

## Local Premium Tax Advisory Council

March 17, 2010 ~ 2:30 pm

Department of Insurance Hearing Room

### Minutes

#### **Members Present**

Commissioner Sharon Clark, Chair  
Gordon Sutton, proxy for Stan Logan  
Prentice Harvey, proxy for Mike Lane  
Greg Kosse  
Mark Treesh  
Mayor Will Cox  
Neil Hackworth

#### **Members Absent**

Shellie Hampton  
County Judge/Executive David Jenkins

#### **Welcome and Roll Call**

Commissioner Clark called the meeting to order and the roll was called. A quorum was present.

#### **Approval of Minutes**

The minutes for the meetings of October 21, 2009 were approved.

#### **Subcommittee Reports**

a. Risk Location Criteria: Neil Hackworth reported that the subcommittee had not met. He commented that COT continues to work through the filings it has received, but a backlog still exists.

Russ Hamblen reported that 30 vendors have been verified. Of those, 16 are full verifications and 14 represent alternative mechanisms. Additionally, 6 applications for verification have been rejected and 1 verification has been revoked. The revocation resulted from a verified vendor informing the Department that it provided another company's data with its application for verification.

A question was asked about the percentage of accuracy in the verified vendors. Russ Hamblen responded that, in general, the applications have an accuracy level of 90%-92%.

b. Due Diligence: Greg Kosse reported that the subcommittee had not met and that they have no new issues at this time. The latest risk location chart is available on the Department's Web site.

c. Data Collection: Mark Treesh reported that the subcommittee had not met and that they have no new issues at this time.

d. Education: The Education subcommittee had not met. The Commissioner commented that the Department has started the process to update its technology so we can host Webinars in the future for interested parties.

e. Future Reforms: Prentice Harvey reported that the subcommittee had not met. However, he did comment on HB 278, which is the housekeeping legislation previously discussed during the Advisory Council meetings. The bill will:

- Clarify that the exclusive remedy began on July 15, 2008 (the effective date of HB 524)
  - Make surplus lines brokers subject to the disclosure requirements
  - Clarify that the disclosure notice is applicable to new business in addition to renewal business

Senator Buford has indicated that he will hear the bill in the Senate Banking & Insurance Committee. There is a possibility of an amendment to the bill, however there are multiple vehicles for the amendment and HB 278 is not the primary vehicle.

### **Old Business**

Russ Hamblen provided an update on the annual reconciliation process. At this time, the Department has received approximately 1,100 filings out of 3,000. The Department is returning paper filings that it receives, as we are now requiring electronic filing of the annual reconciliation. The majority of the returned filings are from surplus lines brokers.

It was noted that two reports from the annual reconciliation data will be available on-line for the general public: totals by company and totals by city. Additionally, two cities, Whitesburg and Bowling Green, have set-up user IDs and passwords to view their own city data through the Department's eServices. KLC indicated that it will send out a communication to its members regarding the availability of data.

Fred Spencer, an investigator in the Department's Consumer Protection Division, provided an update on the complaints that the Department has received regarding local government premium taxes. The Department has received 12 insurance company/surplus lines broker complaints and 7-8 policyholder complaints. The complaints have resulted in 1 reversal based on the location identified by risk location software.

It was asked whether most of the complaints related to location of risks. Fred responded that yes, most complaints are related to location of risks.

### **New Business**

Sharron Burton provided information regarding a recent decision by the 6<sup>th</sup> Circuit Court of Appeals in Franklin County v. Travelers. The decision affirmed the lower court decision that the Department's administrative process is the sole and exclusive remedy for local government premium tax disputes.

With regard to annual reconciliation filing fees, it was noted that, in some instances in which the filing was made through SFTP, the Department has not received its filing fee of \$5.00, after receipt of an invoice and a 45-day timeframe to pay the fee. The Department may need to issue an order to collect the filing fee from non-payers.

The Department noted that the deadline to submit changes in ordinances or new ordinances to the Department is March 23<sup>rd</sup>. We anticipate the bulletin being posted on-line April 2, 2010.

**Next Meeting**

The proposed date for the next meeting of the Advisory Council was July 28, 2010. However, that is the week of NCSL. It was agreed to try and schedule the meeting on the same day as the July Interim Joint Committee on Banking & Insurance. The Department will provide a notice when the Interim Meeting schedule is available.

Submitted By:

Approved By:

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Date

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Date