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**Bulletin 07-02**

TO: All Insurance Companies Writing Liability Insurance in South Dakota  
FROM: Merle Scheiber, Director  
DATE: April 11, 2007  
RE: Defense within Limits of Liability & Professional Liability Products

The South Dakota Division of Insurance established a Division policy in 1989 in regards to liability policies written with defense within the policy limits. The criteria established for this Division policy is as follows:

- 1) "Defense Within Limits" must appear on the declaration page in at least twelve (12) point bold print.
- 2) Defense Within Limits will only be considered in policies which have a minimum limit per occurrence of \$1 million. Neither the \$1 million minimum limit requirement, nor the defense within limit requirement, applies to the following types of insurance:
  - a. Fidelity and/or Surety Bonds
  - b. Agent's Professional Liability
  - c. Employment Practices Liability\* (must have \$1 million option)
  - d. Pollution Liability
  - e. Architects & Engineers Professional Liability
3. Defense Within Limits is not acceptable in medical malpractice policies.
4. Defense Within Limits will only be approved by the Division for the following types of policies:
  - a. Errors and Omissions Liability
  - b. Directors & Officers Liability
  - c. Professional Liability
  - d. Fidelity and/or Surety Bonds
  - e. Livestock/Agricultural Related Business (Feedlots, Elevators)
  - f. Other very difficult, volatile lines of insurance; these lines are to be determined and confirmed by information conference between the Division Rate/Form Analyst and the Director.

The Division also established a policy in regards to extended reporting period endorsements for Claims Made policies. The criteria established for this Division policy is as follows:



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- 1) The insured must be offered a three (3) year Extended Reporting Period. The company may offer one (1), two (2), five (5) or unlimited Extended Reporting Periods, but the three (3) year must be available.
- 2) The insured must be allowed sixty (60) days in which to exercise this option.
- 3) The maximum premium allowable for the three (3) year Extended Reporting Period endorsement is 200% of the most recent annual premium.

Should you have any questions, please do not hesitate to contact:

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See Bulletin 18-01 Replaced