

**PROGRAM DIVISION
BULLETIN**

2007-03

January 29, 2007

South Carolina Department of Insurance
Filing of Underwriting Guideline Changes by Geography

The South Carolina Department of Insurance has called for underwriting guidelines for insurers and brokers licensed to write business in the state.

Please review the attached bulletin from the department.

I have attached a copy of a letter from our legal department concerning this issue for surplus lines. The letter states our position concerning this request for Lexington Insurance Company. Please be guided accordingly.

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AIG

PROGRAM DIVISION

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January 29, 2007

To: Lexington's Program Administrators in South Carolina

Re: South Carolina Bulletin 2006-11, Filing of Underwriting Guideline Changes by Geography

Dear Program Administrator:

Lexington Insurance Company has become aware of the above referenced Bulletin, which was addressed to "All Insurers Licensed to Write Property Insurance in South Carolina and All Brokers Licensed to Write Business in the eligible Surplus Lines Market". Lexington is sending this letter to all of its Program Administrators in South Carolina since a number of you have requested Lexington's views as respects this bulletin before responding to it. Lexington does not intend to correspond directly with the South Carolina Division of Insurance (the "Division") because surplus lines companies were not directly addressed in the Bulletin.

It is Lexington's view that the Division is seeking to obtain indirectly, through licensed surplus lines brokers, what it lacks the authority to obtain directly from the surplus lines carriers, themselves. Further, the statute that the Division is relying upon, Code Section 38-75-1240, relates to authorized insurers, not eligible surplus lines insurers nor to surplus lines brokers.

In another connection, Section 23 of the Program Administrator Agreement between Lexington and each of its program administrators in South Carolina deals with Confidentiality, and (in pertinent part) provides that "Each party agrees...not to disclose such Confidential Information to any third party (including without limitation, in any public statement or announcement) without the prior written approval of the other party". Lexington believes that the information which is the subject matter of Division's Bulletin is both proprietary and confidential. For this reason, Lexington is unwilling to consent to the release hereof.

Of some interest, at least two trade associations, namely the Property Casualty Insurers Association of America and the National Association of Professional Surplus Lines Offices have expressed a view similar to the foregoing, to the Division. A copy of each of these letters is enclosed for your review.

The foregoing explains Lexington's position in this matter. Please do not hesitate to contact the undersigned if you have any questions.

Very truly yours,

Mel Marcus
Counsel



South Carolina Department of Insurance

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BULLETIN NUMBER 2006-11

TO: All Insurers Licensed to Write Property Insurance in South Carolina and All Brokers Licensed to Place Business in the Eligible Surplus Lines Market

FROM: Eleanor Kitzman
Director *Eleanor Kitzman*

SUBJECT: Filing of Underwriting Guideline Changes by Geography

DATE: December 21, 2006

S.C. Code Section 38-75-1240 requires all insurers to provide annually to the director: 1) a listing of underwriting restrictions based upon geography; and 2) a notice of new changes to current underwriting restrictions. These restrictions are not subject to the approval of the Department and are not considered public information. See S.C. Code Ann. § 38-75-1240 (Supp. 2005). As such, they will be treated as proprietary information and afforded confidential treatment by the Department.

Accordingly, each licensed insurer and broker on behalf of each surplus lines insurer represented shall provide by January 31, 2007: 1) a listing of underwriting restrictions based on geography as of 1/1/2005; and 2) any changes to those underwriting restrictions as of December 31, 2006. Thereafter, updated information shall be provided for the prior year by January 31st of each year. A listing of underwriting restrictions based on geography for newly licensed insurers or approved surplus lines insurers shall be provided as of the date such insurer began doing business and any changes to those restrictions as of December 31st of that year.

A separate listing should be prepared for each line of business and for each company within a group transacting property insurance in South Carolina. Submit separate listings for commercial and personal lines. Do not combine this information into one document or submit an underwriting manual in lieu of the listing. Examples of underwriting restrictions based on geography include, but are not limited to: wind exclusions, proximity to water, deductibles, limits, construction type or protection class codes.

Please e-mail your responses to Carla Griffin, Manager, Forms and Rates by January 31, 2007 at cgriffin@doi.sc.gov. Please direct any questions regarding this request for information or the format to her attention at (803) 737-6230.