



STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
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NASHVILLE 37219

JOHN C. NEFF
COMMISSIONER

B U L L E T I N

TO: ALL INSURANCE COMPANIES
FROM: JOHN C. NEFF, COMMISSIONER *JCN.*
RE: FEES
DATE: OCTOBER 27, 1983

The Department of Commerce and Insurance has received a great many inquiries in the past several months regarding the issue of fees versus commission. This bulletin is to inform all insurance companies doing business in Tennessee of the Department's position regarding the companies' responsibilities on this issue. This Department considers any money paid for a specific policy of insurance by the consumer to be a part of the gross premium. Therefore, any arrangement between an agent, company, and policyholder which allows for a fee to be charged rather than or in addition to a commission would not relieve the company involved for payment of premium taxes on the amount paid by the policyholder. If one of your company's agents is charging such fees, and the Department receives proof of this charge, your company will be billed for the premium taxes plus interest and penalties.

The Department also sees a problem with such an arrangement for property and casualty insurers who could be in violation of Tennessee Code Annotated, Section 56-5-305 and Section 56-5-306, which requires that agents and companies follow the rates which have been filed with the Department. Further, depending on whether or not fees or commissions were reduced for a specific client, there is a potential violation of T.C.A., Section 56-8-104 (6) and (7) for all lines of insurance. Therefore, if a fee or reduction of commission is made on a specific policy of insurance, there are several possible violations for which this Department could charge both the agent and/or company involved.

JCN:ct