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PAULA A. FLOWERS
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BULLETIN

TO: All Property and Casualty Insurance Companies
FR: Paula A. Flowers, Commissioner *Paula A. Flowers*
RE: Personal Insurance Filings and the Use of Credit Information
DT: December 13, 2004

This bulletin sets forth procedures for the filing of credit scoring models or other scoring processes, including loss experience justifying the use of credit information, used in the underwriting or rating of personal insurance, relative to the use of credit information in accordance with 2004 Public Acts, Ch. 527 ("Act") which becomes effective January 1, 2005. The Act is codified at Tenn. Code Ann. §§ 56-5-401 through 407.

In order to effectuate the Act, all insurers using credit information to underwrite risks for personal insurance, as defined by the Act, shall file all underwriting guidelines for the applicable lines of coverage. Such filings shall be kept confidential by the Department in accordance with Tenn. Code Ann. § 56-5-405. Underwriting guidelines shall be filed in the same manner as insurers file personal risk policy forms and rates with the Department. The Department will review such filings for compliance with the Act and will take administrative action for violations of any law, rule or order that may be identified by the Department.

If a filing is necessary to bring an insurer's currently approved rate filing into compliance with the Act, or to comply with the new filing requirements relative to underwriting guidelines, insurers should make the effective date of the filing on or before January 1, 2005.

All filings made by an insurer to comply with the Act shall be kept confidential by the Department and shall not be construed to be public records. As such, insurers must file the relevant portion of rate and rule filings and all underwriting guideline filings made pursuant to the Act separately from filings of other rates, rules and forms in order to allow the Department to maintain the statutory confidentiality of such models and processes, underwriting guidelines, and relevant loss experience. Filings of all other rates, rules and forms with

effective dates on or after January 1, 2005, which are filed pursuant to existing law, shall be available for public inspection. All rate, rule, form, and underwriting guideline filings with effective dates prior to January 1, 2005 are subject to current law relative to filing requirements and availability to the public for inspection.

Filings available for public inspection and filings confidential pursuant to the Act shall include a method of cross-referencing relative to their use and applicability to each other.

Insurers should be aware that the Department has no direct control over access to filings made through SERFF, which are stored and available in electronic format outside this state. Therefore, the use of caution is recommended when using this filing method for confidential filings.

Each filing submitted pursuant to the Act shall speak to the following issues addressed in the Act. If an insurer uses more than one model or process, the filing shall address the following issues relative to each model or process and relative to each line of insurance business.

Pursuant to Tenn. Code Ann. § 56-5-402, the credit scoring models and processes, including underwriting guidelines, shall not use:

1. Credit inquiries not initiated by the consumer or inquiries requested by the consumer for each person's own credit information.
2. Inquiries relating to insurance coverage, if so identified on a consumer's credit report.
3. Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage or automobile lending industry made within thirty (30) days of one another, unless only one (1) inquiry by each industry is considered.
4. Collection accounts with a medical industry code, if so identified on the consumer's credit report.
5. An insurance score that is calculated using income, gender, address, ethnic group, religion, marital status, nationality, education, or occupation of the consumer as a factor.

In addition to the above, insurers that use credit information in their underwriting and rating procedures and guidelines shall not:

1. Allow for the denial, cancellation or nonrenewal of a policy of personal insurance solely on the basis of credit information, without consideration of any other applicable underwriting factor independent of credit information.
2. Base an insured's renewal rates for personal insurance solely upon credit information, without consideration of any other applicable factor independent of credit information.
3. Allow for adverse action against a consumer solely because he or she does not have a credit account, without consideration of any other applicable factor independent of credit information.
4. Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating personal insurance, unless the consumer is treated as if they had neutral credit information as defined by the insurer.
5. Take adverse action against a consumer based on credit information unless obtained within ninety (90) days from the effective date of the personal insurance policy.
6. Use credit information more than thirty-six (36) months old unless exempt.

Questions about this bulletin should be directed to Actuarial Services Section of the Insurance Division at 615-741-2333.