



South Carolina Department of Insurance

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TO: All Property and Casualty Insurers Authorized to Transact the Business of Insurance in South Carolina

FROM: David Black *DJB*
Director

SUBJECT: Allegations of Unfair Discrimination in the Pricing of Policies Financed by Premium Service Companies

DATE: June 14, 2011

I. PURPOSE

It has come to the attention of the South Carolina Department of Insurance that some insurers are: (1) charging a higher premium; (2) denying applicable discounts; or (3) adding additional fees or surcharges to policies that have been financed by a premium service company. These practices violate South Carolina law. The purpose of this bulletin is to remind insurers of the requirements of S. C. Code Ann. § 38-5-200.

II. DISCUSSION

Section 38-5-200 provides in pertinent part:

- (A) An insurer, its agent, or an insurance broker doing business in this State may not require a person to use a particular insurance premium finance company or other installment plan for which a finance charge or other fee in connection with an installment payment has been or will be imposed.
- (B) An insurer, its agent, or an insurance broker doing business in this State may not refuse to issue a policy of insurance solely because the premiums for the policy have been advanced by a premium finance company licensed in this State.
- (C) An insurer or its agent doing business in this State shall not reduce commission or intimidate or retaliate against a producer, agent, broker, or insured who uses premium financing by denying the producer, agent, broker, or insured the same rights accorded producers, agents, brokers, or insureds who pay premiums in a different manner.

Accordingly, insurers may not require the use of a particular premium finance company or installment plan for which a finance charge or fee is imposed. Offering a discount to an insured who uses the insurer's installment plan without offering an insured who uses premium financing

the same premium discount violates this section. Moreover, insurers, brokers, agents or producers are prohibited from denying insureds who pay premiums in a different manner.

Likewise, insurers are prohibited from charging an additional fee to insureds who opt to finance their premium through a premium service company. The South Carolina Department of Insurance favors premium discounts and sometimes approves premium discount programs. However, insurers may not apply an approved discount plan in an unfairly discriminatory manner. Premium discounts must be applied consistently to all insured without regard to the payment method used. To do so, constitutes unfair discrimination and such discrimination is prohibited by § 38-5-200. The Department is reviewing premium discount filings to ensure they are consistent with the requirements of § 38-5-200.

Any insurer engaging in these practices must cease and desist immediately. If the Department determines that insurers are violating the requirements of this section, the Department will institute the appropriate regulatory action including but not limited to withdrawal of approval of the rate filing, requiring a premium refund to South Carolina consumers, and imposing any of the penalties set forth in § 38-2-10.

III. Questions

Any questions about the content of this bulletin should be directed to the attention of Willie Seawright at the following email address wseawright@doi.sc.gov.