all home insurance offered, issued or renewed on or after July 1, 2010. For the purpose of these requirements, "Residential Property" shall mean a 1 – 4 unit dwelling used for living or sleeping and "tank" shall mean a liquid fuel tank in which heating oil is stored and from which heating oil is delivered or pumped through a fuel supply line to an oil burner, whether located within a dwelling or other structure, including tanks installed at or below grade level, or located outdoors but excluding underground tanks wherever located.

Coverage Limits

- The statute requires that the coverage be made available to all residential owners. However, the statute also states that an insurer may require that an owner supply proof that they have taken all remediation steps required by law or regulation as a precondition to the issuance of the coverage outlined in the statute. The statute also provides as follows: Carriers must make available first-party property coverage of at least \$50,000 per occurrence for the costs incurred under M.G.L. c. 21E or c. 21K - or associated regulations - to respond to a release of heating oil from a residential liquid fuel tank or any piping, fuel supply lines, equipment or systems connected to the fuel tank. This coverage also extends to the costs incurred to (1) assess and remediate a heating oil release impacting soil, indoor air or other environmental media on the insured's property and (2) reimburse for any associated personal property coverage.

¹ For purposes of this memorandum, this includes the Massachusetts Property Insurance and Underwriting Association, also known as the Fair Plan.

- Carriers must make available liability coverage of at least \$200,000 per occurrence for third-party claims and legal defense arising out of a release of heating oil into the environment. The coverage shall defend and indemnify the insured against any third-party claims and shall include response action costs incurred to address conditions on and off the insured's property arising from a heating oil release on the insured's property that has impacted or is likely to impact groundwater or has migrated to, or is likely to migrate to, a third party's property. In addition to the specified coverage limits, carriers must also make available coverage for the legal defense costs arising from a covered event.
- First-party property and third-party liability coverage shall apply simultaneously.
- Carriers may apply a reasonable deductible not to exceed \$1,000 per claim.

Reporting Requirements

Each insurance company offering, issuing or renewing home insurance in the Commonwealth will be expected to report information each year to the Division regarding the number of policies or endorsements with coverage for the costs to remediate liquid fuel spills and associated premium/rates written in the previous year. This information will be included in a report that the Department of Environmental Protection will produce for the Massachusetts General Court each July 1. The Division will issue an annual data call to identify information to be submitted for use in this report.

Filing Requirements

Carriers are required to file proposed changes to their underlying forms, endorsements, or riders, as well as any accompanying rate changes, for review by the Division sufficiently in advance of the July 1, 2010 date in order to be able to offer, issue, or renew coverage in compliance with M.G.L. c. 175, § 4D. Companies should review the General Filing Instructions in SERFF (the System for Electronic Rate and Form Filing) for the latest filing instructions and information about filing materials with the Division. Companies should also review the provisions of the Act to ensure that they are complying with the terms thereof.

A carrier will not be able to offer, issue or renew home insurance in Massachusetts on and after July 1, 2010 unless appropriate forms have been placed on file with the Division to comply with M.G.L. c. 175, § 4D. The Division will refer to its Special Investigations Unit any instance of a carrier offering, issuing or renewing home insurance coverage on or after July 1, 2010 without making coverage available consistent with the requirements of M.G.L. c. 175, § 4D.

If you have any questions about this Bulletin, please contact Edward Charbonnier, Director of Policy Form Review, at (617)521-7481 or Edward.charbonnier@state.ma.us.