

January 7, 1982

SUBJECT: INSURANCE

WITHDRAWN

Circular Letter No. 1 (1982)

TO: ALL INSURERS AUTHORIZED TO TRANSACT FIRE, MARINE AND CASUALTY INSURANCE IN THIS STATE

RE: RATE VERIFICATION PROCEDURES

As a result of market conduct investigations, Departmental examiners have found a high percentage of violations of the rating provisions of the New York State Insurance Law and of Regulation No. 57 in the commercial lines of insurance. These violations consisted of the use of improper rates, incorrect classifications, and incorrect exposures.

Regulation 57, which became effective January 1, 1970, requires that insurers establish adequate procedures to minimize the occurrence of improperly charged rates (Section 160.2(g)). Even where insurers subscribe to a rating organization's audit service, for the prevention of improperly charged rates, evasion of the audit procedure for rate verification has been found. Where insurers have established internal rate verification procedures, it has been found that they are often not effectively implemented and/or are inadequate. In this regard, all insurers are reminded of the provisions of Regulation 57 and the penalties delineated in Section 179(3) of Article VII-A.

The application of individual risk premium modification and schedule modification plans has also been found to be abused. These plans are being utilized in an arbitrary manner as competitive pricing tools, rather than for the filed intent of recognizing special characteristics of the risk themselves.

It is emphasized that the basis for the debits and credits of the individual risk premium modification and/or schedule modification must be evidenced in the company's policy file. General statements such as "underwriting judgement" and "competition" will not be deemed as proper and sufficient supporting basis thereof. Undocumented debits and credits will be considered as violations of Regulation 57, Section 160.2(e), and are indicative of unfairly discriminatory rates proscribed by Section 176(1) of the rating law.

The Department has imposed fines on those insurers which have been found to be in violation of the law.

In order to put an end to the unfair and illegal rating practices which have been found to be prevalent in the industry, the Department is expanding its Market Conduct staff and will make more frequent and unannounced examinations to determine compliance with the Insurance Law and Department regulations.

Penalties available under the law will be imposed on insurers found to be in violation.

To assist in the regulatory process, you are hereby directed to furnish this Department with the name, address and telephone number of the officer designated to be responsible for the rate verification procedure applicable to your company. Your reply should be directed to:

Martin Ballot, Principal Insurance Examiner

Property and Casualty Insurance Bureau
State of New York Insurance Department
2 World Trade Center
New York, N.Y. 10047

Very truly yours,

[SIGNATURE]

Albert B. Lewis

Superintendent of Insurance