April 6, 1998

TO:
ALL ILLINOIS LICENSED PROPERTY & CASUALTY INSURANCE COMPANIES

FROM:
RICHARD D. ROGERS
DEPUTY DIRECTOR
CONSUMER DIVISION

RE:
(CB 98-6) YEAR 2000 COVERAGE AND ENDORSEMENTS

CONTACT:
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Are we heading for a computerization collapse on January 1, 2000? Separating fact from fabrication is difficult at the very best. Depending on sources asked, the answer is a total stoppage of the computerized world we live in, resulting in trillions of dollars in damages, or the "crisis" will be minimal in nature since most major users of computers will be fully prepared. Until January 1, 2000 arrives, no one will know the answers for sure and a state of virtual quandary will exist until then. Beyond the degree of damages looms the question: who will pay for this?

Because of all these speculations of damages and amounts of damages, the Department is concerned that the exposure cannot be accurately predicted. The Department accordingly will closely monitor all activities regarding Y2K endorsements including the following:

Personal Lines Coverages

The Department will not allow any exclusionary endorsements to new or renewal personal lines policies coverage for any potential Y2K exposures. "Personal lines" is defined in Section 143.13, paragraphs (a), (b) and (c) of the Illinois Insurance Code (215 ILCS 5/143.13(a), (b) and (c)).

The Department will consider Y2K exclusionary endorsements for Homeowners policies written to cover incidental business exposures as well as for farmowners policies with unique or unusual exposures if the need can be demonstrated.

Commercial Lines Coverages (including Commercial Property, Commercial General Liability, Professional Liability, Business Owners and similar packages) If an insurer is non renewing the policy, the non renewal must comply with Section 143.17a of the Illinois Insurance Code (215 ILCS 5/143.17a) including:

mailing the non renewal notice at least 60 days prior to the expiration date of the policy;

giving a clear and detailed explanation of the reason for non renewal;

sending an exact copy of such notice to the insured's broker, if known, or the agent of record;

keeping proof of mailing.

Failure to comply with the requirements of Section 143.17a will result in an invalid non renewal and the company must renew the existing policy. If an insurer is offering to renew the policy but attaching a Y2K exclusionary endorsement, or increasing the deductible, the company must comply with the Illinois Insurance Code (215 ILCS 5/143.17a subparagraph(b)), including:

mailing written notice of the change in deductible or coverage at least 60 days prior to the renewal or anniversary date;

clearly explaining that Y2K coverage is being excluded or modified on the renewal policy;

sending an exact copy of such notice to the insured's broker, if known, or the agent of record;

keeping proof of mailing or proof of receipt of such notice.

Failure to comply with the requirements or Section 143.17a subparagraph (b) may result in the company being required to renew the policy for one policy period on the same terms and conditions as the expiring policy. The Department may set standards for these notices pursuant to the filing requirements of Section 143(2) of the Illinois Code (215 ILCS 5/143(2)). This Section, in part, states the Director may require the filing of "...other matter incorporated by reference..." into a policy of insurance issued in this state.

For those policies providing the more typical Commercial Liability and Commercial Property coverages, the Department has reviewed various Advisory Organization filings and will use the language in these filings as guidelines in reviewing independent filings. Company filings must specify the lines of coverage affected by the exclusion, the specific types of insureds the company is targeting for exclusion and the specific reasons the exclusions are needed. Blanket filings for all lines will not be accepted.

For policies providing Professional Liability coverages, independent exclusions or coverage modification endorsements will be considered on a case by case basis.

Department Monitoring and Enforcement Activities

The Department understands the concerns that Y2K responsibilities may be shifted to the insurance industry. While we encourage the business community to quickly resolve their problems regarding Y2K, this does not affect our position.

Because of the Department's concerns about how industry will address possible Y2K exposures, we will carefully monitor the marketplace both through complaints and market conduct examinations to determine if inappropriate Y2K-related activities are occurring.

Inappropriate Y2K-related activities will include, but not be limited to: canceling policies mid-term due to Y2K exposures; nonrenewing policies or using Y2K endorsements on a blanket basis as opposed to underwriting individual risks; using Y2K exclusions to the degree that marketplace disruption is evident; or, receiving consumer complaints regarding company abuses that are above norm due to Y2K-related exclusion activities.

If the Department determines that inappropriate Y2K-related activities are taking place, the Department will rigidly enforce all existing laws and regulations to provide remedial relief to consumers, including sponsoring new legislation to control insurance industry misconduct.

This information is available on the Department's Internet Home Page.