



July 6, 2004

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Potential Refunds For 2001 Private Passenger  
Automobile Rate Filing

As a result of the Supreme Court opinion issued on June 25, 2004 in the 2001 Private Passenger Automobile Rate Filing Case, and a conversation with the Department of Insurance, it appears that companies will be required to refund portions of the escrow held for that change. More specifically, that portion of the premium collected on each policy which exceeds the premium which would have resulted on each policy using the rates as ordered by the Commissioner, in his Order dated December 14, 2001, plus interest. This refund will affect policies written to become effective between April 1, 2002 and January 26, 2003.

Please keep in mind that the Commissioner has not yet issued the Order for refunds however, in our conversations with the Department it appears (1) that the Order will be issued in mid July; (2) that these refunds will be required to be issued beginning October 1, 2004 and be completed by October 22, 2004; and (3) that the procedures for issuing these refunds will be similar to those used in the last refund.

In that regard, for you convenience, please find attached a copy of the refund procedures used in 2000 which may benefit you in preparing for these refunds although keep in mind these could change.

We will notify you as soon as the Order for refunds has been issued.

Very truly yours,

F. Timothy Lucas

Personal Lines Manager

FTL:dp  
Attachment  
A-04-6

PROCEDURES ON REFUND OF PREMIUM

1. Policies and coverages to which these procedures apply are non-fleet private passenger automobile policies and coverages subject to the jurisdiction of the Bureau and non-fleet private passenger automobile policies and coverages ceded to the North Carolina Reinsurance Facility ("Facility") that are "clean risks" as defined in N.C. Gen. Stat. §58-37-35(a) effective beginning January 1, 1995 through November 30, 1996 for new policies and effective February 15, 1995 through January 14, 1997 for renewal policies.

These procedures do not apply to motorcycle policies and do not apply to "consent to rate" policies or coverages issued or renewed pursuant to the provisions of N.C. Gen. Stat. §58-36-30(b) ("consent to rate") or to "other than clean risk" policies or coverages, as defined in N.C. Gen. Stat. §58-37-35(1), ceded to the Facility.

2. The amount of refund shall be calculated for each policy as set forth below. The term "premium" as used in this paragraph shall not include interest, installment payment charges or recoupment/allocation surcharges (including loss and clean risk surcharges).

a. Portion of Premium to be Refunded

The premium to be refunded on each policy shall be the difference between the premium collected on each policy (after consideration of all deviations applicable to the policy and all unpaid premium on the policy) and the premium that would have been collected on each policy using the rates by coverage resulting from the rate level changes approved in this Settlement Agreement and Consent Order with respect to the 1994 filing.

b. Amount of Refund

The amount of refund on a policy shall be the portion of premium to be refunded as determined above plus simple interest on such premium at the annual rate of 11.5% from the effective date of each policy through March 9, 2000.

3. In making the calculations required under these procedures, each company may apply the premium rounding rules it applies in the ordinary course of its business.

4. Notwithstanding any other provisions of these procedures, in no event shall a company be required to refund amounts calculated pursuant to Paragraph 2 above on any policy if the amount of such refund is \$5.00 or less (including interest). If a policyholder had multiple policies for which refunds are to be calculated, each policy shall be treated separately in determining if any refund is due on such policy.

5. Except as provided in Paragraph 7 below, refunds shall be paid by check(s) or draft(s) payable to the policyholder or policyholders. Each company shall have the option to accumulate all refunds due an individual policyholder into one check or draft or to issue separate checks or drafts for each policy on which a refund is due.

6. Refunds shall be mailed or delivered to the named policyholder or policyholders at the address shown on the policy record for which a refund is being made or at such other address the company in good faith determines and believes to be more current.

7. With respect to policyholders on whose behalf the premium was paid by a premium finance company, any refunds shall be mailed to such premium finance company under its agreement with the policyholder. Payment of such refunds to the premium finance company shall constitute full and complete payment by such insurance company for refunds due under these procedures.

8. If these procedures cause undue hardship or expense to an individual company or if an individual company can show that its circumstances result in these procedures being unlawful or otherwise inequitable, such company may petition the Commissioner for relief from or adjustments to these procedures.

9. To the extent a company reported escrowed premium as written premium on its Annual Statement, the premium portion of refunds hereunder shall be reported in that company's Annual Statement as negative written premium during the year such refunds are made. Premium taxes payable during the year such refunds are made shall be calculated based on net written premium after reduction for such negative written premium.

10. No refunds hereunder shall be delivered or mailed to policyholders prior to September 1, 2000. All refunds hereunder shall be delivered or mailed to policyholders prior to December 1, 2000.

11. The Department's instructions regarding the accounting treatment to be afforded escrow funds, refunded premium and related interest expense shall be forwarded by the Bureau to all member companies.

12. Neither the premiums refunded, interest paid nor the expenses incurred in connection with issuing refunds pursuant to these procedures are to be included as expenses in responses to the Annual Call for Automobile Expense Experience issued by the Rate Bureau. However, separate entries shall be included on the Annual Call for Automobile Expense Experience to report the amount of premium refunded, interest paid and the expenses incurred in issuing refunds.

13. Companies shall include the following information with refund checks or drafts. Such information may be attached to or imprinted on refund checks or drafts.

On certain policies issued or renewed during the period January 1, 1995 through January 14, 1997, the North Carolina Rate Bureau established rates higher than rates approved by Jim Long, Commissioner of Insurance. This refund represents the difference between the rates approved by Commissioner Long and those paid by you on those policies, plus interest. This refund is a result of an overall settlement of litigation between Commissioner Jim Long and the Rate Bureau.