

November 9, 2012

State Insurance Department Responses to Superstorm Sandy

Superstorm Sandy caused a considerable amount of property damage along the East Coast and will result in a substantial influx of related insurance claims. In response, the insurance departments of those states hit hardest by the storm have taken various actions. As explained below, these actions fall within four main categories: (1) orders concerning the non-applicability of hurricane deductibles to Sandy-related claims; (2) the temporary suspension of premium collection and policy cancellation, termination or non-renewal; (3) the relaxation of insurance adjuster licensing requirements; and (4) the extension of time periods for processing Sandy-related claims.

We have set out below the actions taken by each state in response to Sandy. A summary of the state action is provided, as well as links to the applicable documents.

Non-Applicability of Hurricane Deductibles

In coastal areas, many homeowner policies contain deductibles that arise when a hurricane causes property damage. Although Sandy began as a hurricane, it weakened and did not have sustained hurricane-force winds when it made landfall on the East Coast. Accordingly, state insurance departments have pointed to Sandy's non-hurricane status in issuing directives that insurers cannot apply hurricane deductibles to Sandy-related claims. At least seven states have issued such directives:

- [Connecticut](#)
- [Delaware](#)
- [Maryland](#)
- [New Jersey](#)
- [New York](#)
- [Pennsylvania](#)
- [Rhode Island](#)

Temporary Suspension of Premium Collection and Policy Cancellation

As a service to policyholders who have been displaced by Sandy, at least four states have asked insurers to temporarily suspend or relax policy standards for premium collection and cancellation, termination or non-renewal of insurance policies. New York is the only state to impose a moratorium on such activity; the other three states merely encourage forbearance.

- The New York Department of Financial Services issued a moratorium on all cancellations, terminations or non-renewals in designated counties (New York, Bronx, Kings, Richmond, Queens, Nassau, Suffolk, Westchester, Rockland and Orange) for at least 30 days beginning October 26. Automatic policy renewal provisions will also not be effective during the moratorium.
 - [Amended Order Regarding Suspension of Certain Insurance and Banking Law Provisions](#)
- New Jersey, by executive order, directed insurers to take into consideration the difficulties related to Sandy and, therefore, to exercise appropriate forbearances on the collection of premiums, policy cancellation and documentation, as well as other regulatory requirements.
 - [Executive Order No. 107](#)
- The Connecticut Insurance Department released a bulletin encouraging insurers to grant policyholders an extended grace period for the payment of any premium due, so as to allow continuing insurance coverage to those policyholders affected by Sandy.
 - [Bulletin IC-32](#)

- The Rhode Island Insurance Division recommended a 90-day period (with reasonable extensions based on circumstances) for suspension of premium payments and suspension of vacancy provisions or other obligations under a policy for those temporarily displaced.
 - [Insurance Bulletin 2012-4](#)

Relaxation of Insurance Adjuster Licensing Requirements

The large number of claims that arise from an event like Sandy can be more than a state's licensed adjusters can efficiently handle. As a result, some states have issued notices temporarily relaxing insurance adjuster licensing requirements.

- The Delaware Department of Insurance does not require an adjuster's license for the adjustment of a particularly unusual or extraordinary loss, or a series of losses, resulting from a catastrophe common to all such losses. However, an adjuster must furnish to the Commissioner written notice within 10 calendar days of any catastrophic adjustment work.
 - [Catastrophic Adjuster](#)
- The New Jersey Department of Banking and Insurance will issue Temporary Public Adjuster Sublicenses, under which licensed public adjusters may sponsor sublicensees.
 - [Temporary Public Adjuster Sublicensee Information](#)
- The Connecticut Insurance Department has a Catastrophe Adjuster Licensing Program. Under this program, only insurers may seek permission to handle catastrophe claims in Connecticut. Claims company requests will not be honored. A list of all personnel who are not currently licensed as resident or non-resident Connecticut adjusters must be provided.
 - [Catastrophe Adjuster Licensing Program](#)
- The Rhode Island Insurance Division issued an alert declaring Sandy a catastrophic event, which triggers its emergency adjuster statute.
 - [Industry Alert 2012-3](#) (directing insurers to a 2005 alert for emergency adjuster notice procedures)
 - [Insurance Bulletin Number 2005-14](#) (the 2005 alert referred to above)
- The West Virginia Insurance Commission issued an order authorizing the licensing of emergency adjusters. Such emergency adjusters shall be supervised by an adjuster licensed in the state or by an insurance company authorized to do business in the state.
 - [Emergency Adjuster Order](#)

Extension of Time Periods for Processing Claims

Due to the large number of claims arising from an event like Sandy, it may be difficult for insurers to process claims in the time period required by states' unfair claims settlement statutes and regulations. Accordingly, three states have extended the required time periods for processing Sandy-related claims.

- The Connecticut Insurance Department issued a Bulletin stating that insurers will have an additional reasonable period of time to process Sandy-related claims. The Bulletin also states that the Commissioner expects all insurers to seek to promptly and in good faith adjust and satisfy the claims, taking into account the magnitude and circumstances surrounding this catastrophe.
 - [Bulletin IC-28](#)

- The Rhode Island Insurance Division issued a Bulletin stating that the timeline for storm-related claim adjustment and settlement would be extended, without providing specifics as to the extension period. The Bulletin also notes that the extensions do not relieve insurers of their obligation to be reasonable, and to promptly acknowledge and investigate claims as expeditiously as possible.
 - [Insurance Bulletin 2012-4](#)
- The West Virginia Insurance Commission issued an order extending the required time periods for acknowledgment, investigation and settlement of Sandy-related claims.
 - [Emergency Order](#)



If you have any questions about this Legal Alert, please feel free to contact any of the attorneys listed below or the Sutherland attorney with whom you regularly work.

John S. Pruitt	212.389.5053	john.pruitt@sutherland.com
Jeffrey H. Mace	212.389.5049	jeffrey.mace@sutherland.com
Stephen E. Roth	202.383.0158	steve.roth@sutherland.com
Cynthia R. Shoss	212.389.5012	cynthia.shoss@sutherland.com
Mary Jane Wilson-Bilik	202.383.0660	mj.wilson-bilik@sutherland.com
P. Bruce Wright	212.389.5054	bruce.wright@sutherland.com
Earl Zimmerman	212.389.5024	earl.zimmerman@sutherland.com