

§ 58-56-31. Premium collection and payment of claims.

(a) All insurance charges or premiums collected by a TPA on behalf of or for an insurer, and the return of premiums received from that insurer, shall be held by the TPA in a fiduciary capacity. These funds shall be immediately remitted to the person entitled to them or shall be deposited promptly in a fiduciary account established and maintained by the TPA in a federally or State insured financial institution. The agreement between the TPA and the insurer shall require the TPA to periodically render an accounting to the insurer detailing all transactions performed by the TPA pertaining to the business underwritten by the insurer.

(b) If charges or premiums deposited in a fiduciary account have been collected on behalf of or for one or more insurers, the TPA shall keep records clearly recording the deposits in and withdrawals from the account on behalf of each insurer. The TPA shall keep copies of all the records and, upon request of an insurer, shall furnish the insurer with copies of the records pertaining to the deposits and withdrawals.

(c) The TPA shall not pay any claim by withdrawals from a fiduciary account in which premiums or charges are deposited. Withdrawals from this account shall be made only as provided in the agreement between the TPA and the insurer. The agreement shall address, but not be limited to, the following:

- (1) Remittance to an insurer entitled to remittance.
- (2) Deposit in an account maintained in the name of the insurer.
- (3) Transfer to and deposit in a claims-paying account, with claims to be paid as provided in subsection (d) of this section.
- (4) Payment to a group policyholder for remittance to the insurer entitled to the remittance.
- (5) Payment to the TPA of its commissions, fees, or charges.
- (6) Remittance of a return premium to the person entitled to the return premium.

(d) All claims paid by the TPA from funds collected on behalf of or for an insurer shall be paid only on drafts or checks of and as authorized by the insurer. (1991, c. 627, s. 1.)