



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK
ATTORNEY GENERAL

September 6, 1985

(501) 371-2007

OPINION NO. 85-189

Honorable Nancy Balton
State Representative
P.O. Box 215
Wilson, AR 72395

Dear Representative Balton:

This office received your opinion request which I paraphrase as follows:

Is an insurance agent in violation of Act 37 of the 1985 extraordinary session, if he writes insurance at a class rate lower than that listed by the Arkansas Insurance Division where the fire protection is provided by a (nieghboring town and paid for by adding a charge to the property owner's water bill?

Act 37 is violated only if an agent knowingly writes an initial policy of insurance at a reduced rate based on the property being protected by a rural fire department or being in a fire protection district without first obtaining some evidence the insured has paid for such protection.

Act 37 provides in pertinent part:

(2) It is unlawful for any insurance agent or company to knowingly write an initial policy of fire insurance coverage on any risk located in a rural fire protection district or in any area protected by a rural fire department at any special reduced rate or with any rate credit based on the location of such risk in such district or area without having first obtained from the insured or from the fire department providing service in the district or area evidence showing that a current assessment, dues or subscription

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payments for the property to be insured have been paid to the fire department serving the area in which the insured property is located. The evidence required by the insurer may be, but is not limited to, a receipt, cancelled check, or other valid proof of payment provided by the insured. If any agent is found by the Insurance Commissioner to have violated the provisions of this subsection, the agent shall be liable for an administrative penalty

The purpose of Act 37 of the 1985 extraordinary session (Amending Act 485 of 1985) is to aid the rural fire departments in obtaining subscribers by requiring an agent to be presented some proof of payment to the fire department before writing the policy at the reduced rate allowed for the property it protects.

If an agent is presented evidence of payment (receipt, cancelled check, etc.) he/she will not be in violation of Act 37. However, only the Arkansas Insurance Division can determine if the insurance policy is written at its proper class rating.

As you may be aware, an insurance company may file with the Arkansas Insurance Division to write insurance at a lower class rating than that listed for an appropriate reason (i.e. the property is within a specific number of miles of a servicing fire station). If such filing is made, an agent may write insurance for that company within the terms of the filing. Writing such policy will not violate Act 37 if the agent has obtained evidence the insured has paid for such fire protection.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General David S. Mitchell.

Sincerely,



STEVE CLARK
Attorney General

SC/DSM/ljm