



STATE OF ARIZONA
DEPARTMENT OF INSURANCE

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CHARLES R. COHEN
Director of Insurance

Former Director Chris Herstam issued the following Circular Letter on April 5, 1994:

CIRCULAR LETTER NO. 94-2

TO: ALL INSURERS AUTHORIZED TO TRANSACT INSURANCE IN ARIZONA, INSURANCE TRADE ASSOCIATIONS, AGENTS' ASSOCIATIONS AND OTHER INTERESTED PERSONS

FROM: CHRIS HERSTAM, DIRECTOR OF INSURANCE

DATE: APRIL 5, 1994

RE: PREMIUM CREDIT FOR SUBSCRIPTION TO FIRE PROTECTION SERVICE

Most insurers in Arizona recognize in their rating systems, filed with the Arizona Department of Insurance ("ADOI"), policyholders who subscribe to a private fire protection service ("fire protection service"). This recognition is most often found in the Public Protection Classifications ("PPC") used by insurers to determine a policyholder's base property insurance rate. As PPC range from 2 (the lowest PPC base rate level) to 10 (the highest PPC base rate level), a non-subscribing policyholder will pay a substantially higher premium if rated in a PPC 10 than if the policyholder subscribed to a protection service and were assigned to a PPC 8 or 9. Fundamental to an insurer's PPC rating rules is the assumption that a policyholder will actually have subscribed to a protection service before receiving the lower premium or "credit".

It has come to my attention that some agents may be giving a policyholder a credit because the policyholder allegedly is a subscriber to a protection service when the policyholder is not a subscriber; and, the agent knows it.

The purpose of this Circular Letter is to put any agent who may be engaging in such a practice on notice that the ADOI would consider such a practice to be a misrepresentation under the Arizona Revised Statutes, Section 20-443(1) and (5) and a rebate under A.R.S. § 20-451. Further, an agent may place the insurer it represents in violation of A.R.S. § 20-385(A), the rate filing law, if: 1) the insurer has not

filed the discount the agent offers or 2) the insurer has filed the discount but the agent has offered it improperly.

Specifically, A.R.S. §§ 20-443(1) and (5), 20-451 and 20-385(A) state in material part:

A.R.S. § 20-443

No person shall make ... any estimate, illustration, circular, sales material or statement:

1. Misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised...
5. Making any misrepresentation to any policyholder for the purpose of inducing or tending to induce such policyholder to ... retain or convert any insurance policy.

A.R.S. § 20-451

No insurer or employee, agent or representative thereof, or broker ... shall offer, pay, allow or give directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium ... except to the extent provided for in an applicable filing.

A.R.S. § 20-385(A)

... every authorized insurer and every rate service organization ... shall file with the director all rates and supplementary rate information and all changes and amendments to those rates made by it for use in this state within thirty days after they become effective.

The ADOI will through its market conduct and rate examinations and its investigations review whether a fire protection service credit has been allowed when the policyholder does not have a fire protection service contract, will not consider such credits as "inadvertent errors," and will take disciplinary action as appropriate against any agent and/or insurer found to be in violation of these Arizona laws.