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BULLETIN 14-P&C-1

TO: All Property and Casualty Insurers Providing Policies which Insure Boilers & Pressure Vessels in Georgia

FROM: Ralph T. Hudgens
Insurance & Safety Fire Commissioner

DATE: January 24, 2014

RE: Whether Certain Policies Constitute Insurance

The Department has been asked for its opinion regarding whether certain coverage provided to indemnify owners of boilers and pressure vessels constitutes insurance so as to allow employees of the insurance companies to provide the inspections of boilers and pressure vessels which are mandated by state law. Specifically, the Property Casualty Insurers Association of America (“PCI”), whose member companies provide insurance on boilers and pressure vessels, asked whether policies issued in Georgia, commonly referred to as “fronting policies, enabling policies, or matching deductible policies” (collectively referred to as “Inspection Policies”) were insurance under Georgia law and would therefore permit the providers of those policies to perform inspections pursuant to O.C.G.A. § 25-15-10, *et seq.*

The Boiler and Pressure Vessel Safety Act (the “Act”) mandates that boilers and pressure vessels be inspected periodically. Those inspections may be performed by inspectors in the State Fire Marshal’s Office or by “Special Inspectors” pursuant to O.C.G.A. § 25-15-19. Special Inspectors may be employees of insurance companies who inspect the boilers and pressure vessels to which they are providing insurance. However, if the Inspection Policies were not considered insurance, then the inspections performed by the insurance company inspectors may not satisfy the requirements of the Act.

It is my understanding that Inspection Policies typically provide coverage for boilers and pressure vessels, but that coverage does not attach to any loss until a significant deductible has been met. In that situation, the owner of the boiler or pressure vessel, rather than the insurance company issuing the Inspection Policy, pays the claim. Consequently, the pricing of Inspection Policies is primarily determined by the expense of performing the inspections. Nonetheless, under the Inspection Policies which my office has reviewed, insurance companies retain some risk of loss.

Insurance is defined as “a contract which is an integral part of a plan for distributing individual losses whereby one undertakes to indemnify another or to pay a specified amount or benefits upon determinable contingencies.” Inspection Policies are contracts which involve a plan for distributing individual losses after determinable contingencies even if payment of a loss is unlikely because of a large deductible. Thus, it is the opinion of the Department that Inspection Policies, as discussed herein, should be considered insurance under Georgia law and should permit the providers of those policies to inspect boilers and pressure vessels pursuant to the Act.

Should you have any questions regarding this Directive, please contact the Office of Insurance and Safety Fire Commissioner, Insurance Product Review Division, Suite 602, West Tower, Floyd Building, 2 Martin Luther King, Jr. Drive, Atlanta, Georgia 30334, (404) 657-7277.



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