STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243-5065
615-741-6007

BILL HASLAM
GOVERNOR

JULIE MIX McPEAK
COMMISSIONER

TO: All Insurers Licensed to Write Property and Casualty Insurance, All Property & Casualty Producers, and All Interested Parties

FROM: Julie Mix McPeak, Commissioner Julie Mix McPeak

RE: Implementation of Public Chapter No. 878: Exempt Commercial Risk Policyholders

DATE: June 29, 2012

The Insurance Division of the Department of Commerce and Insurance ("Division") has received inquiries from interested parties seeking clarification regarding implementation of Public Chapter No. 878 regarding commercial risk policies issued to exempt commercial risk policyholders. This new section to Tennessee Code Annotated Title 56, Chapter 5, Part 3, shall take effect on July 1, 2012. The section, among other things:

- Defines "exempt commercial risk policyholder" and "risk manager."
- Directs that commercial risk insurance policies issued to an exempt commercial risk policyholder by an insurer of commercial risk insurance are exempt from the rate filing requirements in Tenn. Code Ann. § 56-5-306.
- Directs that an insurer of commercial risk insurance is subject to statutory penalties if the insurer fails to comply with statutory requirements relative to a commercial risk insurance policy issued to a commercial policy holder and the policyholder has not filed the required certification.

The purpose of this Memorandum is to publish a self-certification form required to be annually submitted (at the policy origination date and/or at renewal) to the Division by a commercial risk policyholder to qualify as an "exempt commercial risk policyholder." The certification form filed by a commercial risk policyholder shall be confidential and not subject to Title 10, Chapter 7, Part 5.

The Memorandum further publishes that insurers may use the sample disclaimer below, or language substantially similar to the language below, to satisfy a requirement under Tenn. Code Ann. § 56-5-322(e) that any application or policy issued to an exempt commercial risk policyholder contain such a disclaimer.

> *The rate provided for in this policy and all forms utilized are exempt from the filing requirements of Tenn. Code Ann. § 56-5-306. The forms which make up this policy contract are exempt from the filing requirements of Tenn. Code Ann. § 56-5-306.*

Any questions about the intent of this Memorandum should be directed to the Insurance Division, 4th Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee, 37243, and/or telephone number (615) 741-2176.

Tennessee Certification of Exempt Commercial Policyholder Status
Pursuant to Tennessee Code Annotated 56-5-322

Insurance Article § 56-5-322 of the Tennessee Code Annotated permits certain commercial policyholders to certify that it meets the criteria required to qualify as an Exempt commercial risk policyholder. The undersigned _____, (the Insured) certifies to the Tennessee Department of Commerce and Insurance (the Department) that the Insured meets the criteria below and is an Exempt commercial risk policyholder under Tennessee law. The certification as an Exempt commercial risk policyholder enables the policyholder to purchase insurance policies that contain rates, forms, and/or endorsements that have not been filed with and approved by the Department. The policy must still comply with Tennessee law, and complaints or questions about compliance may be directed to the Tennessee Department of Commerce and Insurance at 615-741-2176.

In order to be an Exempt commercial risk policyholder, the Insured must:

1. Annually (at the policy origination date and/or at renewal) execute this Certification Form and return it to the Insurance Division, Policy Analysis Section, 4th Floor, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee, 37243.
2. Employ the services of an insurance producer licensed in Tennessee in property or casualty lines of authority or procure commercial risk insurance with the services of a full-time risk manager.
3. Meet ALL of the following requirements (check all that apply).

____ Possess a net worth of more than ten million dollars ($10,000,000) at the time the policy of insurance is issued.

____ Generated net revenue or sales of more than fifteen million dollars ($15,000,000) in the preceding fiscal year.

____ Employ more than twenty-five (25) employees per individual company or fifty (50) employees per holding company at the time the policy of insurance is issued.

____ Paid annual aggregate insurance premiums of more than two hundred fifty thousand dollars ($250,000) in the preceding fiscal year of commercial risk insurance as defined in § 56-5-302, excluding any premiums paid for accident and health insurance and workers' compensation and employer's liability insurance as defined in § 56-2-201.

Signature: _____

Date: _____

Printed: _____

Title: _____

Contact Number: _____

Name of Commercial Insured: _____

Address of Commercial Insured: _____

Name of Insurance Producer/Risk Manager: _____