July 25, 2005

BULLETIN NO.: 5-2005

TO: ALL LICENSED RESIDENT AND NON-RESIDENT INSURANCE PR0DUCERS

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: PRODUCER COMPENSATION DISCLOSURES

The Producer Licensing Model Act (PLMA) was amended by Section 9 of Act 1697 of 2005, to create more transparency for insurance consumers through better disclosure of insurance producer compensation. These PLMA amendments will ensure consumers are provided the necessary information to understand any potential conflicts of interest a producer may have because of the manner in which the insurance producer is compensated.

For the vast majority of producers who do not act as brokers, the disclosure requirements will simply be to tell the customer: (a) the source of their compensation for that placement of insurance; and (b) that the producer represents the insurer and will be providing services to the consumer on behalf of the insurer. The Act requires greater disclosures for an insurance producer who acts as a broker, OR who receives compensation from the customer; this producer must disclose whether he will receive additional compensation from the insurer or other third party and provide the customer an estimate of the amount of such compensation if the customer requests such additional information.

Licensees have had questions regarding the Act, and we have summarized our responses in the following guidelines:

1. The producer disclosure requirements only apply to new customers. After the initial disclosure is made, no disclosure needs to be made at renewal unless the information previously disclosed has substantially changed.

2. The disclosure may be made verbally, though a producer would be wise to document the specific date the disclosure was made to the customer. A written disclosure signed by the customer, though not required, is the preferred way for a producer to prove that the disclosure was actually made. The Department will not pre-approve any written disclosures.

3. The Act requires the disclosure to be made "before the placement of insurance business." The Department has interpreted this to mean that the required disclosures should be made before the customer has committed to purchasing the product.

4. In some instances, a producer may sell a product for an insurer but will not be compensated by that insurer. The compensation may come from the insurer's parent or other affiliate, or from a third party. The source of the producer's compensation must be disclosed and the relationship must be explained.

Questions concerning this Bulletin should be directed to the Arkansas Insurance Department Legal Division at 501-371-2820 or e-mail to Legal.Division@arkansas.gov.

(Signed by Julie Benafield Bowman) (July 25, 2005)

JULIE BENAFIELD BOWMAN DATE
INSURANCE COMMISSIONER