



The State of New Hampshire Insurance Department

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David J. Bettencourt
Commissioner

Keith E. Nyhan
Deputy Commissioner

February 6, 2025

George Roussos
ORR & RENO (NHADIC & AIA)
45 S. Main Street, Suite 400
Concord, New Hampshire 03301

Joan Pageau
IIANH
6 Garvin Falls Road
Concord, New Hampshire 03301

Dear George and Joan:

You are aware that the New Hampshire Insurance Department (NHID) recently examined its longstanding prohibition on the use of location in underwriting homeowners' insurance policies. This analysis goes beyond a regulatory exercise; it demonstrates our commitment to uphold New Hampshire's legal principles and ensure fairness within our insurance landscape.

At the core of this review lies the foundational principle that statutes must be interpreted as written and that the words must be understood as they were at the time of their enactment. RSA 417-B:2 and RSA 417:4, VIII(e) explicitly prohibit discrimination based on characteristics such as age, residence, race, and military service. In straightforward terms, insurers cannot cancel, refuse to write, or refuse to renew homeowners' insurance policies solely based on these factors.

Consequently, the NHID reaffirms that New Hampshire law prohibits insurers from canceling, refusing to write, or refusing to renew homeowners' insurance policies solely on these grounds, including military service, as articulated in RSA 417-B:2. Furthermore, the New Hampshire Unfair Insurance Trade Practices Act bars insurers from refusing to insure risks based solely on age, place or area of residence, race, color, creed, national origin, ancestry, marital status, and lawful occupation, as delineated in RSA 417:4, VIII(e).

However, these statutes do permit insurers to utilize location-based risk factors when determining premiums for homeowners' insurance policies. For instance, insurers may consider the proximity of a property to local fire stations, alongside considerations of mutual aid agreements between neighboring communities.

This distinction remains crucial and aligns with fundamental principles of statutory interpretation, ensuring that every clause and word in the statute receives due effect and that no part becomes superfluous. Our adherence to these principles ensures that the NHID remains firmly grounded in the original legislative intent, guaranteeing that our regulatory actions remain fair and transparent.

In light of the current "hard" insurance market, the NHID recognizes the financial challenges facing the industry and the necessity for carriers to manage their risk exposures judiciously. We understand that many carriers have expressed keen interest in our review of location-related provisions within the model Unfair Insurance Trade Practices Act adopted by the National Association of Insurance Commissioners (NAIC).

Simultaneously, we continue to receive reports from producers indicating that some carriers do not comply with the law and, in fact, refuse to write or renew homeowners' insurance policies solely based on location. This inconsistency contradicts the law and raises significant concerns.

We remain dedicated to maintaining a vibrant and competitive insurance market in New Hampshire. A robust free-market system effectively meets consumers' needs by fostering competition, innovation, and high quality. This system ensures a wealth of choices and fair prices, empowering individuals to make informed decisions. Part of our commitment involves ensuring that New Hampshire laws do not stifle or drive out competition in our state.

Therefore, over the coming year, the NHID will carefully review and consider potential adjustments to New Hampshire's laws regarding the use of location factors in underwriting homeowners' insurance, with particular—but not exclusive—focus on the recently updated NAIC model law. We will meticulously evaluate the difference between the NAIC model and existing state laws to ensure they serve the best interests of consumers, with an eye toward potential legislative reform in Fall 2025.

In the meantime, carriers must ensure their underwriting practices conform to current New Hampshire laws. Equally important, the Department reminds producers of their professional and ethical responsibilities to report to the Department known violations of non-compliance. It is crucial to appreciate that anecdotal reports do not provide the level of detail and specificity needed for the NHID to properly investigate and assess the scope of the issue.

Throughout this year, we will keep a vigilant eye on the market to ensure that all parties are appropriately adhering to the law. If we uncover any evidence of

noncompliance, as our producers have indicated, we will not hesitate to take formal regulatory action. We stand committed to upholding the law and ensuring that everyone in our state operates with integrity and fairness.

We appreciate your continued engagement, effort, and support in maintaining a fair and competitive insurance market in New Hampshire. The NHID respectfully seeks your collaboration and partnership in this effort. Should you have any questions or require further clarification, please feel free to contact me directly.

Sincerely,

A handwritten signature in blue ink, appearing to read "D.J. Bettencourt". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

D.J. Bettencourt
Commissioner