



The State of New Hampshire Insurance Department

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Christopher R. Nicolopoulos
Commissioner

David J. Bettencourt
Deputy Commissioner

WAIVER APPLICATION DECISION
RE: REQUEST OF FOREMOST PROPERTY
AND CASUALTY INSURANCE COMPANY
TO WAIVE INS 5001.06(a)(4)

I. INTRODUCTION

On or about March 23, 2022, Foremost Property and Casualty Insurance Company ("Foremost") submitted a written waiver request ("request" or "waiver request") to the New Hampshire Insurance Department ("Department").¹ In the request, Foremost explains that it is planning to change the logo that appears on forms within SERFF Filing FORE-131600469 and SERFF Filing FORE-125873958. Foremost seeks a waiver from the requirement in Ins 5001.06(a)(4) that it submit replacement forms to the Department for the aforementioned SERFF filings for approval.

II. LEGAL AUTHORITY

Pursuant to Ins 5001.08,² the New Hampshire Insurance Commissioner may grant an insurer's written request for a waiver from the application of an administrative rule within Chapter Ins 5000 if the criteria set forth in Ins 5001.08(a)-(d) have been met.

¹ Foremost submitted the waiver request in SERFF Filing FORE-133198863.

² Ins 5001.08 provides in full as follows:

Ins 5001.08 Waiver of Rules.

- (a) The commissioner, upon the commissioner's own initiative or upon request by an insurer, shall waive any requirement of this part if such waiver does not contradict the objective or intent of the rule and:
- (1) Applying the rule provision would cause confusion or would be misleading to consumers;
 - (2) The rule provision is in whole or in part inapplicable to the given circumstances;
 - (3) There are specific circumstances unique to the situation such that strict compliance with the rule would be onerous without promoting the objective or intent of the rule provision; or
 - (4) Any other similar extenuating circumstances exist such that application of an alternative standard or procedure better promotes the objective or intent of the rule provision.
- (b) No requirement prescribed by statute shall be waived unless expressly authorized by law.
- (c) Any person or entity seeking a waiver shall make a request in writing.
- (d) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.

III. DISCUSSION

In its written waiver request, Foremost states that it seeks to change the logo that appears on customer facing documents, namely: applications, program policy jackets, declarations pages, coverage selection and rejection forms, and certificates of insurance. It explains that it is seeking the change because it would like the forms to reflect its new logo which shows that Foremost is part of Farmers Insurance Group. The new logo will display the words "A Farmers Insurance Company" under the "Foremost" name. Foremost is not seeking to make any other change to the forms. It states that it will begin to produce forms with the new logo once its stock of forms with the current logo—"Foremost Property and Casualty Insurance Company"—have been exhausted.³

The administrative insurance rule from which Foremost seeks a waiver, Ins 5001.06(a)(4), requires an insurer changing a form to submit a replacement form to the Department "with a new form number, new edition date, or both" for approval.⁴ The purpose of Ins 5001.06(a)(4) is to allow a new edition of an insurance form to be distinguishable and identifiable from a prior version of the form.

In this instance, Foremost is not seeking to make any substantive change to the forms that are the subject of its waiver request. Instead, it is requesting that it be allowed to replace the logo on those forms with its new logo without having to submit replacement forms with new form numbers and/or new edition dates for approval. Given that Foremost is not requesting any substantive changes to the forms, the Department agrees that strict application of Ins 5001.06(a)(4) is inappropriate because it "would be onerous without promoting the objective or intent of the rule provision[.]" Ins 5001.08(a)(3). Notably, the "Foremost" name will remain the prominent component of the logo after the logo is changed.⁵ Consequently, it will remain clear

³ The existing logo displays the "Property and Casualty Insurance Company" portion of the name underneath the more prominent "Foremost" portion of the name.

⁴ Typically, when a change is made, a replacement form must be submitted for approval and it must comply with Ins 5001.06(a)(1)-(4). Ins 5001.06(a) provides in full as follows:

Ins 5001.06 Rules Applicable to All Forms.

- (a) Each form shall be designated by a form number composed of numbers, letters, or both, and:
- (1) The form number shall be sufficient to distinguish the form from all other forms used by the company;
 - (2) The form number may contain the prefix "Form No.";
 - (3) The form number shall be placed on every page of the form; and
 - (4) When a form is replaced, the form shall be resubmitted with a new form number, new edition date, or both.

⁵ By prominent, it is meant that the name "Foremost" will continue to be displayed in a larger font on the forms that are the subject of Foremost's waiver request.

that a Foremost company is writing the risk.⁶ In light of the foregoing, the Department finds that it is appropriate to grant Foremost's waiver request.

IV. CONCLUSION

In conclusion, for the reasons discussed above, the Department concludes that strict compliance with Ins 5001.06(a)(4) would be onerous and would not promote the purpose of that rule relative to the form filings at issue because Foremost is not seeking to make substantive changes to the forms. Accordingly, the Department grants Foremost's waiver application request, as detailed in SERFF Filing FORE-133198863 relative to SERFF Filing FORE-131600469 and SERFF Filing FORE-125873958. This Decision will be posted on the Department's website under the Legal Information webpage under "Waiver Application Decisions" and shall be posted as part of the Department's response to SERFF Filing FORE-133198863.

Date: April 12, 2022



Christopher R. Nicolopoulos, Commissioner

⁶ Ins 5001.06(d) requires property and casualty forms that identify "a group or any other entity" to "also clearly identify the name of the company insuring the risk." *See also* Ins 5001.01(b) (providing: "Ins 5001 shall apply to all licensed admitted writers of property and casualty insurance in this state and advisory organizations who are required to make form and rate filings").