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October 2, 1998

Richard A. Himler, Director
Bureau of Workers' Compensation
P.O. Box 15121
Harrisburg, PA 17105-5121

RE: SPECIAL FUNDS ASSESSMENTS

Sir:

Thank you for the opportunity to provide comments about the proposal special funds assessments regulation. The Alliance of American Insurers is a national trade association representing over 260 property/casualty insurers. Our members write over 12 percent of the workers compensation premium in Pennsylvania and a significantly large percentage nationwide.

The Department and the Bureau are to be complemented for their efforts to be responsive to concerns expressed by the public about the proposed regulations. The current version is much improved over earlier proposals.

However, we still are afraid that, as presently worded, the proposed regulation will not achieve the legislative intent of shifting the assessments from insurers to a more direct assessment on insured employers.

The Alliance's concern is that as drafted the language may construed as not protecting Pennsylvania domestic insurers from other states' retaliatory taxes. Other states may interpret section 121.33 (b) (4), which states that the failure of an insurance carrier to receive payment from an insured employer does not limit an insurance carrier's responsibility to collect and remit the total amount calculated under (a) (2), as indicating that the obligation has not truly been shifted to the employer. Thus, the assessment may be viewed as a tax which remains on insurers.

The Alliance would be happy to work with the Department to try to further perfect the regulation so that the legislative intent will be accomplished. Please contact Neil Malady at our Pennsylvania office (717) 761-9101 or me at (630) 724-2107, if you would like to further discuss our comments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Keith T. Bateman".

KTB:nls

cc:Neil Malady

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