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October 31, 1996

CIRCULAR LETTER TO ALL MEMBER COMPANIES

EXTREMELY IMPORTANT
MATERIAL

Re: Revised Automobile and Motorcycle Insurance Rates - North Carolina

On April 1, 1996, 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 -2.1% for liability coverages and +22.0% for physical damage coverages, averaging +5.7%; and (2) for motorcycles of -3.0% for liability coverages and +29.8% for physical damage coverages, averaging +10.1%.

In addition to revised private passenger automobile and motorcycle insurance rates, the Rate Bureau's filing included revised classification plan rating factors; a revised rating methodology for uninsured and combined uninsured/underinsured motorists coverages; revised territorial definitions and statistical codes; revised deductible relativities; and numerous amendments to Personal Auto Manual rules.

On July 9, 1996, the Insurance Department convened a public hearing on the Rate Bureau's filing. Following conclusion of the public hearing on August 20, 1996, the Commissioner of Insurance on October 4, 1996 entered an Order disapproving the Rate Bureau's filed rates and revised territorial definitions and statistical codes and ordering overall rate level changes of -8.3% for non-fleet private passenger automobiles and +3.2% for motorcycles effective December 1, 1996. The Commissioner's Order approved the numerous other changes relating to revised classification plan rating factors; the revised rating methodology for uninsured and combined uninsured/underinsured motorists coverages; revised deductible relativities; and amendments to the Personal Auto Manual rules.

During a meeting held on October 22, 1996, 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 and motorcycle insurance rates filed by the Rate Bureau; (2) to proceed with implementation of rate level changes that result in an effective overall rate level change of +5.5% for non-fleet private passenger automobiles over the disapproval of the Commissioner; (3) to proceed with implementation of rate level changes that result in an effective overall rate level change of +9.4% for motorcycles over the disapproval of the Commissioner; and (4) to proceed with implementation of

the numerous other items included in the April 1, 1996 filing which were approved by the Commissioner.

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

These changes are applicable to all new policies effective on or after December 1, 1996 and to all renewal policies effective on or after January 15, 1997. No policy effective prior to December 1, 1996 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 December 1, 1996.

NOTE: The revised rating methodology for uninsured and combined uninsured/underinsured motorists coverages, which was described in Circular Letter A-96-2 dated April 24, 1996, was approved by the Commissioner. However, due to the difficulty some member companies are experiencing in implementing the revised rating methodology, the Rate Bureau requested and the Commissioner agreed and ordered that the new rating methodology will become effective March 1, 1997 with respect to new policies and April 15, 1997 with respect to renewal policies. The current rating methodology remains in force until that time, and the revised rates for uninsured and combined uninsured/underinsured motorists coverages effective December 1, 1996 with respect to new policies and January 15, 1997 with respect to renewal policies under the current rating methodology are attached hereto. Revised rates and rules to be implemented with the revised rating methodology for uninsured and combined uninsured/underinsured motorists coverages as of March 1, 1997 will be furnished at a later date.

Following are the non-fleet private passenger automobile insurance statewide average rate changes over the rate level in effect January 1, 1995 (1) as ordered by the Commissioner of Insurance; and (2) as adopted by the Governing Committee for implementation by member companies:

	Non-Fleet Private Passenger Automobile Insurance Rate Changes Ordered		Non-Fleet Private Passenger Automobile Insurance Rate Changes Implemented	
	By the Commissioner		By the Governing Committee	
Coverages	Automobile	Motorcycles	Automobile	Motorcycles
Bodily Injury	-23.7%		-13.0%	
Property Damage	11.6		27.6	
Medical Payments	-14.6		-1.7	
Uninsured Motorists	-12.2		-7.4	
Underinsured Motorists	-24.3		-14.1	

Total Liability	-13.7	-9.1%	-2.1	-4.5%
Comprehensive	-3.6		14.3	
Collision	5.6		24.8	
Total Physical Damage	2.4	21.4	21.1	30.2
Grand Totals	-8.3%	3.2%	5.5%	9.4%

The following exhibits are attached:

- Base rates implemented by the Rate Bureau effective 12/1/96 for new policies and 1/15/97 for renewal policies.
- Miscellaneous changes in the Personal Auto Manual approved by the Commissioner in his October 4, 1996 Order.
- Miscellaneous changes in Rules 4 and 5 in the Personal Auto Manual approved earlier in the year for implementation with the next rate change.

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.

The implementation of rates over the disapproval of the Commissioner 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, or upon a consent agreement or consent order between the Bureau and the Commissioner, the Commissioner shall order the escrowed funds to be distributed appropriately. If refunds are to be made to policyholders, the Commissioner shall order that the members of the Bureau refund the difference between the total premium per policy using the rate levels finally determined and the total premium per policy collected during the interim period pending judicial review, except that refund amounts that are five dollars (\$5.00) or less per policy 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, to be computed by the Bureau, shall be the average of the prime rates on the effective date of the filing and each anniversary of that date occurring prior to the date of the Commissioner's order requiring refunds, with the prime rate on each of the dates being the average of the prime rates of the four largest banking institutions domiciled in this State as of that date, plus three percent (3%).

As a result of the implementation of revised non-fleet private passenger automobile and motorcycle 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 or motorcycle 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 . . ." pending judicial review. For example, a company which utilizes the manual rates implemented by the Bureau without any deviations should escrow the difference between (1) the 8.3% average reduction which has been ordered by the Commissioner and the 5.5% average increase for non-fleet private passenger automobile insurance adopted by the Governing Committee; and (2) the 3.2% average increase which has been ordered by the Commissioner and the 9.4% average increase for motorcycle insurance adopted by the Governing Committee.

In the event a refund becomes necessary, the above-quoted statute provides that the amount to be refunded is the difference between the total premium per policy using the rate levels finally determined to be appropriate on judicial review and the total collected premium per policy. Therefore, the extent to which a company deviates from Rate Bureau manual rates, on a per policy basis, can affect both the amounts required to be escrowed and, if refunds are ultimately required, the amounts required to be refunded. Member companies should consult their legal counsel with respect to establishing and funding escrow accounts and their responsibilities in the event of a refund.

As a result of the implementation of revised rates effective January 1, 1995 over the Commissioner's disapproval Order issued in connection with the Rate Bureau's February 1, 1994 rate filing, member companies were advised to establish premium escrow accounts as required by law. With the implementation of revised rates effective December 1, 1996, it will no longer be necessary for member companies to continue to fund the escrow accounts established in connection with the rates implemented January 1, 1995. The Bureau's appeal of the Commissioner's Order disapproving the 1994 filing remains pending in the North Carolina Court of Appeals and the escrow accounts established as a result of the rates implemented effective January 1, 1995 must be maintained until final adjudication of the case.

As to "clean risks" 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

JWW:lg

[Enclosures](#)

A-96-6