



**STATE OF NEW YORK
INSURANCE DEPARTMENT**
25 BEAVER STREET
NEW YORK, NEW YORK 10004

Eliot Spitzer
Governor

Eric R. Dinallo
Superintendent

**Circular Letter No. 11 (2007)
August 28, 2007**

TO: TO ALL PROPERTY/CASUALTY INSURERS

RE: NON-RENEWAL OF INSURED WITH HOMEOWNERS INSURANCE WHO DO NOT ALSO HAVE OTHER INSURANCE BUSINESS WITH THE INSURER

It has come to the Department's attention that some property/casualty insurers are non-renewing homeowners insurance policies where the insureds do not also have other insurance business, such as automobile or life insurance, with the insurer or its affiliates. The non-renewal notices state that in order to avoid non-renewal of the homeowners coverage, an insured must have had supporting business as of a certain date in the past. By tying the renewal to a pre-existing event, these insurers apparently believe that this condition for renewal fall outside the scope of Insurance Law § 2324, which prohibits inducements in the making of the new (renewal) contract. The Department considers this supporting business condition to constitute an unlawful inducement in violation of Insurance Law § 2324, which provides:

(a) No authorized insurer, no licensed insurance agent, no licensed insurance broker, and no employee or other representative of any such insurer, agent or broker shall make, procure or negotiate any contract of insurance other than as plainly expressed in the policy or other written contract issued or to be issued as evidence thereof, or shall directly or indirectly, by giving or sharing a commission or in any manner whatsoever, pay or allow or offer to pay or allow to the insured or to any employee of the insured, either as an inducement to the making of insurance or after insurance has been effected, any rebate from the premium which is specified in the policy, or any special favor or advantage in the dividends or other benefit to accrue thereon, or shall give or offer to give any valuable consideration or inducement of any kind, directly or indirectly, which is not specified in such policy or contract...[Emphasis supplied.]

Thus, with respect to property/casualty insurance policies, Insurance Law § 2324 prohibits, among other things, an authorized insurer from giving or offering to give any valuable consideration or inducement of any kind, directly or indirectly, that is not specified in the policy or contract, or engaging in unlawful rebating or discrimination.

These insurers' actions violate Insurance Law § 2324 because, by their well-publicized actions, they are inducing their policyholders to maintain supporting business with the respective insurers. Although an insurer may not explicitly tell those insureds whom it renewed that they were renewed because they in fact had supporting business, it is reasonable for these insureds to infer that they were renewed because they had supporting business, and that the insurer would again implement a supporting business condition the next time that the insurer could non-renew the policy. And, since most insureds are not aware that the required policy period for a homeowners policy is three years, see Insurance Law § 3425(a)(7), most insureds undoubtedly would think that the insurer may elect to non-renew them on the next annual renewal date if they do not maintain supporting business.

Finally, many of these insurers claim that their non-renewal decisions are based on the overall hurricane exposure on the Atlantic coast. However, if the reason for non-renewal is in fact catastrophic risk exposure, then there is no rationale for the insurers to non-renew those with the least overall exposure—i.e., those that only insure their homes with the insurer, as opposed to those that insure both their homes and automobiles.

Any insurer that is engaging in such practice must so inform the Insurance Department within 10 days of this circular letter, and immediately cease non-renewing policies using the supporting business condition. The insurer must also rescind any non-renewal notice that has not yet taken effect.

All responses and any questions regarding this letter should be addressed to:

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Very truly yours,

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