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Bulletin

No. A-02/05

Property & Casualty

– Auto

Risk Classification and Underwriting Criteria, Non-Payment Terminations, and Fee Filing Guideline

To the attention of all insurance companies licensed to transact automobile insurance in Ontario

With this Bulletin, the Financial Services Commission of Ontario (FSCO) is highlighting two regulation changes recently passed by the Ontario government concerning risk classification and underwriting criteria and non-payment terminations. Also, a simplified fee filing guideline is being released.

Risk Classification and Underwriting Criteria Restrictions

Ontario Regulation 664 has been amended to add certain financial information and other "lifestyle" factors to the existing list of underwriting and risk classification criteria that are expressly prohibited. The regulation changes are effective upon filing of the regulation.

The amended regulation specifies that:

(a) in deciding whether to issue, renew or terminate any contract, or to provide or continue any coverage or endorsement, an insurer shall not consider a person's:

- employment history,
- credit card possession,
- credit history,
- credit rating,
- bankruptcy or history of bankruptcy,
- residence history,
- home ownership,
- gross or net worth,
- indebtedness, and
- late or dishonoured premium payments that did not result in termination of an auto policy.

(b) except as otherwise expressly permitted, no element of a risk classification system shall use any of the following factors:

- level of income,
- employment history,
- occupation, profession or employment circumstances, unless a contract is for a commercial or public vehicle or a vehicle used in the course of carrying on a business, trade or profession,
- credit card possession,
- credit history,
- credit rating,
- bankruptcy or history of bankruptcy,
- residence history,
- home ownership,
- gross or net worth,
- indebtedness, and
- late or dishonoured premium payments that did not result in termination of an auto policy.

Non Payment Terminations

Regulation 777/93 has been amended to include requirements with which an insurer must comply before terminating an insured's auto insurance contract due to non-payment of premium. An insurer cannot terminate the contract if the insurer receives the outstanding payment, plus any applicable administration fee, before the end of the notice period (no less than 30 days if the insurer gives notice by registered mail and no less than 10 days if the notice is given by personal delivery). If the amount is not paid by the time and in the manner specified in the regulation, then the contract is deemed to

be terminated at the end of the notice period.

If, in a given policy term, an insured has received two notices of non-payment but has paid the amount owing in time to avoid termination, then on the third non-payment notice, the insurer may proceed to cancel the policy whether or not the insured person tenders the late payment. The third notice acts as a termination notice and the policy terminates no earlier than the 15th day after the notice is given by registered mail, or no earlier than the fifth day after the notice is given by personal delivery.

This amendment applies to all contracts entered into or renewed on or after June 1, 2005.

Policy Forms Changes

Amended policy forms will be issued shortly to reflect these Regulation amendments, and will be effective for contracts entered into or renewed on or after June 1, 2005.

Copies of Regulation Changes

These Regulations were filed as O. Reg 45/05 and O. Reg 46/05 on February 18, 2005 and was published in the March 5, 2005 edition of The Ontario Gazette. They can be downloaded from the Ontario e-laws website at: www.e-laws.gov.on.ca.

Fees Filing Guideline

Fees charged by insurers must be filed and approved in accordance with the Insurance Act. A filing guideline for the approval of fees is attached to this Bulletin.

Contact

Should you have any inquiries regarding this Bulletin, please contact your rate analyst in the Auto Insurance Services Branch at FSCO.

Bryan P. Davies

Chief Executive Officer and Superintendent of Financial Services

March 9, 2005

Attachments:

- Fees Filing Guidelines for Automobile Insurance Policies
- Certificate of the Officer/Designate

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FINANCIAL SERVICES COMMISSION OF ONTARIO

Fees Filing Guidelines for Automobile Insurance Policies

Purpose of the Guidelines

A rate is defined under the *Insurance Act* as:

“All amounts payable under contracts of automobile insurance for an identified risk whether expressed in dollar terms or in some other manner and includes commissions, surcharges, **fees**, discounts, rebates and dividends”.

This guideline is to be used by insurers to submit an application to the Financial Services Commission of Ontario (FSCO) for approval of fee(s), including administration fees as referred to in O. Reg. 777/93, s. 11 (1.3), to be charged to the insured for insurance written on OAP 1 or 2.

Any other change to rates, other than a fee, is to be filed using the Section 410/413 Filing Guidelines, as applicable.

Company: ______________________________

Group Name: ______________________________

SUMMARY OF INFORMATION

1. Please list the following:

Type of fee(s) and description as to how and when applied	Current Fee	Proposed Fee	Category of Automobile Insurance
1.			
2.			
3.			
4.			
5.			

2. Proposed effective date for ***new*** policies: ______________________________

Proposed effective date for ***renewal*** policies: ______________________________

3. Individual to whom questions concerning this filing may be addressed:

Name: ______________________________

Title: ______________________________

Company: ______________________________

Address: ______________________________

____

____

____

Phone No.: ______________________________

Facsimile No.: ______________________________

E-mail Address: ______________________________

CERTIFICATE OF THE OFFICER/DESIGNATE

I, ______________________________ , ____

(Name of Officer) ***(Office held: President, CEO, COO, CFO, Chief Agent for Canada, or Designate)***

of ____ (the "Insurer")

(Official Name of Company)

CERTIFY THAT:

1. This rate filing is to be effective as of

   ____________________________________ for new business

   (Date of Implementation)

   and

   ____________________________________ for renewal business.

   (Date of Implementation)

2. I have knowledge of the matters that are the subject of this certificate.

3. The changes requested are in compliance with the Fee Filing Guideline requirements.

4. The information and each document contained in the filing accompanying this certificate are complete and accurate.

5. The proposed rates are just and reasonable, do not impair the solvency of the Insurer, and are not excessive in relation to the financial circumstances of the Insurer.

________________________ ________________________

Signature of Officer/Designate **Date, Location**