

BEFORE THE COMMISSIONER OF INSURANCE

STATE OF GEORGIA

IN THE MATTER OF:

REGULATION 120-2-72

SPECIAL INSURANCE FRAUD FUND

)
)
)
)
)

DOCKET NUMBER I-13-I-5

ORDER

I. STATEMENT OF PROCEEDINGS

On March 25, 2013, the Department issued a Notice of Intent to Adopt Rule Changes and Notice of Hearing regarding proposed changes to Regulation Chapter 120-2-72 entitled "Special Insurance Fraud Fund." The proposed changes would repeal Regulations 120-2-72-.04,.05,.06 and .08, entitled "Definitions," "Participation in Fund," "Terms and Conditions for Use of Funds," and "Severability," respectively, and adopt in lieu thereof, new Regulations 120-2-72-.04,.05,.06, and .08 with the same titles.

By letter dated March 27, 2012, the Office of the Attorney General opined that the proposed regulatory actions are within this office's scope of authority (Record, Exhibit 5). Pursuant to O.C.G.A. Section 50-13-4(e), the proposed regulatory changes were transmitted to Wayne R. Allen, Legislative Counsel for the General Assembly, for assignment to the appropriate standing committees of the Senate and House of Representatives (Record, Exhibit 6) and were assigned accordingly (Record, Exhibit 7).

II. DISCUSSION AND CONSIDERATION OF ALL COMMENTS OFFERED AT THE HEARING

Interested persons were given the opportunity to participate in the proposed rulemaking by submitting their written comments to the Georgia Department of Insurance (the

“Department”) by April 26, 2013, and by making oral comments at the public hearing held May 1, 2013. No written comments were received. Linda Brooks, the Department’s Director of the Premium Tax Division, spoke in favor of the proposed regulation (Transcript, pp. 6-8). No other oral comments were offered.

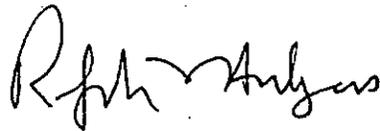
Pursuant to O.C.G.A. §33-1-17, a Special Insurance Fraud Fund exists in this state for the purpose of facilitating the proper and expeditious investigation and prosecution of insurance fraud. Accordingly, there is imposed upon each foreign, alien, and domestic insurance company doing business in this state an annual assessment. The current language in Regulation 120-2-72-.05(3) provides that “[I]n the event of a supplemental appropriation, the assessment will be made as soon as practicable after approval of the appropriation, and will be due on May 15 of the year of the assessment.” (emphasis added). This language is problematic because the date of the approval of a supplemental appropriation could vary widely and the Office of the Commissioner of Insurance (this “Office”) has no control over the time-line. For example, the approval of a supplemental appropriation could occur on May 12 of a given year. Consequently, it would not be feasible for this Office to collect an assessment by May 15 of that year. Ms. Brooks recommends that Regulation 120-2-72-.05(3) be modified to read as follows: “[I]n the event of a supplemental appropriation, the assessment will be made as soon as practicable after approval of the appropriation, and will be due thirty (30) days after the assessment.” (emphasis added).

III. DECISION

WHEREAS, the Commissioner finds persuasive the comments offered by Ms. Brooks regarding the need for the proposed regulation, and **WHEREAS**, no comments were offered in

opposition, **IT IS HEREBY ORDERED** that the proposed regulation, a copy of which is attached hereto and made a part by reference, is **HEREBY ADOPTED**.

Given under my Hand and Seal this 7th day of June, 2013.



RALPH T. HUDGENS
INSURANCE AND SAFETY FIRE COMMISSIONER
STATE OF GEORGIA