



**ARKANSAS INSURANCE DEPARTMENT
LEGAL DIVISION**

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December 15, 1997

DIRECTIVE NO. 2-97

TO: ALL LICENSED RESIDENT PROPERTY AND CASUALTY AGENTS

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: ACCURATE REPORTING OF PRIMARY FIRE PROTECTION

Each qualified fire department receives premium tax monies based upon premiums collected on property (real or personal) which is located in that fire department service area. In order to accurately distribute these premium taxes, insurers are required by law to report to the Arkansas Insurance Department the amount of premium collected in each of the qualified fire districts. The report provided by the insurers is only as accurate as the information provided by the agent. Therefore, it is essential that agents accurately report to the insurers the fire district in which the property is located on each policy in force and on each new application.

We are issuing this directive because it has become obvious to the Department that the data collection and compilation process is not, in many instances, producing accurate results.

A separate but equally important statutory requirement may be adding to the confusion in this area. Ark. Code Ann. § 23-88-103 (Michie Supp. 1997) requires agents who write a rural risk and give any rate credit based upon available fire protection in that area, to obtain evidence of payment of current assessment, dues or subscription to the fire department serving the area in which the property is located when writing the initial policy. Act 1178 of 1997 increased the penalty for violation of this statute from \$25 to \$100 for the first violation, and \$500 for the second violation. Subsequent violations may subject the agent to an administrative penalty of \$500, plus an amount equal to the difference between the amount of premium actually charged and the amount of premium which would have been charged if the special rate had not been improperly applied.

In addition, many insurers have suburban rating rules which allow for the use of a fire protection classification for rating purposes other than the protection classification of the fire district where the property in question is located.

It is not the intent of this Directive to discourage the use of suburban rating rules. Indeed, suburban rating rules, when used properly and in compliance with the law, are beneficial to many consumers. This Department supports

the proper, legal use of these rules. The sole intent of this Directive is to help ensure the proper, legal use of suburban rating rules so as to maximize the benefits to consumers and maintain the financial integrity of the firemen's pension funds.

Therefore, it is important that each property and casualty agent know and follow the laws of the State of Arkansas and the rating rules of the insurers they represent. With this in mind, I am directing all licensed resident property and casualty agents to take whatever steps may be necessary to accomplish the following three (3) requirements:

Identify for the insurer the proper, qualified fire department for tax reporting purposes based upon the location of the property in question. This will be the primary fire department serving the area; and

Assure that proof of payment of required assessments or subscription dues is obtained before a rate credit is allowed on property located within the fire service area of that fire department when initially writing a policy; and

Follow the proper rating rules filed by the insurers you represent.

I am further directing all agents to communicate any necessary corrections on both personal and commercial risks contained in your book of business to affected insurers within the first renewal cycle of each policy issued after the date of this Directive, December 15, 1997.

Intentional use of an inaccurate protection class or rate is an act of fraud that is subject to investigation and prosecution by the Insurance Fraud Investigation Division of this Department pursuant to Act 217 of 1997.

Mike Pickens
Insurance Commissioner