

To: All Life and Health Agents and Interested Parties

From: Agent Services Division

RE: Information for acceptance of cash and credit card payments

Date: March 28, 2014

With the implementation of the Affordable Care Act (ACA) and the ACA requirement that agents/agencies accept cash payments for health insurance Agent Services Division (ASD) thought it would be helpful to offer information regarding cash payments, since many agencies are not largely accustomed to dealing with cash payments.

Below ASD has outlined some best practices for agents/agencies accepting cash payments which might answer many questions. These practices are required by North Carolina Statute or Administrative Code.

- Receipts are required for all payments including cash payments. There are several requirements for all receipts. These requirements are:
 1. All premium payment receipts and copies issued by an agent, broker, or limited representative, shall be dated and contain the printed or stamped name and address of the agency or agent, broker, or limited representative, and the name of the insurer.
 2. Receipts should also be signed by the person accepting payment.
- As with other insurance payments, commingling is prohibited. The accounting records maintained by agents, brokers, and limited representatives shall be separate and apart from any other business records and demonstrate at all times that collected funds due to insurers and return premiums due to policyholders are available at all times. This includes cash payments. Cash payments should not be used for other expenses to be "replaced" later.
- All companies, agents, or brokers doing any kind of insurance business in this State must make and keep a full and correct record of the business done by them, showing the number, date, term, amount insured, premiums, and the persons to whom issued, of every policy or certificate or renewal. Information from these records must be furnished to the Commissioner on demand, and the original books of records shall be open to the inspection of the Commission when demanded

- If an agent, broker, or limited representative who deals directly with an applicant intends to charge a policy or service fee in accordance with NCGS 58-33-85(b) there are several requirements that must be followed:
 1. A sign that informs the applicant in large bold print that a policy or service fee of (amount) will be charged, shall be displayed in a prominent place so as to be seen and read from any part of the office lobby.
 2. The applicant's consent in writing is obtained on a separate form each time a policy or service fee is charged. The form shall be entitled, "Policy or Service Fee Consent" and shall include the date and amount of each fee charged.
 3. A dated receipt for the payment of a policy or service fee shall be issued either separately from the policy premium receipt or stated separately on the receipt issued for the policy premium.
- For all types of insurance, all companies, agents, or brokers doing any kind of insurance business in this State must make and keep a full and correct record of the business done by them, showing the number, date, term, amount insured, premiums, and the persons to whom issued, of every policy or certificate or renewal. Information from these records must be furnished to the Commissioner on demand, and the original books of records shall be open to the inspection of the Commission when demanded.

ASD also thought it would also be prudent to outline information regarding credit card payments. Below are some questions and answers regarding credit card payments.

Can an insurance agent or agency accept insurance premium payments from insureds by credit card?

Pursuant to N.C.G.S. Section 58-3-145, an insurer, agent, or broker may accept payment of an insurance premium by credit card if the following conditions are met:

1. The insurer makes payment by credit card available to all existing and prospective insureds and does not limit the use of credit card payments to certain persons.
2. The insurer pays the fees charged by the credit card company for the payment of premiums by credit.

These conditions apply whenever *an insurance company*, either directly or indirectly through its agent or broker, accepts payment of an insurance premium by credit card.

Can an insurance agent or agency accept premium payments by credit card from insureds whose insurance company will not accept such payments by credit card?

If an insured's insurance company will not accept premium payments by credit card in accordance with N.C.G.S. Section 58-3-145, an insurance agent or agency can still accept premium payments by credit card from those insureds. However, since N.C.G.S. Section 58-33-80 prohibits agents from making any discrimination in favor of any person, the insurance agency must offer this payment option to all existing and prospective insureds. In addition, the insurance agent or agency must either absorb the cost of providing this service to all insureds or charge all insureds a fee for this service. If the insurance agent or agency decides to charge a fee for the service, it must comply with the requirements of N.C.G.S. Section 58-33-85(b) by obtaining the insured's written consent to the fee and with the following requirements outlined in 11 NCAC 4.0120:

1. A sign that informs the applicant in large bold print that a policy or service fee of [amount] will be charged, shall be displayed in a prominent place so as to be seen and read from any part of the office lobby
2. The applicant's consent in writing is obtained on a separate form each time a policy or service fee is charged. The form shall be entitled, "Policy or Service Fee Consent" and shall include the date and amount of each fee charged.
3. A dated receipt for the payment of a policy or service fee shall be issued either separately from the policy premium receipt or stated separately on the receipt issued for the policy premium.

Can insurance premium finance company accept premium payments by credit card?

An insurance premium finance company can accept insurance premium payments by credit card. However, Article 35, Chapter 58 of the North Carolina General Statutes does not contain any provision which permits insurance premium finance companies to charge a fee for accepting premium payments by credit card. Thus, an insurance premium finance company cannot charge a fee for this service. See N.C.G.S. Section 58-35-55(a) (prohibiting premium finance companies from charging any fee which is not provided for in Article 35).

If you have additional questions regarding this information cash or credit card payments for insurance please contact Agent Services Division (919) 807-6800.