

**BEFORE THE SOUTH CAROLINA
DEPARTMENT OF INSURANCE**

IN THE MATTER OF:

Order No. 2020-02

Mandating Electronic Payment Options to
Access Insurance Coverage or Insurance
Services

It has come to the South Carolina Department of Insurance's attention that some licensees are 1) refusing to accept cash from their policyholders as a method of payment and 2) thereby requiring policyholders to transact business digitally or electronically to access insurance services and products. Such policies may have an adverse impact on low-income households, the elderly and consumers who live in rural areas without sufficient Internet connectivity.

The South Carolina Uniform Electronic Transactions Act, S.C. Code Ann. Section 26-6-10 *et seq.* and the Electronic Documents law, S.C. Code Ann. Section 38-55-720 (2017) provide the parameters for the electronic transaction of business as an option, they do not mandate the electronic transaction of insurance business. Policies that prohibit cash payments and mandate the use of the internet to make payments and access insurance service run afoul of these laws.

Section 38-55-720(P) gives the Director the authority to promulgate by order the requirements necessary to implement the provisions of Section 38-55-720.

IT IS THEREFORE DIRECTED AND ORDERED THAT:

1. Under South Carolina law, a consumer cannot be mandated to transact business *electronically*; the consumer must affirmatively consent. *See* S.C. Code Ann. Section 38-55-720 (2017).
2. Because the method of payment is an integral and important part of the insurance transaction, consumers cannot be required to pay for such services electronically (*i.e.*, via debit, credit or automatic draft) to access insurance coverage or insurance services. Applicants and insureds must be given the option of paying for insurance coverage or services via cash, check or other nonelectronic means.
3. Effective immediately, South Carolina licensees cannot prohibit the use of cash as a payment option or mandate the sole use of electronic payment options for insurance-related products or services. Licensees must continue to accept cash or checks as a method of payment in addition to any other payment method until further notice or action by the South Carolina General Assembly. For purposes of this order, cash includes legal tender paper currency or coins or a combination thereof as well as checks.
4. South Carolina law gives policyholders the right to withdraw their consent to conduct business electronically. An insurer cannot refuse to issue or condition issuance of a policy on the insurer conducting business electronically. S.C. Code Ann. Section 38-55-720(C)(2)

(2017). Licensees engaged in practices inconsistent with the requirements of Sections 26-6-10 *et seq.* and 38-55-720 must cease and desist from doing so immediately.

This Department encourages innovation and the use of technology to modernize the insurance industry, but the use of digital technology cannot be mandated. The Department will monitor and prohibit practices or policies that have the effect of depriving applicants and insureds access to insurance coverage or appear to unfairly discriminate among members of the same class, hazard or risk.

Dated this 7th day of October 2020.



Raymond G. Farmer
Director

Columbia, South Carolina