

## Local Premium Tax Advisory Council

June 16, 2009 ~ 1:30 pm

Department of Insurance Hearing Room

### Minutes

#### **Members Present**

DJ Wasson for Commissioner Sharon Clark, Chair

Temple Juett for Neil Hackworth

Rich Ornstein for Tom Troth

Greg Kosse

Dustin Miller for Mike Lane

Judge Executive David Jenkins

Mark Treesh

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

DJ Wasson called the meeting to order and the roll was called. A quorum was present.

#### **Approval of Minutes**

The minutes for the meeting of April 15, 2009 were not available. They will be e-mailed to members for review and approval at the next meeting.

#### **DOI Update on Implementation Efforts**

a. Assessment – To date, we have collected \$335,750. All insurance companies are in compliance. The Department's collection efforts continue with regard to surplus lines brokers. Of those assessed, 22 brokers have surrendered their license in lieu of paying the assessment. Those brokers will be unable to become licensed in the future without paying the assessment. Additionally, 20-23 brokers have not responded to the Department's order regarding the assessment. Those brokers will have their license suspended until the assessment is paid.

b. Verification Process – The Department has verified 6 entities and anticipates verifying an additional entity in the near future. Additionally, the Department is in the process of reviewing an application by an insurer that utilizes a proprietary system. The listing of verified entities is available on the Department's Web site. A listing was also provided to members.

It was asked whether the Department could provide any information on the percentage of accuracy of the verified entities. The verified entities have had between 90-95% accuracy. One entity had a 98% accuracy level. As the Advisory Council is charged with reviewing the criteria for verification annually, the Department intends to provide more detailed information for review after the initial group of applications has been reviewed.

## **Subcommittee Reports**

a. Risk Location Criteria: The subcommittee has not met and no report was available.

b. Due Diligence: Greg Kosse and Sharron Burton provided the report for the subcommittee. The subcommittee had a conference call to discuss pending issues.

- Surety – The Department’s local government premium tax bulletin and risk location chart currently state that the location for risk for surety is determined by the location of the obligee. The Department has been contacted by the Surety Association who believes that the location of the risk should be the location of the principle rather than the obligee. Members of the subcommittee had a good discussion about this issue on the conference call. The subcommittee hopes to provide a recommendation to the Advisory Council regarding this issue at the next meeting.
- Risk Location Chart – The subcommittee received a request to add a column to the chart to identify the appropriate reporting category on the quarterly return and annual reconciliation for each line of insurance. This work has been completed and a draft will be distributed to the Advisory Council for comment.
- Title Insurance – Previously, a representative of a title insurance company spoke to the Advisory Council regarding the difficulties that title insurers have in complying with the disclosure requirements of KRS 91A.0810. One issue is that title insurers do not always gather street address of the real property. Rather, some gather latitude and longitude information while others gather plat descriptions. It was noted that there seems to be some agreement from companies to make an administrative change to gather street addresses on a going forward basis to properly identify the location of the risk and the taxing jurisdiction.

c. Data Collection: Mark Treesh reported that the subcommittee met on May 29, 2009. Minutes from that call are attached. The primary issue discussed on the conference call was the proposal to automate the filing of the annual reconciliation. The subcommittee members felt that it was a good idea to automate this process. However, it was noted that a representative from the cities was not on the call. The Department will provide the city representatives and the members of the Advisory Council with a copy of the proposed data elements manual for review and comment.

d. Education: Ronda Sloan reported that the Department continues to talk about HB 524 implementation at its numerous speaking engagements. The subcommittee is working on updating the Frequently Asked Questions document to address additional commonly asked questions.

e. Future Reforms: Dustin Miller and DJ Wasson reported that the subcommittee had a conference call on June 12, 2009, to begin discussion and drafting of technical amendments to HB 524 and the local government premium tax laws. The subcommittee had previously identified the following technical amendments for consideration:

- Reinforcing that the collection fee is in addition to the tax
- Statutory guidance on mobile risks (such as insurance on cell phones)
- Clarification of the taxation of life insurance
- Clarifying that enactment of a local government premium tax is the sole method of taxation of insurers by a local government.

Of those four technical amendments, it was noted that clarifying the taxation of life insurance will likely encompass issues that are more than technical. It may be that technical issues are clarified initially and the broader issues are deferred to a later time. Further, it was noted that the risk location chart provides guidance on mobile risks and statutory guidance may not be necessary.

The subcommittee also discussed the following HB 524 issues:

- Sole and Exclusive Remedy
  - Clarification of the enforcement remedy against insurers who fail to respond to an inquiry during a 1<sup>st</sup> level appeal
  - Clarification of when exclusive remedy begins (effective date of Act or when 2 year statute of limitations begins.)
  - Disclosure Requirements
    - Whether to make surplus lines brokers subject to the disclosure requirements in KRS 91A.0810 (Pursuant to KRS 304.10-180, they are not currently subject to these requirements.)
    - Whether any statutory action needs to be taken to address the concerns of title insurers and their inability, due to their product structure, to comply with one-time notice
    - Statutory clarification that the disclosure notice is applicable to new business in addition to renewal business
    - Clarification of whether the master policyholder or the certificate holder should receive the disclosure notice for group coverage and whether the decision should be based on the entity/individual paying the premium
- Risk location verification
  - Whether the Department needs statutory flexibility to address appeal disputes regarding whether a risk is located within a particular taxing authority where a boundary has been filed with the Secretary of State but the boundary has not yet been digitized by the Commonwealth's Office of Technology

The Subcommittee has another conference call scheduled for July 1, 2009 at 2:00 to continue these discussions.

**Old Business**

There was no old business to report.

**New Business**

There was no new business to report.

**Next Meeting**

During the meeting, the next meeting of the Advisory Council was scheduled for August 11, 2009. *However, due to a conflict with DOI Staff, and after polling the members through e-mail, **the next meeting of the Advisory Council will be held on August 12, 2009 at 1:30 in the DOI Hearing Room.***

Submitted By:

Approved By:

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Date

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Date