

STATE OF ALASKA

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

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BULLETIN B99-03

TO: All Insurance Producers and Companies Authorized to Transact Insurance Business in the State of Alaska, and Other Interested Parties

RE: Fees in Insurance Transactions

The Alaska Division of Insurance's Market Examination Section has been conducting a series of routine examinations of licensees. The examiners have reported that some insurers and other licensees are violating the law, possibly based on a misunderstanding of such terms as "policy fee" and "broker fee" on policies and invoices, and in relationships with clients. In addition, the examiners have received inquiries relating to insurance producers sharing compensation.

Fees are an Element of Premiums.

All consideration paid for any insurance policy, whether it is called a premium, assessment, or fee, is a premium. AS 21.90.900(33). Admitted insurers writing policies subject to prior rate approval under AS 21.39 may not charge any type of premium unless it has been filed and approved by the division.

Marine and aviation premiums are not subject to prior approval, but any type of fee must be reported by the insurer in its annual statement and is subject to premium tax. Non-admitted insurers may charge policy and inspection fees, but all such fees are considered part of the premium and are subject to premium tax.

Agents.

An insurance producer acting as an agent may not charge a client a fee. Any fees must be charged by the insurer, and all fees must be filed and approved as premiums where required by statute.

Brokers.

An insurance producer acting as a broker may charge a fee or may be compensated by a combination of fees and commissions. A broker must enter into a written contract in accordance with AS 21.27.560(a) that describes the services the broker is to perform and all compensation the broker is to receive. If compensation includes a fee to be paid by the client, any commission paid by an insurer with which the insurance is placed must also be described.

Sharing of Fees and Commissions.

Compensation may be shared between appropriately licensed persons. AS 21.27.370. This includes fees and commissions. Thus, a producer appointed as a broker by a client, when a proper written agreement has been entered into, may share a fee or commission with another properly licensed producer. The statute is designed to provide flexibility in compensation arrangements, while protecting consumers by requiring written contracts that provide clear disclosure of compensation agreements that involve fees.

Insurers and producers should review their operations. Any misrepresentation or misuse of fees potentially subjects the violator to civil penalties; suspension, revocation, or nonrenewal of a certificate of authority or license; or a declaration of ineligibility as a non-admitted insurer.

If you have any questions regarding this bulletin, please contact the Division of Insurance; P.O. Box 110805; Juneau, AK 99811-0805, (907) 465-2515; fax (907) 465-3422; or via electronic mail at: .



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