



South Carolina Department of Insurance

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To: All Insurers Licensed to Transact Life and/or Accident and Health Insurance Business within the State of South Carolina and All South Carolina Licensed Health Maintenance Organizations

From: Ernst N. Csiszar
Director

A handwritten signature in black ink, appearing to read "Ernst N. Csiszar".

Subject: Interpretative Bulletin Relating to the
Use of Endorsements, Amendments and Riders for all
Individual and Group Policies

Scope.

The purpose of this Bulletin is to answer questions the Department receives and to clarify its position regarding the use of policy form documents.

Use of Endorsements, Amendments and Riders.

South Carolina law defines insurance "as a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies. Annuities are included within the definition of insurance." An endorsement, amendment or rider is a policy document that modifies or changes the terms of an insurance policy.

For the purpose of this bulletin, SC Regulation 69-34 § H (1) (b) ***Individual Accident and Health*** describes the following rules for riders and endorsements:

"Except for riders or endorsements by which the insurer effectuates a request made in writing by the policyholder or exercises a specifically reserved right under the policy, all riders or endorsements added to a policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the policyholder. After date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, unless the increased benefits or coverage is required by law."

SC Code § 38-55-50 prohibits an insurer, agent or broker from making a contract or other agreement as to a contract other than as plainly expressed in the policy/certificate issued.

It has been the Department's past position to restrict the use of endorsements for new and/or existing policies. An insurer may now issue an endorsement for the following reasons:

- (1) To make minor modifications or to add benefits to the policy document that does not affect the fundamental terms and conditions of the insurance coverage offered and to allow for the addition of new benefits and/or the enhancement of current benefits.
- (2) To bring a policy/certificate into compliance with state or federal law.
- (3) To bring a policy/certificate into compliance with other current regulatory developments, i.e., the reduction of the minimum required interest rate for purposes of calculating nonforfeiture benefits (i.e. surrender benefits) for prospective sales of contracts entered into pursuant to South Carolina Code § 38-69-240 from 3% to 1½% until June 30, 2005 in accordance with HB 4180.

To the extent that filing endorsements, amendments, or riders as described in Regulation 69-34 § H (1) (b) is required, the following items should be submitted:

- (1) Description
- (2) Readability
- (3) Standard required policy provisions may not be signified as variable (Example is Legal Action—limitation for SC is not less than 6 years for Individual Accident & Health). Certain items that are variable by nature (Examples include but are not limited to current interest rates, officer's signatures, specification page information) may be treated as variable.
- (4) Form must include a form number and signature of a company officer.
- (5) Actuarial memorandum addressing a rider if needed.

Effective Date.

This Bulletin is effective upon the issuance date of November 17, 2003.