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BULLETIN 02-22

To: All Property and Casualty Insurers

Re: Moratoriums on the Writing of "New" Personal Lines Business

Date: October 30, 2002

The Maryland Insurance Administration has recently learned that a number of insurers have announced a "moratorium" on writing new business for homeowners and other personal lines of insurance.

Maryland law prohibits an insurer from refusing to issue a policy of insurance to an applicant who meets the insurer's underwriting standards, if the insurer has an applicable rate on file with the Administration. Specifically, Section 27-501(a)(2) of the Insurance Article prohibits an insurer from refusing to underwrite a particular insurance risk or class of risk, "except by the application of standards that are reasonably related to the insurer's economic and business purposes." The term "economic and business purposes" does not, as a matter of law, include circumstances in which an applicable rate is on file. *See, Lumberman's Mut. Cas. v. Ins. Comm'r.*, 302 Md. 248, 267, 487 A.2d 271 (1985). The decision not to underwrite must be based on "principles, standards and rules that can be demonstrated objectively to measure the probability of a direct and substantial adverse effect upon losses or expenses of the insurer in light of the approved rating plan or plans of the insurer then in effect" *Id.* (quoting Preamble to Ch. 752 Acts of 1974) (emphasis in original).

As long as an insurer has a rating plan on file that includes rates that would apply to new personal lines business, a decision by the carrier to reject all new business that would otherwise fall within existing underwriting standards is a *per se* violation of Section 27-501(a)(2). Consequently, any carrier that wishes to impose and enforce a "moratorium" must comply with the following directives.

First, a carrier may not decline new business unless, and until, the insurer has filed an appropriate rating rule excluding new business from eligibility under the insurer's applicable rating plans.

Second, each insurer that proposes a moratorium must include with its filing a comprehensive explanation of the economic and business purposes supporting the insurer's decision to cease writing such new business. The explanation must include statistical support, where applicable, for the decision not to accept new business.

Any insurer that attempts to impose a moratorium on the writing of new personal lines business without having complied with this directive may be subject to administrative action under Section 4-113 of the Insurance Article, including appropriate penalties. In addition, should a Maryland citizen file a complaint demonstrating that an application was rejected (or not taken) as a result of a moratorium on new business, an insurer that had not modified its rating plan based on demonstrable economic and business criteria before refusing the new business will be required to provide the applicant with a policy consistent with the insurer's rate filing, provided that the applicant would have otherwise satisfied the company's underwriting standards.

If you have questions regarding the information provided in this bulletin or the steps required for compliance, contact Fred Santiago, Supervisor Rates and Forms by telephone at (410) 468-2317 or by E-mail at fsantiago@mdinsurance.state.md.us.

Robert J. Becker
Associate Commissioner

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