

1975 WL 29385 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 10, 1975

***1 Re: Act No. 1177 of 1974 Authorizes Recovery From Insurers for Costs Incurred by Rate Division in Acting as Statistical Agent for Such Insurers**

Honorable Howard B. Clark
Chief Insurance Commissioner
2711 Middleburg Drive
Columbia, South Carolina 29204

Dear Mr. Clark:

Reference is made to your letter of November 29, 1974, and to subsequent documented correspondence concerning the authority of the Insurance Department to ratably assess insurers transacting automobile insurance in this State to defray costs incurred by the Rate Division for services performed as statistical agent for such insurers pursuant to Act No. 1177 of the 1974 General Assembly.

Article IV of Act No. 1177 establishes and describes the functions and purposes of the State Rate and Statistical Division. Section 4(a) of Article IV authorizes promulgation of a uniform statistical plan by the Commissioner, with the approval of the South Carolina Insurance Commission. The cited Section further provides:

Upon the promulgation of such statistical plan or plans for automobile insurance in this State, the same shall be adopted and used by every insurer transacting automobile insurance in this State and every such insurer shall constitute the Rate Division its statistical agent for automobile insurance in this State.

Section 4(c) of Article IV authorizes the Commissioner with the Commission's approval to contract with outside sources for the gathering, compilation, recordation, or computerization of such statistical data.

Prior to the enactment of Act No. 1177, the obligation to provide statistical data was on the insurers, which accordingly absorbed the costs incident thereto. The Rate Division of the Insurance Department is designated as the statistical agent for insurers under Act No. 1177, thereby reasonably inferring that reimbursement will be made by the insurers for the costs incurred by the Rate Division in acting as the statistical agent for such insurers. The legislative history of Act No. 1177 supports this interpretation, in our opinion. We recommend, however, implementation of any reimbursement plan by appropriate administrative rule or regulation.

Yours very truly,

Victor S. Evans
Assistant Attorney General

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