

## **GUIDELINES FOR APPROVAL OF ARBITRATION PROVISIONS IN INSURANCE POLICIES**

The Department of Insurance will approve the use of pre-dispute arbitration agreements in connection with life, health and annuity, and property and casualty policy forms covering residents of Alabama subject to the following requirements:

1. The terms and conditions of a policy of insurance that requires the binding arbitration of disputes and prescribes the procedure for arbitration (hereinafter "arbitration provision") must be set forth in either the policy or on a separate endorsement. The arbitration provision must be displayed in at least 12 point type, capitalized and in bold print.

2. Whenever the policy contains an arbitration provision, at the time the application is taken the policy application or a separate disclosure statement must contain an appropriate disclosure that the policy contains the arbitration requirement (hereinafter "the arbitration disclosure"). The arbitration disclosure must be worded in plain English and be unambiguous. It must be displayed in at least 12 point type, capitalized and in bold print. At the minimum it must contain the following disclosures if applicable:

a. The policy includes a binding arbitration agreement.

b. The arbitration agreement requires that any disagreement related to this policy must be resolved by arbitration and not in a court of law.

c. The results of the arbitration are final and binding on the insured and the insurance company.

d. In an arbitration, an arbitrator, who is an independent, neutral party, gives a decision after hearing the positions of the parties.

e. When the insured accepts the insurance policy the insured agrees to resolve any disagreement related to the policy by binding arbitration instead of a trial in court including a trial by jury.

f. Arbitration takes the place of resolving disputes by a judge and jury and the decision of the arbitrator cannot be reviewed in court by a judge and jury.

3. The policy application or a separate disclosure notice containing these required disclosures must be signed at the time of the application. Use of the form contained as Exhibit A to these guidelines will satisfy this requirement.

4. The arbitration provision in the policy may provide for non-binding mediation as a prerequisite to arbitration.

5. The arbitration provision must either set forth or reference the rules that will govern the arbitration proceedings.

6. The arbitration provision must clearly state whether or not, and if so, the extent to which the arbitration award is subject to court review.

7. The arbitration provision must state that the cost of all arbitration proceedings shall be borne by the insurer, with the exception of the cost of representation of the policy applicant/owner. The arbitration provision shall also clearly indicate that should the arbitrator find that the dispute is without

substantial justification, then the arbitrator shall have the authority to order that the cost of the arbitration proceedings be borne by the policy applicant/owner.

8. The arbitration provision shall require that all arbitration proceedings shall be conducted in the county of residence of the policy applicant/owner unless another location is mutually agreed upon by both parties.

9. The arbitration provision shall require that arbitration proceedings shall commence within a fixed time after the first notification of one party by the other as to their election to arbitrate a dispute regarding the policy.

10. Compliance with arbitration guidelines:

(a) Nothing contained herein shall be deemed to require the amendment of, or require notice to the policyholder, or to affect the validity of any policies of insurance, applications or forms containing arbitration provisions the Department has previously approved.

(b) A policy previously approved which contains an arbitration provision may be amended to conform the arbitration provision to these guidelines and should be submitted for approval.

(c) A policy containing an arbitration provision that is amended for any reason other than to bring it into compliance with these guidelines, must also be amended to bring it into compliance with these guidelines.

(d) A policy that is being amended to add an arbitration provision must comply with these guidelines.

(e) Compliance with these guidelines under the circumstances described in (a), (b), and (c) of this item will be satisfied if the arbitration provision of the policy conforms to the requirements of Items 1,4, 5, 6, 7, 8, and 9 of these guidelines and the "arbitration disclosure" prescribed in Item 2 as set out on a separate document included with the notice to the policyholder of the amendment to the policy to add the arbitration provision.

11. Effective thirty (30) days after you receive this bulletin all future applications and renewals shall include the required disclosure.

