



State of New Jersey
DEPARTMENT OF BANKING AND INSURANCE
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HOLLY C. BAKKE
Commissioner

BULLETIN NO. 04-20

TO: All Insurers Authorized, Admitted or Eligible in New Jersey, All Producers Licensed in New Jersey, and Other Interested Parties

FROM: Holly C. Bakke, Commissioner

RE: Producer Conduct Requirements

Recent allegations of wrong doing by a New York producer have focused attention on the responsibilities and standards of conduct of producers, as well as insurers, regarding compensation and other arrangements between producers and insurers, and their dealings with clients and insureds. Producers licensed in New Jersey have been, and continue to be, subject to extensive oversight in these areas. The Department of Banking and Insurance ("Department") is issuing this bulletin to assure that producers and insurers remain aware of their obligations under applicable law, including, but not limited to, N.J.S.A. 17:22A-26-1 et seq., the New Jersey Insurance Producer Licensing Act of 2001, and implementing rules, N.J.A.C. 11:17, 11:17A, 11:17B, 11:17C and 11:17D, and applicable law governing rating systems, including N.J.S.A. 17:29AA-1 et seq. Producers and insurers should review all applicable statutes and rules governing their conduct. In particular, producers and insurers should be familiar with and adhere to the following requirements:

- An insurance producer acts in a fiduciary capacity in the conduct of his or her business. N.J.A.C. 11:17A-4.10.
- Any insurance producer charging a fee to an insured or prospective insured must first obtain from the insured or prospective insured a written agreement which contains clear statement of the amount of the fee and the nature of the service to be provided related to such fee, and a statement whether a commission will be received from the insurer upon the purchase of insurance. N.J.A.C. 11:17B-3.1.
- Any fee charged must bear a reasonable relationship to services provided and may not be discriminatory. No fee may be charged for services not actually performed. N.J.A.C. 11:17B-3.1.

- Limitations on fees as follows: for property/casualty or personal lines/surplus lines insurance, no service fee may exceed \$20.00; and a maximum service fee of \$15.00 may be charged for acting as a broker or consultant upon placement of renewal, except that an inspection fee may be charged up to two percent of the premium or \$10.00, whichever is greater, for surplus lines if the property has not been inspected during the three years prior to the issuance of the renewal policy. No service fee may be charged with respect to life or health insurance. N.J.A.C. 11:17B-3.2.

The Department also notes that the various producer trade associations and designation societies may have their own set of ethical standards and codes of conduct. Producers also should review these sources for additional guidelines.

Finally, it should be noted that the Commissioner of Banking and Insurance has, and may in the future, impose penalties on producers who intentionally misrepresent the terms of a contract, commit any insurance unfair trade practice or fraud, or use any fraudulent or coercive or dishonest practice. Penalties include probation, suspension, revocation or refusal to issue a producer license, in addition to monetary penalties.

The procedures and requirements set forth above provide a general outline of some of the current authorities that establish standards of conduct for producers and insurers. Producers and insurers should continue to be familiar with all requirements imposed by applicable law.

October 22, 2004
Date

/s/ Holly C. Bakke
Holly C. Bakke
Commissioner

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