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**Douglas A. Ducey, Governor
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REGULATORY BULLETIN 2017-03¹

TO: All Insurers Authorized to Transact Insurance in Arizona; Insurance Trade Associations; Agents' Associations and Other Interested Parties

FROM: Leslie Hess *LPH*
Interim Director of Insurance

DATE: December 5, 2017

RE: Withdrawal of Circular Letter 2006-08

Background

In Circular Letter 95-1 issued on February 27, 1995, the Department recognized and addressed a problem with premium misquotes on private passenger automobile policies (where an insurer or producer would quote a lower price than what the insurer ultimately charged when the policy was issued)². In Circular Letter 95-1, the Department stated that because insureds make insurance decisions based on quotes, an insurer must honor a premium misquote, regardless of intent, until the policy is renewed or changed at the insured's request. In order to establish a floor for when a quote could be considered a "misquote", the Circular Letter set a minimum premium misquote threshold of \$10. Subsequently, in Circular Letter 2006-08, upon industry's request to review the minimum threshold based on inflation, the Department acted to increase the minimum threshold to \$20³. Thus, currently, if the premium amount charged by the insurer upon issuance of the policy is more than \$20 higher than the amount quoted, the insurer is required to

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² Misquoted premiums may occur for various reasons including failure to provide current rate information, rate miscalculations, human error, computer programming mistakes, application of inapplicable discount, intentional misrepresentation and more. Under the Circular Letter, misquotes do not include situations where the applicant provided inaccurate information, fraudulently obtained the insurance or made material misrepresentations to the insurer/producer.

³ The minimum threshold applies to the premium for the policy term regardless of the amount of the premium or the duration of the policy term.

honor the premium as provided in Circular Letter 2006-08. A quoted premium of less than \$20 is not considered a “misquote” for purposes of the Circular Letter and is not addressed by the Circular Letter. With the recent regulatory rollback of antiquated and redundant regulation, the industry requested that the Department consider withdrawing Circular Letter 2006-08 (and 1995-1).

Department Analysis

Complaint Data

In order to evaluate the utility of the Circular Letter, the Department reviewed all policyholder complaints made to the Department regarding premium misquotes from January 1, 2013 through May 31, 2017. Nine written premium misquote complaints were made to the Department over that period with just a subset of those addressed by Circular Letter 2006-08⁴. The very low number of complaints reported over the past four years suggests that the problem of premium misquotes has substantially abated. Despite the lack of recent complaint activity, consideration must be given to a deterrent effect of the Circular Letter since inception. Unfortunately, there is no comparable data from 1994 to credibly measure a deterrent effect of the Circular Letter. As stated above, the 2013 and forward complaint data indicates a significant decline in reporting whether as a result of misquote abatement, deterrence or otherwise.

Consumer Protections

The Department believes that credible complaints regarding premium misquotes is squarely addressed under existing law by Arizona Revised Statutes § 20-443(A)(1) and (5) without the need for the Circular Letters. The act of making a misrepresentation, regardless of “intent”, is a violation of A.R.S. § 20-443. Further, a “knowing” misrepresentation is a criminal violation (Class 5 felony) under A.R.S. 20-443.01. The statutes do not set a minimum threshold. Arguably, the statute provides a greater protection for insureds than the Circular Letter did in addressing premium misquotes. Additionally, the Department believes there may be other statutory remedies regarding a premium misquote based on the specifics of the situation.

Alternative to Withdrawal

As noted in footnote 2, the Circular Letters do not specify premium amounts or policy duration in setting the minimum threshold for a discrepancy between quoted and actual premium to qualify as a “misquote”. In lieu of withdrawal, the Department considered revising the Circular Letter threshold to a higher amount or to include a percentage rather than a fixed dollar amount. However, for the reasons stated elsewhere herein, the Department agreed with industry that the Circular Letters were obsolete and unnecessary.

⁴ Several of the complaints did not involve private passenger automobile insurance.

Department Conclusion

Based on the very low number of written complaints received over the period examined by the Department, the reasonable conclusion that the problem has substantially been abated, and the existence of statutory protections for consumers under A.R.S. §§ 20-443, 20-443.01, and other relevant statutes, the Department is withdrawing Circular Letter 2006-08 (and its predecessor Circular Letter 1995-1).

The Department will continue to monitor premium misquote complaints. We will take further appropriate action should we see an uptick in complaints or other related concerns are brought to our attention.