

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 6:283 (June 1980).

### §1507. Rule

A. It shall be an unfair trade practice for any person to engage in unfair competition by directly or indirectly using confidential information in the solicitation, negotiation, and service of insurance contracts, unless the disclosure of such information is authorized by the insured.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 6:283 (June 1980).

## Chapter 17. Rule Number 6—Vehicle Mechanical Breakdown Insurer

### §1701. Purpose

A. The purpose of this rule is to adopt provisions and uniform guidelines for their interpretation as authorized specifically by Act 520 of the 1978 Regular Session of the Louisiana Legislature. It is designed to facilitate and implement the provisions of that Act. It is intended to supplement and not alter in any manner certain provisions of the Act. A further purpose is to establish reasonable guidelines pertaining to reserves and the adequacy of those reserves, to maintain solvency as respects vehicle mechanical breakdown insurers doing business in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and Act 520 of the 1978 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 7:340 (July 1981).

### §1703. Applicability

A. Those provisions shall be applicable to any and all entities which may be defined as a *vehicle mechanical breakdown insuree*, under the provisions of Act 520 of the 1978 Regular Session of the Louisiana Legislature. The term shall include any person or other entity which receives any fee or compensation for administration of a mechanical breakdown program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and Act 520 of the 1978 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 7:340 (July 1981).

### §1705. Definitions

A. When used in this rule, the following words or term have the meaning described in §1705.

*Commissioner*—the Commissioner of Insurance for the state of Louisiana.

*Insurer*—any property or casualty insurer duly authorized to transact vehicle physical damage insurance in this state under provisions of the *Louisiana Insurance Code* other than Sections 1800 through 1810.

*Vehicle Mechanical Breakdown Insurance Policy*—any contract, agreement, or other instrument whereby a person other than the owner, seller, or lessor of a vehicle assumes the risk of and/or the expense portion thereof for the mechanical breakdown or mechanical failure of a motor vehicle and shall include those agreements commonly known as vehicle service agreements or extended warranty agreements.

*Vehicle Mechanical Breakdown Insurer*—any person or organization, whether domestic, foreign or alien that issues or attempts to issue vehicle mechanical breakdown policies as defined herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and Act 520 of the 1978 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 7:340 (July 1981).

### §1707. Qualifications

A. Evidence must be submitted to the Commissioner of Insurance that the applicant is a solvent corporation, incorporated under the laws of Louisiana, or another state, district, territory or possession of the United States of America. That evidence must be submitted as required by Form VMB-1 furnished by the Commissioner of Insurance and must be to his satisfaction.

B. The applicant shall furnish such proof as necessary to the commissioner that the directors and management of the company are competent and trustworthy and are capable of successfully managing its affairs in compliance with law. That information shall be submitted on form VMB-2 which is furnished by the commissioner.

C. The applicant shall make the deposit required by Louisiana R.S. 22:1804. Should the applicant furnish a surety bond, it shall be in the style of Form VMB-4 which is furnished by the commissioner. Such bond must be written by a company that is lawfully authorized to transact surety insurance in this state.

D. The applicant must complete and file form VMB-5, "Consent to Service and Appointment of Registered, Resident Agent" with the commissioner. The commissioner shall provide the applicable forms.

E. No applicant shall be licensed unless it maintains reserves as required by §1709 of this rule.

F. Upon meeting these requirements to the satisfaction of the commissioner, a certificate of authority to do business in this state will be issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and Act 520 of the 1978 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 7:340 (July 1981).

### §1709. Reserves

#### A. Reserving

1. The reserve to be maintained on policies issued covering new vehicles shall be one which generates an unearned premium reserve of not less than the unearned

premium reserve which is generated by applying the reverse sum of the digits earnings method to each policy issued covering a new vehicle.

2. The reserve to be maintained on policies issued on used vehicles shall be a reserve of not less than the unearned premium reserve which is generated when the straight line or pro-rated earnings method is applied to each policy issued on a used vehicle.

B. Premium Definition. In items §1709.A.1 and 2 the unearned premium reserves generated shall be those which are generated when the earnings method is applied to the net premium (after commissions to agents) received by the vehicle mechanical breakdown insurer.

#### C. Reinsurance

1. Should any vehicle mechanical breakdown insurer reinsure all or a portion of its risks through another insurance company, the sum of the reserves maintained by said reinsurance company (for the risk in question) and the reserves maintained by the vehicle mechanical breakdown insurer shall equal not less than the reserve required in §1709.A. Further, such reinsurance shall be admissible toward achieving required reserves only when said reinsurance is with a company or companies that are approved to do business in this state either as a domestic, admitted, or surplus lines insurer.

2. The commissioner shall have the right to examine any reinsurance documents or agreements that may be made between vehicle mechanical breakdown insurers and any such approved company and shall have the power to secure such financial information as he deems necessary from said approved reinsurer.

D. At such time as authority is requested to conduct the business of vehicle mechanical breakdown insurer, the applicant shall fully disclose the reserving method used or to be used by the vehicle mechanical breakdown insurer and shall also disclose any reinsurance agreements which are in existence. Further, if at any time during the conduct of business the mechanical breakdown insurer changes its method of reserving or alters its reinsurance arrangements, if any, written notice shall be given to the Insurance Commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and Act 520 of the 1978 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 7:340 (July 1981).

#### §1711. Reports

A. Each vehicle mechanical breakdown insurer shall, on or before the fifteenth day of March of each year, submit to the commissioner a report signed by the president and secretary which shall certify the premiums received by said insurer for the proceeding year. That report shall be audited by a certified public accountant and shall be attested to by him. In conjunction with, and to be submitted at the same time, a complete audited financial statement on the mechanical breakdown insurer. Such audited financial

statement shall fully disclose the reserving method used and any reinsurance arrangements in force. Additionally, the audited reports shall contain the following:

1. auditor's report;
2. balance sheet;
3. statement of income and retained earnings;
4. statement of shareholder's equity;
5. statement of changes in financial position;
6. notes to financial statements, which disclose all significant accounting practices.

B. The accounting method used shall not allow for the deferring of acquisition costs, but shall recognize those costs in the period in which they were incurred.

C. The audited statement required shall cover the operations of the mechanical breakdown insurer only. A statement of a holding company, or other parent company, which includes in it the operations of the mechanical breakdown insurer shall not be acceptable to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and Act 520 of the 1978 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 7:340 (July 1981).

#### §1713. Penalty for Non-Compliance

A. Non-compliance with the provisions of this rule may result in the suspension, revocation or non-renewal of the Certificate of Authority issued by the Commissioner of Insurance pursuant to the provisions of Act 520 of the 1978 Regular Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and Act 520 of the 1978 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 7:340 (July 1981).

#### §1715. Severability

A. If any of the provisions of this rule are held invalid, such invalidity shall not effect other provisions which can be given effect without the invalid item and to this end provisions of this rule are hereby declared severed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2 and Act 520 of the 1978 Regular Session of the Louisiana Legislature.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 7:340 (July 1981).

## Chapter 19. Rule Number 7—Legal Expense Insurers

#### §1901. Purpose

A. The purpose of these rules is to adopt uniform guidelines and requirements applicable to legal expense insurers that do business in this state.