United Policyholders

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Commissioner Michael Conway
Colorado Division of Insurance
1560 Broadway, Suite 1300
Denver, CO 80202
Submitted via email to DORA_Ins_RulesandRecords@state.co.us

RE: Proposed Revised Bulletin No. B-5.57 – Use of Aerial Imagery by Insurers in Decision Making

Dear Commissioner Conway,

I write on behalf of United Policyholders to provide the following comments regarding proposed revised Bulletin No. B-5.57 concerning the use of aerial imagery by insurers in decision making.

United Policyholders appreciates that the Colorado Division of Insurance recognizes the need for guidelines related to the use of aerial imagery by insurers. We have a number of suggestions for revising the draft bulletin so it better protects homeowners.

First, we'd like to see the regulation require that insurers provide digital or print copies of aerial images to the homeowner (applicant or current customer) and specifically identify conditions displayed in those images that don't meet the insurers' underwriting guidelines.

Second, we'd like to see the regulation require insurers to provide those images to an insured a minimum of two months before expiration of their policy, and extend the term of a policy by a reasonable period of time where a policyholder provides proof that they're correcting the identified conditions to be in compliance with the insurers' underwriting guidelines, but that circumstances beyond their control have made it impossible for them to complete the repairs before expiration of the current policy. The added provision that customers can provide their own images is valuable, but it is also important to allow the consumer time to rebut with a more recent image.

Third, we believe that 12 months is the correct maximum age of a photo that can be used by insurers for decision making, so we encourage you to restore that number. An image that's a year and a half old is unlikely to reflect current conditions. At a recent meeting of the National Association of Insurance Commissioners, a representative of Zesty A.I. testified that his company incorporates data into their models from images that were taken 12 months ago or less.

Fourth, we strongly request that you restore the terms "pricing" and "rating". Deleting those words significantly diminishes a key component of the consumer protections that are the primary focus of the regulation.

The removal of the term "rating" undermines a component of the regulations where the Division's authority is most clearly supported in statute. Colorado Section 10-4-403 clearly states that rates shall not be excessive, inadequate, or unfairly discriminatory. A misinterpreted, outdated, misaddressed, or otherwise inaccurate aerial image that impacts the offer of a rate for which a property is eligible is an unfairly discriminatory action. That will remain true whether the term is included or excluded in this regulation, but the inclusion of the term "rating" provides essential additional clarity for insurers and consumers alike.

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Note that “tier placement or rating impacts, coverage limitations or restrictions” are all components that are subject to the same unfair discrimination standard. If an insurer uses an outdated image that doesn’t reflect the actual condition of the home, that would be unfairly discriminatory as well.

We urge the Colorado Division of Insurance to reinstate the language applicable to rates and pricing in Bulletin No. B-5.57.

Thank you for the opportunity to comment on this important consumer protection measure.

Sincerely,

Amy Bach

Amy Bach, Executive Director
United Policyholders