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BULLETIN 2007-10

TO: All Insurers and Producers Transacting Property and Casualty Insurance
Business Within the State of South Carolina

FROM: Scott H. Richardson 
Director

SUBJECT: *Omnibus Coastal Property Insurance Reform Act of 2007, Act No 78*

DATE: August 6, 2007

This is the second in a series of bulletins regarding implementation of Act 78. There will be future bulletins dealing with other provisions of the legislation. Questions have been raised as to what lines of business the cancellation/non-renewal provisions contained in the Act apply. The purpose of this bulletin is to address those questions. Section 38-75-710 provides the scope of Article 9:

This article applies to all property insurance and casualty insurance, as defined in Section 38-1-20, except for automobile insurance and any other type of property or casualty insurance as to which there are specific statutory provisions of law governing cancellation, nonrenewal, or renewal of policies. This article further applies to policies issued by licensed insurers and to policies issued by eligible surplus lines insurers.

Both Sections 38-75-730 and 38-75-740 are contained in Article 9 of Chapter 75, Title 38, thus the cancellation/non-renewal provisions contained in these Sections apply to all property and casualty insurance policies unless there are other, specific statutory provisions of law governing cancellation and non-renewal for a particular line of business. Automobile insurance is specifically excepted by Section 38-75-710.

Laws addressing workers' compensation are codified in Title 42 of the South Carolina Code of Laws. Section 42-5-20 provides that employers accepting the provisions of the title must insure their liability or provide proof of their ability to pay compensation. Pursuant to Section 42-5-30 if an employer secures insurance for their liability under the

workers' compensation laws, that insurance carrier is required to make filings with the Workers' Compensation Commission. Section 42-5-60 further provides that every policy for the insurance of the compensation provided in this Title or against liability therefore shall be deemed to be made subject to provisions of this Title. Chapter 5 also prescribes certain clauses that must be contained in workers' compensation policies. See South Carolina Code of Laws Sections 42-5-70 and 42-5-80.

The South Carolina Workers' Compensation Commission is granted the authority to promulgate all regulations relating to the administration of the workers' compensation laws of this State necessary to implement the provisions of Title 42 in South Carolina Code of Laws Section 42-3-30. Pursuant to this authority, the Commission has promulgated regulations governing the cancellation and /or non-renewal of workers' compensation insurance policies. S.C. Code of Regulations 67-406 and 67-407 provide the required procedures for cancellation and non-renewal for workers' compensation policies.

The Department hereby declares that the cancellation/non-renewal provisions of Sections 38-75-730 and 38-75-740 are not applicable to workers' compensation policies as workers' compensation insurance is specifically governed by the statutes contained in Title 42 and the cancellation/non-renewal provisions are specifically addressed by regulations promulgated under authority of those statutes.

Questions regarding this Bulletin may be addressed to the attention of Leslie Jones, Deputy Director Actuarial Services at ljones@doi.sc.gov.

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