

COMMONWEALTH OF VIRGINIA

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November 8, 2006

Administrative Letter 2006-15

REVISED 7/19/2016*

**To: All Property and Casualty Insurers and Rate Service Organizations
Licensed in Virginia**

**Re: Schedule Rating Plans, Expense Modification Plans, Experience Rating
Plans, and Facultative Reinsurance; Withdrawal of Administrative Letters
2001-12, 1998-14, 1985-12 and 1983-9**

The purpose of this administrative letter is to: (i) clarify and simplify filing requirements applicable to schedule rating plans, expense modification plans, and experience rating plans; and (ii) notify regulated entities that plans that allow the cost of facultative reinsurance to be passed along to policyholders are permitted. For the purposes of this administrative letter, the term schedule rating plans also means individual risk premium modification plans. In order to illustrate several provisions of this administrative letter, a sample of a typical schedule rating plan is provided as an attachment.

Schedule Rating Plans

- Section 38.2-1904 C of the Code of Virginia permits insurers to use schedule rating plans. If an insurer uses a schedule rating plan in Virginia, the plan must be filed with the Bureau of Insurance (Bureau) on or before the date the insurer uses it.
- Schedule rating plans typically contain ranges of debits and/or credits applicable to specific risk characteristics to reflect higher or lower than average anticipated losses or expenses associated with the risk. (Refer to notes #3 and #4 in the attached sample rating plan.) Schedule rating plans should not include debits or credits to reflect past loss experience.
- The Bureau has been requiring filings to state the maximum total credit or debit (i.e., a cap or limit) that applies to the schedule rating plan (see note #6 in the attached sample rating plan). **Effective immediately the Bureau will no longer require insurers to provide this information in their filings.** However, regardless of whether this information is filed with the Bureau, insurers must be able to demonstrate consistent application of the cap and/or limit, if any, on the total amount of credit or debit. Compliance will be verified during market conduct examinations and other enforcement actions.

- The Bureau has been requiring filings to indicate how the credits or debits are tallied (e.g., totaled using an additive or multiplicative method; see note #5 in the attached sample rating plan). **Effective immediately the Bureau will no longer require insurers to provide this information in their filings.** However, insurers must be able to demonstrate that the method used to tally the modifications has been applied consistently. Compliance will be verified during market conduct examinations and other enforcement actions.

Expense Modification Plans

- Section 38.2-1904 C permits insurers to use expense modification plans. If an insurer uses an expense modification plan in Virginia, the plan must be filed with the Bureau on or before the date the insurer uses it.
- Expense modification plans may be used to modify (increase or decrease) premiums to reflect higher or lower than average anticipated expenses as part of, or in addition to, a schedule rating plan. Ranges of modification are permitted, but such ranges must be included within the filing.
- Separate expense modification plans may be filed that allow up to 100% of the cost of facultative reinsurance to be passed along to a policyholder.
- Expense modification plans that allow for the reduction of agent commission that result in a lower premium to be charged to the insured are permitted to be filed pursuant to § 38.2-1904 E.

Experience Rating Plans

- Section 38.2-1904 permits the use of experience rating plans, which are defined in § 38.2-1901. If an insurer uses an experience rating plan in Virginia, the plan must be filed with the Bureau on or before the date the insurer uses it.
- Ranges of credits and/or debits are not permitted because an experience rating plan is a formula utilizing past risk experience to produce a prospective premium credit, debit, or unity modification.
- The thirty-six month experience period set forth in § 38.2-1904 D is not applicable to experience rating plans or other types of rating plans that are based on accidents and/or convictions used with commercial automobile insurance policies.
- Section 38.2-1905 is not applicable to experience rating or other types of rating plans that are based on accidents and/or convictions used for commercial automobile insurance policies.

Documentation Requirements

- Documentation to justify any credits or debits applied under rating plans must be maintained. Maintenance of documentation should begin with the first application of the rating plan and, if the rating plan is applied at renewal, the documentation must be updated at each renewal. The Bureau does not require filings to include rules that address these documentation requirements as part of the rating plan. The Bureau will monitor and enforce the documentation requirement when conducting market conduct examinations and through other enforcement actions.

Unfair Discrimination

- Except with respect to agent commission reduction plans, insurers are expected to apply rating plans equitably among ALL risks. However, insurers are permitted to limit the application of plans to certain types of risks by filing eligibility standards with the Bureau (see note #2 in the attached sample rating plan). It is important to note that application of a rating plan does not mean that every risk will develop a debit or credit modification under the plan.

Administrative Letters 2001-12 (Schedule Rating Plans/Individual Risk Premium Modification Plans, Documentation for the Application of Debits and Credits), 1998-14 (Point Assignments or Increases in Automobile Insurance Premiums Due to Accidents or Convictions), 1985-12 (Improper Rules/Rating Plans Which Exempt the Filing of Rates, Facultative Reinsurance Costs – Auto Liability and General Liability), and 1983-9 (Experience/Schedule Rating Plans – Application of Credits and Debits, Schedule Rating Plans – Expense Modification Application), which established filing requirements that are no longer applicable, **are hereby withdrawn.**

Questions pertaining to Administrative Letter 2006-15 should be directed to the Property and Casualty Division's Rates and Forms Sections at (804) 371-9965.

Cordially,



Alfred W. Gross Commissioner
of Insurance

Attachment

****Revised and reissued July 19, 2016. A reference to § 38.2-1906 in the first bullet under Experience Rating Plans has been corrected to § 38.2-1904 of the Code of Virginia.***

Attachment to Administrative Letter 2006-15

November 8, 2006

(Revised 7/19/2016)

Sample Schedule Rating Plan (SEE NOTE #1)		
Risks that generate a premium of at least \$5,000.00 are eligible for consideration under this rating plan. (SEE NOTE #2)		
Risk Characteristics/Risk Modification Criteria (SEE NOTE #3)	Range of Modifications (SEE NOTE #4)	
	Credit	Debit
Management – Cooperation with insurance company, revisions of schedules, routes, and practices to conform to insurer recommendations.	0% - 10%	0% - 10%
Employees – Selection, training, supervision, age, basis of remuneration	0% - 10%	0% - 10%
Equipment – Type, condition, servicing, risk's own repair facilities, safety equipment	0% - 10%	0% - 15%
Safety Organization – Periodic meetings, distribution of safety literature, award and penalty system, presence of a safety director	0% - 10%	0% - 10%
Location – (a) Exposure inside premises (b) Exposure outside premises	0% - 5% 0% - 5%	0% - 5% 0% - 5%
Premises – Condition, care, loss control program	0% - 10%	0% - 10%
Classification peculiarities	0% - 10%	0% - 10%
TOTAL (i.e., result of the selected method of calculation):	(SEE NOTE #5)	
The maximum total credit or debit available under this plan is capped (e.g., maximum total amount of credit and debit) at +/-50%. (SEE NOTE #6)		

NOTES:

1. The information displayed in this chart is intended to illustrate the components of a typical schedule rating plan.
2. If an insurer establishes eligibility standards, which identify the type or types of risks that are subject to the plan, the eligibility standards must be filed and the insurer must adhere to the filed standards.
3. The risk characteristics or risk modification criteria that are to be evaluated must be filed.
4. Schedule rating plans typically contain ranges of credits and debits that are used to adjust the premium to reflect above average risks or below average risks. The range or amount of modification associated with each of the named risk characteristics must be included in the filing.
5. Insurers do not have to file the tallying method used to compute the total amount of credits and/or debits.
6. If the insurer chooses to cap (e.g., establish a maximum) the total amount of credit or debit available under the plan, this cap must be applied consistently among risks. The cap does not have to be stated in the filing.