



ALAN WILSON
ATTORNEY GENERAL

NOTICE

TO: All Tobacco Non-Participating Manufacturers Certified in South Carolina and Escrow Agents

FROM: Office of the South Carolina Attorney General

DATE: January 25, 2016

RE: REVISED MODEL ESCROW AGREEMENT

A tobacco product manufacturer that elects not to participate in the tobacco Master Settlement Agreement and, instead, to place the required funds into a qualified escrow fund is known as a Non-Participating Manufacturer, or NPM, under the South Carolina Tobacco Escrow Fund Act (S.C. Code Ann. § 11-47-10 *et seq.*) and Tobacco Qualified Escrow Fund Enforcement Act (S.C. Code Ann. § 11-48-10 *et seq.*) (“Acts”). The Acts require the funds deposited into a qualified escrow fund for units sold within the State to be maintained for the benefit of releasing parties and prohibits an NPM from “using, assessing, or directing the use of the funds’ principal” except as consistent with the Acts. The Acts also require that an NPM maintain an executed escrow agreement that has been reviewed and approved by the Attorney General. S.C. Code Ann. § 11-48-30(A)(3)(b). The qualifying financial institutions, as escrow agents, are required to provide “evidence and verification considered necessary by the Attorney General to confirm the activity in the qualified escrow fund account.” S.C. Code Ann. § 11-48-30(A)(3)(d).

The South Carolina Attorney General’s Office has revised the Model Escrow Agreement currently used by South Carolina certified NPMs and their escrow agents. The Model Escrow Agreement was revised, in part, to clarify the valuation standards for invested escrow principal and the limitations on investment vehicles for escrow principal in order to maintain the qualified escrow fund in full compliance with the Acts. Other revisions include changes regarding information required for account statements.

Therefore, all NPMs will be required to execute the 2016 Revised Model Escrow Agreement as part of the NPMs 2016 Certification Application. The failure to provide an executed revised agreement will result in removal from the South Carolina Tobacco Directory.

The Revised Escrow Agreement is attached for your convenience and can be found on the South Carolina Attorney General website (www.scag.gov/civil/tobacco).

Please direct any questions regarding this Notice to Assistant Attorney General Dona Guffey at 803-734-4017 and dguffey@scag.gov.