



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 February 27, 1995:

CIRCULAR LETTER NO. 95-1

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: FEBRUARY 27, 1995

RE: **MISQUOTES; PRIVATE PASSENGER AUTOMOBILE INSURANCE**

The Arizona Department of Insurance ("ADOI") continues to receive complaints from private passenger automobile insureds that an insurer or producer has quoted a lower price to them than what the insureds ultimately have to pay when they receive their insurance policies. The insureds have stated that the misquoted lower premiums have caused them to change insurers or to purchase items they would otherwise not have purchased had they known the actual premium they would be required to pay.

Historically, it has been the position of the ADOI that an insurer must honor a misquote, whether the misquote was intentional or unintentional. When the policy is renewed or changed at the request of the insured, the insurer may adjust the premium to the correct rate level. The ADOI's position has not changed, and the purpose of this revised Circular Letter is to remind insurers and producers who transact insurance in Arizona of the ADOI's policy regarding misquotes. Revisions to the October 6, 1994 letter on this issue are underlined.

For the purpose of this Circular Letter a "misquote" means that the insurer or producer has quoted a price to an applicant for insurance which is more than \$10 less than the premium which should have been quoted. A "misquote" does not include those situations where the applicant has provided inaccurate information, has fraudulently obtained the insurance or has made material misrepresentations to the producer or insurer. Those who have misquoted premiums to consumers cite reasons which include, but are not limited to, the insurer not providing the producer with current rates, a new employee's rating miscalculation, "human error," or a computer programming

mistake. Whatever the reason, the result is that consumers have relied, often to their detriment, upon a quotation that they had every reason to expect would be accurate.

The ADOI believes that insurers and producers have an inherent responsibility, which attaches with the license they receive from the ADOI to transact insurance in Arizona, to ensure that the quotations they provide to members of the public accurately reflect the price the consumer can expect to pay for insurance. The most frequently asked question by consumers during the sale of insurance is “how much will this insurance cost me?” It is reasonable for the consumer to expect that the answer received is accurate. Insurers and producers have a duty to provide quotations upon which the customer can rely as both hold themselves out to the public as possessing special knowledge and expertise about the insurance product being sold.

“The objectives of the department of insurance are to administer the state insurance laws, **protect the citizens of this state who purchase insurance, provide a better response to the needs of persons who purchase insurance** and stimulate the insurance market by encouraging competition [emphasis added]”. Laws 1980, Ch. 230, § 1.

Therefore, to assist in carrying out its objectives and to better protect the public, the ADOI strongly suggests all insurers amend their filings to reflect the substance of this Circular Letter. The ADOI recommends the following language:

Until the expiration of the policy term covered by the quotation, or until a change is subsequently made at the request of the insured the (Insurer's Name) will adhere to the premium initially quoted by (Insurer's Name) or by producers making quotations resulting in the issuance of a (Insurer's Name) insurance policy and which quotations provided the applicant with **a premium** more than \$10 lower than should otherwise have been quoted. The aforementioned does not apply to those situations where **the lower** quotation was made because the applicant provided incorrect information, fraudulently obtained the insurance policy or made material misrepresentations to the producer or (Insurer's Name). The (Insurer's Name) will advise the insured **in writing** that the premium quotation initially provided: a) was incorrect, b) should have been another dollar amount to be cited by (Insurer's Name) in its communication to the insured, and c) will be honored by (Insurer's Name) until the first policy renewal or until a change is subsequently made at the request of the insured.

The ADOI encourages insurers to amend their filings within sixty (60) days from the date of this Circular Letter.

Producers shall not provide “waivers” or disclaimers to or have applicants sign releases which relieve the insurer or producer from honoring a misquote.

This is to further advise that the ADOI will not take action against the insurers named in the complaints involving misquotes presently pending before the ADOI for having violated their rate filings if the insurers honor the misquotes.