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August 1, 2022
Colorado Department of Regulatory Agencies,
Division of Insurance

Dear Colorado Department of Regulatory Agencies,

I write on behalf of United Policyholders in strong support of your proposed emergency regulation 22-E-XX. United Policyholders is a non-profit organization that has been informing, helping, and speaking for insurance consumers in the United States since 1991. United Policyholders is funded by donations and grants and its work is largely done by volunteers. Through its Roadmap to Preparedness and Roadmap to Recovery programs, United Policyholders helps Americans be personally responsible by reducing risk, buying insurance, and navigating the claim process successfully after a loss.

In Colorado, United Policyholders frequently assists policyholders who have suffered losses on account of wildfires, including the devastating Marshall Fire of 2021. Assistance provided by United Policyholders includes numerous in person and online seminars, multiple *pro-bono* legal assistance clinics for wildfire survivors with particularly difficult legal issues, routine survivor-to-survivor forums, and a dedicated online resource page specifically focused on the Marshall Fire (*available at <https://uphelp.org/disaster-recovery-help/marshallfire/>*).

Emergency regulation 22-E-xx is necessary to help policyholders with “law and ordinance” coverage in the towns of Louisville and Superior obtain the benefits they are owed.

While the towns of Louisville and Superior are in certain cases allowing structures to be rebuilt without complying with portions of building codes, the codes remain generally applicable. Homeowners with specific insurance coverage for rebuilding homes in compliance with those building codes should therefore should still be able to avail themselves of their benefits. The alternative would be a windfall to insurers and would result in additional homes being rebuilt out of compliance with modern building codes. The purpose of the “opt outs” allowed by Louisville and Superior is to accommodate homeowners who may otherwise not have the means to rebuild the homes lost in the Marshall Fire. The “opt outs” should not be used as a way for insurers to withhold desperately needed funds to homeowners who paid for special coverage and are able to rebuild their homes up to code.

In terms of the specific language of the proposed regulation, United Policyholders makes the following suggestions:

1. For simplicity, that the phrase “**in the event**” be changed to “**if**” in Sections 4.A.1. and 4.A.2.
2. That the emergency regulation make clear that a homeowner should receive full payout for any law and ordinance special coverage extension if the policyholder “opts out” of the most recent building code requirements but is still able to max out code upgrade special extensions through compliance with older codes. As currently drafted, United Policyholders is worried that the phrase “underlying policy limit” may be incorrectly interpreted by some insurers to exclude law and ordinance and similar special extensions (which are often written as a providing extra coverage at some additional percentage of a stated Dwelling Coverage A amount found in a declarations page).

- a. To that end, United Policyholders suggests amending the phrase “**...the underlying policy limit is sufficient to cover...**” to “**...the policy limits, including any coverage extension provided by a law and ordinance or similar clause, are sufficient to cover...**” in Sections 4.A.1. and 4.A.2.
3. That the emergency regulation provide additional clarity around the phrase “affirmatively opts out” in Section 4.A. As currently written, United Policyholders is worried that some insurers may improperly claim that their insureds have “affirmatively opted out” of building code requirements before the insured has truly done so. For example, has a homeowner “affirmatively opted out” if their builder ever submits plans that do not comply with current building codes? United Policyholder suggest that the emergency regulation make clear that a homeowner only “opts out” of building requirements if the homeowner receives a permit to build that does not comply with current building codes and *then in fact* completes the reconstruction without complying with current building codes.
 - a. To that end, United Policyholders suggests amending the phrase “**...affirmatively opts out of such requirements**” to “**...affirmatively opts out of such requirements by receiving a permit that allows for rebuilding and then in fact completing rebuilding without compliance with current building codes.**”

United Policyholders appreciates the opportunity to provide comments regarding this important proposed regulation.

Sincerely,



Amy Bach, Executive Director
United Policyholders