February 12, 2010

Bulletin 176

THE USE OF CREDIT INFORMATION
IN UNDERWRITING AND RATING INSURANCE POLICIES

This Bulletin is directed to all casualty insurance companies, as defined by IC 27-1-2-3, that write personal lines property and casualty products in this state. IC 27-2-21 prescribes the use of credit information by insurance companies. The purpose of this Bulletin is to replace Bulletins 111 and 130 in light of the July 1, 2009, amendment to IC 27-2-21-16. This Bulletin highlights the changes to IC 27-2-21-16 as well as summarizes certain provisions of IC 27-2-21.

The July 1, 2009, amendment to IC 27-2-21-16 made two changes to the existing law. The first was the elimination of the requirement that an insurer recalculate the insurance score or obtain updated credit information at least every thirty-six (36) months in order to utilize credit information. The second change was an expansion of the negative factors that may not be utilized for the purposes of underwriting or rating. IC 27-2-21-16(a)(7)(C) adds a prohibition of the use of a late payment with a medical industry code on the consumer's credit report. Previously, the prohibition was limited to a collection account only.

An insurer may use credit information in underwriting or rating a consumer. If an insurer chooses to use credit information, the insurer must disclose to the consumer its intention to use credit information. The insurance scoring model must be filed with the Department of Insurance. This filing is confidential pursuant to IC 27-2-21-20(d) and not available for public inspection pursuant to IC 5-14-3-4(a)(1). Companies should identify their filings as made pursuant to IC 27-2-21 and should separate all confidential documents and clearly mark them "confidential". The filing should be made separately from any premium rate filing. The Department will file the credit information methodologies separately from the documents available for public inspection under IC 27-1-22-4(d).

The insurer shall not deny, cancel, or decline to renew an insurance policy, or base a renewal rate, solely on the basis of credit information. The absence of credit information or the inability to calculate an insurance score may not be considered unless the insurer either treats the consumer as having neutral credit information or persuades the Department that the absence or inability to calculate the credit score relates to the risk for the insurer. In such an event the insurer shall treat the consumer in a manner approved by the Commissioner. Any adverse action by an insurer must be based upon a credit report or score that was obtained no longer than ninety (90) days from the date the insurance policy was first written or a renewal was issued, as outlined in IC 27-2-21-16(a)(6).

In addition to non-credit factors identified in IC 27-2-21-16(a)(1) through (6), an insurer that uses credit information is prohibited from using the following as negative credit factors for the purposes of underwriting or rating:

- credit inquiries not initiated by the consumer;
- credit inquiries requested by the consumer for the consumer's own information;
- credit inquiries relating to insurance coverage;
- a late payment or a collection account with a medical industry code; and

- multiple lender inquiries provided such entries are coded as being from the home mortgage or automobile lending industry and are made within thirty (30) days of one another.

An insurer that utilizes credit information to underwrite or rate risks shall, at annual renewal, re-underwrite or re-rate an insured's personal insurance policy based on a current credit score if requested by the insured. However, if one of the following instances applies, the insurer need not re-underwrite or re-rate the insured despite their request:

- the insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers;
- credit information was not used to initially underwrite or rate the personal insurance policy;
- at least every thirty-six (36) months after policy issuance, the insurer reevaluates the insured based on a set of underwriting or rating factors that does not include credit information;
- the insurer has re-underwritten and re-rated the insured's policy based on a credit report obtained or an insurance score recalculated less than twelve (12) months before the date of the request by the insured or the insured's agent; or
- the insurer's treatment of the consumer is otherwise explicitly approved by the Commissioner. General approval of rate and form filings does not satisfy this exception.

Any insurer that fails to comply with this Bulletin may be subject to administrative proceedings under IC 27-4-1-4 as engaging in an unfair and deceptive act or practice in the business of insurance and may be subject to penalties, including monetary fines and suspension or revocation of the insurer's certificate of authority. Nothing in this Bulletin or the changes to IC 27-2-21-16 alleviates or changes an insurer's obligation to indemnify and defend an insurance producer under IC 27-2-21-21.

Although not required, the Department encourages insurers that use credit information for underwriting or rating purposes to adopt procedures to mitigate the impact that an extraordinary life circumstance may have on a consumer's insurance score. Extraordinary life circumstances include but are not limited to divorce, serious illness, job loss or death of an immediate family member. Procedures for rating exceptions in consideration of extraordinary life circumstances should be filed with the Department and applied consistently in compliance with IC 27-1-22-3. Insurers wishing to incorporate extraordinary life circumstance exceptions into their rating methodology may reference the NCOIL Model Act Regarding Use of Credit Information in Personal Insurance or contact the Department for additional assistance.

Questions concerning this Bulletin should be addressed to Kate Kixmiller, Deputy Commissioner for Property & Casualty, who can be reached at (317) 232-3495 or kkixmiller@idoi.in.gov.

INDIANA DEPARTMENT OF INSURANCE

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