



**Office of the Lieutenant Governor  
Division of Banking, Insurance and  
Financial Regulation**

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#5049 Kongens Gade, Charlotte Amalie, St. Thomas, USVI 00802-6487 ● (340) 774-7166 ● Fax (340) 774-9458  
1131 King Street, Suite 101, Christiansted, St. Croix, USVI 00820 ● (340) 773-6459 ● Fax (340) 719-3801  
[www.ltg.gov.vi](http://www.ltg.gov.vi)

**BULLETIN 2018-01**

**TO:** All Property and Casualty Insurance Companies, Agents and Representatives

**RE:** Responsibility to Notify Policyholders of Underinsurance

All property and casualty insurance companies, agents and representatives are keenly aware that the residents of the U. S. Virgin Islands have sustained and continue to sustain personal hardships because of Hurricanes Irma and Maria. Insurers are encouraged to use all available means to provide prompt relief to insureds. In the aftermath of both hurricanes, the Office of the Lieutenant Governor, Division of Banking, Insurance and Financial Regulation (“Division”) is receiving complaints from insureds who are being told they are “underinsured”, meaning that these consumers do not have sufficient insurance to cover damages to the insured property.

These complaints form the basis for the issuance of this Bulletin and will allow the policyholder to make an informed decision, given the information available and circumstances at the time they are presented with a new or renewal policy.

The Division has a dual responsibility of regulating the insurance industry and protecting consumer interests. Based on the complaints that are being filed with the Division, many policyholders maintain they were unaware that they were underinsured. Many policyholders also maintain they do not understand what it means to be underinsured. Some policyholders may have been fully insured when they initially obtained coverage for their properties. However, they may have since become underinsured due to subsequent events or changes in the calculation for determining the value of their property as it relates to replacement cost. An example is when the policyholder makes an addition to the property, but does not notify the agent to increase the amount of insurance.

Policyholders in this Territory must be educated on the meaning of “underinsurance” and the impact that underinsurance will have on their ability to receive the full benefit of property and casualty insurance coverage following a loss. It is the responsibility of the insurance company, through its agents and authorized representatives, to ensure that public education takes place. All

property and casualty insurance companies licensed and authorized to conduct insurance business in the Territory must:

1. Provide to its homeowner policyholders a full explanation of the term “underinsurance”, to include examples of conditions under which a property may be determined to be underinsured and how this will affect the policyholder’s ability to collect on an insurance claim for damages to their property;
2. Utilize the sample “Notice of Conditions of Underinsurance” as a guide to ensure that each insured receives the proper explanation of what it means to be underinsured and, if they are underinsured, the proper notification as to how their insurance coverage will be affected in the event of a catastrophe;
3. Require that each homeowner policyholder, obtaining new or renewal insurance coverage, sign the Notice evidencing that their agent has provided an explanation of the term “underinsurance”; the conditions for determining underinsurance; and that the policyholder understands the conditions and how the conditions will affect their insurance coverage in the event of a catastrophe or other qualifying event;
4. Inform policyholders that the term “underinsurance” can be caused by the following factors:
  - a. The policyholder does not meet the 80% coinsurance requirement, which requires the insured to maintain 80% of insurance in relation to the replacement cost of the insured property;
  - b. The policyholder makes improvements to the insured property and does not disclose this to the agent, in order to obtain adequate coverage;
  - c. The policyholder’s lender, bank or loan servicer secured insurance coverage, known as “force-placed insurance” for ONLY its financial interest in the insured property because:
    - (i) the insurance that initially covered the property was cancelled,
    - (ii) the insurance that initially covered the property lapsed, or
    - (iii) the insurance covering the property was not sufficient and the policyholder did not secure their own replacement policy;
  - d. The policyholder selected insurance coverage for dwelling only, and excluded coverage for contents, loss of use and other structures: OR

- e. The rate per square foot, which is usually market driven and is used to determine the replacement cost, has increased. The replacement cost at the time of the loss may be greater than the replacement cost at the time the policy was initially purchased. Examples of market driven factors are the costs of construction materials as well as the demand for contractors. The demand for both construction materials and contractors will increase the cost for repairs. The Bulletin also provides a disclaimer regarding the market driven factors.

In addition, policyholders whose policies were renewed in 2017 after Hurricanes Irma and Maria and are not scheduled to renew before the next hurricane season, may be allowed to elect to receive a midterm endorsement to increase their policy limit, if necessary, to an adequate level using a pro rata share **going forward**. The allowance of this option is subject to underwriting approval and with the realization that underwriting criteria differs from company to company. A policy cannot be back-dated.

Questions regarding this Bulletin may be directed to the Division of Banking, Insurance and Financial Regulation by calling Director Gwendolyn Hall Brady at (340) 773-6459 (St. Croix) or Chief Financial Services Examiner Cheryl Charleswell at (340) 774-7166 (St. Thomas).

Dated this 23<sup>rd</sup> day of January 2018 at St. Thomas, U.S. Virgin Islands.



A handwritten signature in blue ink, appearing to read "Osbert E. Potter", written over a horizontal line.

Osbert E. Potter  
Lieutenant Governor/Commissioner of Insurance

\*\*\*SAMPLE NOTICE TO POLICYHOLDERS\*\*\*

NOTICE OF CONDITIONS OF UNDERINSURANCE

This Notice is being provided to you because you have a homeowners policy with \_\_\_\_\_ Insurance Company (hereinafter referred to as "Company") and it is the Company's responsibility, to inform you of the following conditions that may cause your property to be underinsured, which means that you do not have enough insurance to cover losses or damages to the insured property in the event of a catastrophe/natural disaster. Your property may be underinsured because:

1. You do not meet the 80% coinsurance requirement, which requires the insured to maintain 80% of insurance in relation to the replacement cost of the insured property;
2. You made improvements to the insured property and did not disclose this to the agent, in order to obtain adequate coverage;
3. Your lender, bank or loan servicer secured insurance coverage, known as "force-placed insurance" for ONLY its financial interest in the insured property because:
  - (i) the insurance that initially covered the property was cancelled,
  - (ii) the insurance that initially covered the property lapsed, or
  - (iii) the insurance covering the property was not sufficient and you did not secure your own replacement policy;
4. You selected insurance coverage for dwelling only, and excluded coverage for contents, loss of use and other structures;
5. The rate per square foot, which is usually market driven and is used to determine the replacement cost, has increased. The replacement cost at the time of the loss may be greater than the replacement cost at the time the policy was initially purchased. Examples of market driven factors are the costs of construction materials as well as the demand for contractors. The demand for both construction materials and contractors will increase the cost for repairs. The Bulletin also provides a disclaimer regarding the market driven factors; OR
6. Other \_\_\_\_\_

**If your property is "underinsured," your insurance policy for the insured property does not offer complete financial protection in the event of a catastrophe/natural disaster and a penalty will be applied which limits the amount you will receive on your claim.**

I \_\_\_\_\_, the undersigned agent, have provided to the undersigned policyholder this "Notice of Conditions of Underinsurance" and have fully explained each condition described above.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(PRINT Name of Agent)

\_\_\_\_\_  
(Signature of Agent)

THE UNDERSIGNED POLICYHOLDER ACKNOWLEDGES RECEIPT OF THIS "NOTICE OF CONDITIONS OF UNDERINSURANCE" AND CONFIRMS THAT THE AGENT HAS FULLY EXPLAINED THE ABOVE DESCRIBED CONDITIONS AND THAT THE UNDERSIGNED POLICYHOLDER UNDERSTANDS THE CONDITIONS OF UNDERINSURANCE AND HOW THEY WILL AFFECT THE UNDERSIGNED POLICYHOLDER'S INSURANCE COVERAGE IN THE EVENT OF A CATASTROPHE.

DATED this \_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
(PRINT Name of Policyholder)

\_\_\_\_\_  
(Signature of Policyholder)