

March 25, 1998

BULLETIN NO. 3-98

TO: ALL INSURERS LICENSED IN THE STATE OF ARKANSAS,  
AND AGENT AND INSURER TRADE ASSOCIATIONS

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: CHARGING OF FEES IN LIEU OF COMMISSIONS

This Department has received several inquiries as to whether agents and brokers may charge and receive fees for the services they provide in lieu of receiving commissions. Generally speaking, it is the Department's opinion that large commercial accounts may be solicited and sold on a fee in lieu of commission basis.

Large commercial insureds are traditionally sophisticated buyers of insurance that may utilize any number of the wide variety of services being made available to them by agents and brokers, and are fully capable of evaluating and negotiating the purchase of insurance.

Note that this issue of charging fees in lieu of commissions is not specifically addressed within the Arkansas Insurance Code. Inquiries have referenced Ark. Code Ann. §23-66-310 as being applicable. However, this statute, entitled "Illegal dealing in premiums – Excess charges for insurance", discusses fees in addition to commissions and therefore is not applicable. Also, any fee arrangement must still comply with applicable statutory provisions, including Ark. Code Ann. §§23-66-308 and 23-67-211.

Insurers are responsible for the dissemination of this Bulletin to all of their appointed agents and/or any brokers from whom they accept business.

Inquires concerning this Bulletin should be addressed to the Legal Division of this Department at (501) 371-2820.

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Mike Pickens  
Insurance Commissioner