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EXPOSURE DRAFT

The Maryland Insurance Administration is exposing this draft bulletin for public comment.
Please send your comments to robert.baron@maryland.gov by Friday, July 7, 2017

Bulletin **-**

Date: June 8, 2017

To: All Property & Casualty Insurance Companies
All Property & Casualty Insurance Producers

Re: Commission Expense Reduction Plans

The purpose of this Bulletin is to advise property & casualty insurance companies and producers that a Commission Expense Reduction Plan ("CERP") is prohibited by Maryland law unless such use is in accordance with §§ 27-212(e) and 27-216(b)(2)(iii) of the Insurance Article of the Annotated Code of Maryland ("Insurance Article"), as more fully described below.

BACKGROUND

A CERP gives a producer the discretion to lower the producer's commission in order to lower an insured's premium payment by an equal amount. When a producer accepts a reduced commission from an insurance company and the insured pays a lower premium as a result, a CERP has been applied. A CERP is sometimes described in a rule or series of rules within an insurance company's filed rating program. Alternatively, the CERP may be realized through a business practice not filed within the insurance company's rating plan. In either case, the effect of a CERP is to lower an insured's premium payment by abating a portion in an amount equal to the reduced commission paid by the insurance company to a producer.

MARYLAND LAW

As indicated above, the use of a CERP is a violation of § 27-212(e) of the Insurance Article, which prohibits discrimination between insureds with like insuring or risk characteristics in the premium or rates charged for insurance. There are, however, circumstances under which a producer may determine the level of commission to collect without violating § 27-212(e). Section 27-216(b)(2)(iii) of the Insurance Article allows a producer to charge " a fee, not exceeding 15% of the premium, for services rendered in **replacing insurance** in an insurer **if commissions are not payable by the insurer**." (Emphasis added.) Therefore, as long as all of the following 4 conditions are met, a producer may determine the level of commission to collect from an insured.

1. The insurer's rate filing must contemplate zero dollars ($0.00) of commission expense.
2. The fee charged by the producer may not exceed fifteen percent (15%) of the total policy premium.

3. The fee must be assessed by the producer in a non-discriminatory manner so that insureds with like insuring or risk characteristics are charged the same fee.
4. The fee must be "for services rendered in replacing insurance with an insurer."

FILINGS CURRENTLY IN USE

If an insurance company is currently using a rate filing and the 4 conditions cited above are not satisfied, please advise the MIA of the existence of the filing and note the SERFF number within 30 days of the date of this Bulletin. In its notification, the insurer should provide a projected submission date for a corrective filing. Please send your notification by email to: ronald.coleman@maryland.gov

CURRENT PENDING FILINGS

If an insurance company has a pending filing that includes a CERP , the MIA will notify the filer in SERFF via an objection that the CERP must be removed. At the filer's option, the insurer may either submit a revision to the pending filing removing the CERP or may withdraw the filing and submit a new filing accompanied by a new filing fee.

Please direct any questions concerning this Bulletin to Robert Baron, Associate Commissioner, Property & Casualty at 410-468-2353 or robert.baron@maryland.gov

Al Redmer, Jr.
Commissioner

By: Robert Baron
Associate Commissioner, Property & Casualty