



DEPARTMENT OF INSURANCE
State of North Carolina

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RALEIGH, N.C. 27699-1201

JIM LONG
COMMISSIONER OF INSURANCE

(919) 733-3058

April 26, 2007 (Revision of March 5, 2007 Memo)

John P. Quick
123 Main Street
Suite 456
Raleigh, NC 27603

Dear John P. Quick:

North Carolina is fortunate to have the fifth lowest automobile insurance rates in the nation. The North Carolina Department of Insurance has worked diligently to ensure that these rates have stayed low for North Carolina residents. Unfortunately, North Carolina's low automobile insurance rates make our state a prime target for rate evasion insurance fraud.

Rate evasion fraud involves non-residents coming in from other states – where auto insurance rates are often considerably higher – and falsifying their residency status in North Carolina on the insurance application in order to obtain insurance.

The Investigations Division is the law enforcement branch of the North Carolina Department of Insurance and our investigators are working with other state and federal agencies to detect and prosecute those who commit rate evasion. They have uncovered rate evasion occurring in North Carolina. As the Commissioner of Insurance, I want to make sure that you are aware of this fraud and how you can be targeted by rate evaders. If you are involved in this or any other type of insurance fraud, license revocation proceedings and criminal actions might be initiated against you.

Rate evasion insurance fraud is not a "victimless crime." We all pay the price when rate evaders return to their home states, which have higher risk exposures, and file expensive claims against North Carolina insurers. These claims distort the insurance claims ratio and premium picture for North Carolina. Claims incurred without receiving the proper insurance premium for the risk will continue to increase the insurance premium rates for all North Carolina drivers. Insurance fraud is second only to tax evasion as the most costly white-collar crime. Please help us prevent rate evasion in our state.

The Department has held industry meetings to discuss the problem of rate evasion insurance fraud and is determining the best course of action. The Department will seek legislation this session to address this serious concern. In the meantime, I urge all licensed property and liability agents to take the necessary precautions recommended by the Agent Services Division in the attached memorandum.

Very truly yours,

A handwritten signature in black ink that reads "Jim Long". The signature is written in a cursive, flowing style.

Jim Long

JEL/RS:hlw

Enclosures

Copy: North Carolina Division of Motor Vehicles
North Carolina Rate Bureau
North Carolina Reinsurance Facility



MEMORANDUM

To: All Licensed Property and Liability Agents
All Personal Lines Agents

From: Etta P. Maynard
Deputy Commissioner, Agent Services Division

Re: PROTECTING YOUR LICENSE FROM RATE EVASION INSURANCE FRAUD

SERIOUS RAMIFICATIONS FOR AGENTS

Rate evasion insurance fraud can have serious ramifications for agents. Agent actions in rate evasion insurance fraud may give rise to adverse administrative proceedings being initiated against an agent's insurance license(s). It should be noted that certain agent involvement in rate evasion insurance fraud may also raise issues of possible criminal misconduct under a variety of criminal fraud statutes. The bottom line is that every licensed North Carolina agent and agency should be diligent and alert for rate evasion insurance fraud. Any suspected insurance fraud should be immediately reported to the insurance company and the Investigations Division of the Department of Insurance.

RATE EVASION INSURANCE FRAUD

Rate evasion insurance fraud involves non-residents fleeing from higher insurance rates in their own resident state. These non-residents use fictitious North Carolina addresses or addresses that are misrepresented to the insurance agent as their residence, but in fact belong to friends or family. They have no intention of principally garaging their vehicles in North Carolina. Their purpose is simply to fraudulently receive the lower insurance rates for their vehicle and then return to their resident state where they operate their vehicle and have claims.

HOW RATE EVADERS USE THE LAW

Rate evaders use certain North Carolina laws, enacted for the benefit of North Carolina residents, to perpetrate their rate evasion insurance fraud. The Vehicle Responsibility Act of 1957 was enacted to make liability insurance compulsory for all North Carolina registered vehicles to protect North Carolina drivers. In order to make liability insurance accessible to all registered vehicles, the North Carolina Reinsurance Facility (NCRF) became operational on October 9, 1973. Under the facility law, licensed and writing carriers and agents must accept and insure any "eligible" applicant for coverages and limits which may be ceded to the NCRF.

UNDERSTANDING "ELIGIBLE RISK"

Some insurance agents have the incorrect belief that they cannot refuse to write liability insurance for ANY applicant due to North Carolina facility law. It is important for agents to understand that the facility law provides for "eligible" applicants only. The Facility Standard Practice Manual, Section 2 states: "Eligible Risk" means:

- ✓ A person who is a resident of North Carolina and who owns a motor vehicle registered or principally garaged in this State; OR
- ✓ A person who is a resident of North Carolina and who has a valid driver's license in this State; OR
- ✓ A resident of North Carolina who is required to file proof of financial responsibility pursuant to Article 9A or 13 of the North Carolina Motor Vehicle Code in order to register his motor vehicle or obtain a driver's license in this State; OR
- ✓ A person who is a non-resident of this State and who owns a motor vehicle registered or principally garaged in this State;

In addition to needing to meet the above requirements to be an “eligible risk”, no person shall be deemed an “eligible risk” if:

- ✓ Timely payment of premium is not tendered.
- ✓ There is a valid unsatisfied judgment of record against such person for recovery of amounts due for motor vehicle insurance premiums and such person has not been discharged from paying such judgment.
- ✓ Such person does not furnish the information necessary to effect insurance.

AGENT INVOLVEMENT IN RATE EVASION INSURANCE FRAUD

The involvement of insurance agents in rate evasion insurance fraud appears to fall within the following three “C”s of agent actions and relate to the agent’s desire to write business and increase commissions:

- ➔ **COMPLACENCY:** Agent does not complete the minimum underwriting standards in the NCRF Standard Manual to determine if a risk is an “eligible” applicant for insurance. Agent has the mindset it is just “facility business” so proper development of the risk is not needed.
- ➔ **CARELESSNESS:** In addition to the above, agent receives “undeliverable” return mail from these unverified addresses and makes no attempt to locate these insureds or report address discrepancies to the insurance company.
- ➔ **COLLUSION:** In addition to above, agent receives referrals from unlicensed third parties who direct new auto insurance business through the agency while knowing the individuals are not “eligible” applicants for insurance.

PROTECT YOUR LICENSE

In order to assist agents, the Agent Services Division has developed the attached *Rate Evasion Agency Process* for personal and commercial auto insurance applicants or policyholders. This process identifies point-of-sale, in-force policies and point-of-claim indicators of rate evasion insurance fraud. For applicants with rate evasion indicators present, the *Rate Evasion Agency Process* makes recommendations for additional questions for agents to ask and documentation to request the applicant to furnish in order to validate they are an “eligible risk” for insurance in North Carolina. Implementing this *Rate Evasion Agency Process* in your agency will help protect your license if rate evaders target you in their rate evasion insurance fraud.

Please contact the Agency Examination or Compliance Section of the Agent Services Division at (919) 807-6800 for any questions regarding this process.

RATE EVASION AGENCY PROCESS

POINT OF SALE RATE EVASION INDICATORS:

The following characteristics might be indicators of rate evasion insurance fraud. If some of these indicators are present, an agent should ask additional questions to determine if the applicant is an “eligible risk”. Additionally, the agent may request the applicant to furnish additional documentation to validate that they are an “eligible risk”. This documentation should be retained with the application:

- Residence address is a P.O. Box or a street address bordering another state
- Multiple vehicles on policy with only one operator
- Multiple unrelated individuals insuring vehicles at the same garaging address
- Vehicle purchased from an out-of-state dealer
- Vehicle has out-of-state plates
- Loss history reflects prior loss in another state
- Provides an out-of-state phone number
- Does not give a phone number or provides a cell phone number for contact
- Policy mailing address and residence address are different
- Requests any letters be sent to an out-of-state address
- Makes the premium down payment with an out-of-state check
- Applicant wants to pay all premiums by credit card over the phone
- Applicants wants to set up automatic bank drafts
- Applicant cannot provide a driver’s license or other identification
- Applicant wants to pay premium in cash
- Applicant pays minimum required premium
- Applicants works with a third party to apply for insurance
- No prior insurance coverage or vehicle ownership is reported

EXISTING POLICY RATE EVASION INDICATORS:

If some of the following rate evasion indicators are present, you should attempt to validate the residence and/or the garaging address of the policyholder. Report any address discrepancies to the insurance company and promptly notify the insurance company of a suspected out-of-state resident who no longer is eligible for North Carolina insurance:

- Policyholder mail from the company comes back to the agency as “returned mail”
- Insured lets the policy cancel after the initial payment
- Insured reports claims that take place out-of-state
- A third party always makes payments on the policy
- Payments are made with an out-of-state check


RECOMMENDED ADDITIONAL QUESTIONS TO ASK:

1. Ask for the names of all drivers in a household
2. Ask for employment information such as name and address of employer
3. Ask for addresses of any second residences

RECOMMENDED DOCUMENTATION TO REQUEST AND RETAIN:

1. Make a photo copy of the vehicle title and North Carolina driver’s license
2. A utility bill or lease agreement as proof of North Carolina residency
3. Pay stub showing North Carolina residence address
4. Current lease or mortgage statement showing North Carolina residence
5. North Carolina tax documents
6. Military ID or college student registration for non-residents

REPORT SUSPECTED RATE EVASION INSURANCE FRAUD:

 To the insurance company

 To the Investigations Division of the North Carolina Department of Insurance online at www.ncdoi.com or by phone at 919-807-6840