



STATE OF NEW YORK
INSURANCE DEPARTMENT
ONE COMMERCE PLAZA
ALBANY, NY 12257

David A. Paterson
Governor

Eric R. Dinallo
Superintendent

**Circular Letter No. 13 (2009)
April 30, 2009**

To: All Insurers Authorized to Transact Motor Vehicle Liability Insurance Business in New York and the New York Automobile Insurance Plan

Re: Motor Vehicle Law Enforcement Fee

STATUTORY REFERENCE: New York Insurance Law § 9110

The purpose of this Circular Letter is to provide guidance to insurers writing motor vehicle insurance in New York regarding the recent amendments to New York Insurance Law § 9110, entitled "Motor Vehicle Law Enforcement Fee." Section 9110 requires every insurer authorized to do business in New York to charge and collect an annual motor vehicle law enforcement fee from each holder of a motor vehicle liability insurance policy delivered or issued for delivery in New York.

Effective June 1, 2009, the annual fee is imposed at the rate of \$10 per insured vehicle registered pursuant to the provisions of New York Vehicle and Traffic Law § 401(1)(b). However, the Legislature also amended section 9110(b) to provide "that such fee shall be reduced by fifty percent per insured motor vehicle registered pursuant to the provisions of paragraph b of subdivision one of section four hundred one of the vehicle and traffic law where a policy issued in the state or for delivery in the state for motor vehicle liability insurance coverage is for a term of six months or less." There has been some confusion as to how to interpret these amendments and therefore, the Insurance Department is seeking a legislative clarification. However, since insurers are already issuing renewal notices on policies to be effective on and after June 1, 2009 and cannot wait for possible amendments to the law, this circular letter provides guidance as to how to apply the new law.

Accordingly, an insurer should, with respect to policies issued or renewed on or after June 1, 2009, implement procedures consistent with the following:

A policy with a term longer than six months:

- An insurer must collect a \$10 fee per insured vehicle when the policy is first issued and upon the policy's anniversary date. For example, on a policy written on January 1, 2009 with a one-year policy term, an insurer must collect \$10 on January 1, 2010. For any possible multi-year policy, an insurer must collect a \$10 fee upon each anniversary date.
- For a vehicle added or replaced on or after June 1, 2009, an insurer must collect a \$10 fee at the time of the addition or replacement and thereafter upon the policy's anniversary date.

A policy with a term of six months or less:

- An insurer must collect a \$5 fee per insured vehicle when the policy is first issued and upon renewal of the policy, but the total fees collected should not exceed \$10 per insured vehicle annually. For example, on a policy written on January 1, 2010 with a six-month term, an insurer must collect \$5 on both January 1, 2010 and July 1, 2010.
- For a policy issued prior to June 1, 2009, an insurer should not collect any additional fee until the policy's next anniversary date. For example, if on May 1, 2009 an insurer collected \$5, then it should not collect a fee on the same vehicle on November 1, 2009, but rather, must collect the fee on May 1, 2010.
- For a vehicle added or replaced on or after June 1, 2009, an insurer must collect a \$5 fee at the time of the addition or replacement and thereafter upon the renewal of the policy.

All policies:

- An insurer may refund a fee only if the policy is rescinded without having become effective, and may not refund the fee simply because a vehicle is removed from the policy.
- An insurer no longer needs to itemize the fees by type of vehicle on the Department's remittance form.
- An insurer may not calculate or include the fee in its rate filings.
- An insurer should show the fee as a separately identified amount on a premium bill, the declarations page of the policy, or in a separate written communication to the policyholder.
- An insurer should maintain its records in such a manner that amounts billed and collected from each policyholder can be identified.
- An insurance producer may not earn a commission on the fee.
- The fee is not subject to premium tax.

Updated remittance forms are available on the Department's website. Insurers may file and remit fees on-line through the Department's website.

Please refer any questions to:

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Sincerely,

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