

NORTH CAROLINA RATE BUREAU

POST OFFICE BOX 176010
RALEIGH, NORTH CAROLINA 27619-6010

JOHN W. WATKINS
General Manager

3401 SIX FORKS ROAD
RALEIGH, NORTH CAROLINA 27609-4433

TELEPHONE (919) 783-9790
FAC SIMILE (919) 783-0333

JERRY G. HAMRICK
Workers Compensation Manager

DAVID E. STINE, JR.
Accounting Manager

CHARLES B. TAYLOR
Personal Lines Manager

October 26, 1994

CIRCULAR LETTER TO ALL MEMBER COMPANIES

Re: Revised Automobile and Motorcycle Insurance Rates - North Carolina

On February 1, 1994, the Rate Bureau filed with the Commissioner of Insurance rate level changes for non-fleet private passenger automobiles and motorcycles. The Rate Bureau's filing set forth average rate level changes (1) for non-fleet private passenger automobiles of 19.2% for liability coverages and -4.5% for physical damage coverages, averaging 10.8%; and (2) for motorcycles of 30.6% for liability coverages and 7.0% for physical damage coverages, averaging 22.4%.

In addition to revised private passenger automobile and motorcycle insurance rates, the Rate Bureau's filing included revised classification and sub-classification plans rating factors; revised rating procedures involving medical payments increased limits; a change in the installment payment charge; and numerous editorial amendments to the Personal Auto Manual.

On June 20, 1994, the Insurance Department convened a public hearing on the Rate Bureau's filing. Following conclusion of the public hearing on August 16, 1994, the Commissioner of Insurance on September 28, 1994, entered an Order disapproving the Rate Bureau's filed rates and ordering overall rate level changes of -13.8% for non-fleet private passenger automobiles and +10.2% for motorcycles effective January 1, 1995. The Commissioner's Order approved the numerous other changes relating to revised classification and sub-classification plans rating factors, revised rating procedures involving medical payments increased limits, a change in the installment payment charge, and editorial amendments to the Personal Auto Manual.

During a meeting held on October 18, 1994, the Governing Committee of the Rate Bureau voted (1) to appeal to the North Carolina Court of Appeals those provisions included in the Commissioner's Order dealing with the disapproval of non-fleet private passenger automobile insurance rates filed by the Rate Bureau; (2) to proceed with implementation of rate level changes that result in an overall rate level change of +6.0% for non-fleet private passenger automobiles over the disapproval of the Commissioner; (3) to implement the overall rate level change of +10.2% for motorcycles ordered by the Commissioner; and (4) to proceed with implementation of the numerous other items included in the February 1, 1994 filing which were approved by the Commissioner.

The revised rates implemented over the disapproval of the Commissioner and revised rates and items approved by the Commissioner are to be implemented in accordance with the following Rule of Application:

These changes are applicable to all new and renewal policies written on or after January 1, 1995 and to all policies written before January 1, 1995 which will become effective on or after February 15, 1995. No policy effective prior to January 1, 1995 shall be endorsed or cancelled and rewritten to take advantage of or to avoid the application of these changes except at the request of the insured and at the customary short rate charges as of the date of such request, but in no event prior to January 1, 1995.

The enclosed exhibits set forth the changes in rates from current levels for liability and physical damage insurance coverages for non-fleet private passenger automobiles which the Governing Committee voted to implement over the Commissioner's disapproval. Also enclosed are exhibits which set forth revised Reinsurance Facility liability rates which were adjusted to reflect off-balances calculated under the revised classification and sub-classification plans and new medical payments rates methodology; and the other miscellaneous changes in the Personal Auto Manual approved by the Commissioner of Insurance. Reprinted Personal Auto Manual pages will be distributed, in the usual fashion, as soon as possible. In the meantime, notice of the revised rates and rules should be sent as soon as possible to your Company's North Carolina agents to make them aware of the new rates and rules.

Following are the non-fleet private passenger automobile insurance statewide average rate changes over the rate level in effect February 1, 1993 (1) as ordered by the Commissioner of Insurance; and (2) as adopted by the Governing Committee which are to be implemented by member companies:

<u>Coverages</u>	Non-Fleet Private	Non-Fleet Private
	Passenger Automobile Insurance Rate Changes Ordered By the Commissioner	Passenger Automobile Insurance Rate Changes Implemented By the Governing Committee
Bodily Injury	2.8%	24.9%
Property Damage	-18.6	0.6
Medical Payments	-4.6	16.1
Uninsured Motorists	38.8	49.8
Underinsured Motorists	8.9	32.4
Total Liability	-1.8	19.0
Comprehensive	-34.9	-18.0
Collision	-32.2	-14.6
Total Physical Damage	-33.2	-15.8
Grand Totals	-13.8%	6.0%

The implementation of such rates is authorized by G. S. 58-36-25(b), which provides as follows:

Whenever a Bureau rate is held to be unfairly discriminatory or excessive and no longer effective by order of the Commissioner issued under G.S. 58-36-20, the members of the Bureau, in accordance with rules and regulations established and adopted by the governing committee, shall have the option to continue to use such rate for the interim period pending judicial review of such order, provided each such member shall place in escrow account the purportedly unfairly discriminatory or excessive portion of the premium collected during

such interim period. Upon a final determination by the Court, the Commissioner shall order the escrowed funds to be distributed appropriately, except that individual refunds that are five dollars (\$5.00) or less shall not be required. The Court may also require that purportedly excess premiums resulting from an adjustment of premiums ordered pursuant to G.S. 58-36-20(b) be placed in such escrow account pending judicial review. If refunds made to policyholders are ordered under this subsection, the amounts refunded shall bear interest at the rate determined under this subsection. That rate shall be the average of prime rates of the four largest banking institutions domiciled in this State, plus three percent (3%), as of the effective date of the filing, to be computed by the Commissioner.

As a result of the implementation of revised non-fleet private passenger automobile insurance rates over the disapproval of the Commissioner, in accordance with G. S. 58-36-25(b) quoted above, each individual company writing affected automobile insurance will be responsible for the establishment of and accounting for an escrow account in which to maintain "the purportedly unfairly discriminatory or excessive portion of the premium collected . . ." (i.e. the difference between the -13.8% average reduction which has been ordered by the Commissioner and the +6.0% average increase for non-fleet private passenger automobile insurance adopted by the Governing Committee) pending judicial review.

In the event a refund becomes necessary, G.S. 58-36-25(b) quoted above provides that the Commissioner shall order escrowed funds to be distributed appropriately. Companies should consult legal counsel with respect to the mechanics of the escrow account.

As to "clean risk" business ceded to the North Carolina Reinsurance Facility which is required to be rated on the basis of Rate Bureau voluntary rates, the Facility will establish and maintain the necessary escrow account, but it will be necessary for ceding carriers to make arrangements properly to identify in their record systems the business ceded to the Facility in such a way as to be prepared to refund "the purportedly unfairly discriminatory or excessive portion of the premium collected" so that appropriate refunds can be made if it should become necessary to do so after the case is concluded. Any such refunds made by the companies will be reimbursed by the Facility to the ceding companies.

Also be advised that G. S. 58-36-45 provides as follows:

"Whenever an insurer changes the coverage other than at the request of the insured or changes the premium rates, it shall give the insured written notice of such coverage change or premium rate change at least 15 days in advance of the effective date of such change or changes with a copy of such notice to the agent. This section shall apply to all policies and coverages subject to the provisions of this article.
. . ."

In the past, some insurers have given notice of premium rate changes by providing to an insured and agent, at least 15 days in advance of the effective date, a renewal policy, renewal certificate, billing or endorsement showing revised rates, together with a written notice substantially as follows:

NOTICE OF RATE CHANGE - NORTH CAROLINA

The premium for this policy reflects changes in rates applicable to North Carolina placed into effect under the provisions of Article 36, Chapter 58 of the North Carolina General Statutes.

The form of this notice has varied at the option of the insurer (printed notice, stamp, stick-on label, etc.). Companies should consult legal counsel with respect to the appropriateness of their own procedures under this statute.

It is important that each company establish procedures that will insure continued compliance with the above cited escrow and fifteen-day advance notice requirements.

Please see to it that this circular letter is brought to the attention of all interested personnel in your Company.

Very truly yours,

John W. Watkins

General Manager

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Enclosures

A-94-17