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BULLETIN 02-14

TO: All Personal Lines Property and Casualty Insurers
RE: Use of Credit History for Underwriting and Rating
DATE: June 24, 2002

During the 2002 Session, the Maryland General Assembly enacted House Bill 521 (Chapter 580, Acts of 2002), which prohibits an insurer from using credit history to underwrite or rate a homeowner's insurance policy, prohibits an insurer from using credit history to underwrite or increase a renewal premium for a private passenger motor vehicle insurance policy, and restricts the manner in which an insurer may use credit history to rate a new private passenger motor vehicle policy.

The Insurance Administration has received numerous questions regarding the interpretation and implementation of House Bill 521. The attached document provides answers to those questions as well as guidance for insurers on actions that they must take to comply with House Bill 521.

If you have any further questions regarding the interpretation and implementation of House Bill 521, please contact Robert Becker, Associate Commissioner, Property and Casualty, at 410-468-2301.

Steven B. Larsen
Insurance Commissioner

MARYLAND INSURANCE ADMINISTRATION IMPLEMENTATION OF HOUSE BILL 521

Definition of “Credit History” - 27-501(e-1)(1) (page 3, lines 21 – 26)

This provision defines the term “credit history.”

Question:

- Does the term “credit history” include an accident history report, motor vehicle violation report, or a claims history?

MIA Position:

- No, in accordance with COMAR 31.15.11.03(4)(b), “credit history” does not include:
 - an accident history report as defined in §27-216(e) of the Insurance Article;
 - an accident history report or record of motor vehicle violations kept by the Motor Vehicle Administration pursuant to §16-117 of the Insurance Article;
 - a property loss report or claims history that does not include information that bears on a consumer’s credit worthiness, credit standing, or credit capacity; or
 - any report containing information solely as to transactions or experiences between the consumer and the person making the report.

Prohibition on Use of Credit History for Homeowner’s Insurance - 27-501(e-1)(2) (page 3, lines 27 – 36 and page 4, lines 1 – 4)

This provision prohibits an insurer from using credit history to underwrite or rate a homeowner’s risk.

Question:

- Does the prohibition on the use of credit history to underwrite or rate a homeowner’s risk apply to mobile homes and condominiums?

MIA Position:

- Yes, the prohibition applies to insurance on any type of owner-occupied dwelling including:
 - an apartment unit (renter’s insurance);
 - a condominium unit;
 - a mobile home; and
 - a multi-unit building if one of the units is occupied by the owner of the building and not more than 3 units are occupied by tenants.

Question:

- Does the prohibition on the use of credit history to underwrite or rate a homeowner's risk apply to a boat?

MIA Position:

- No, the prohibition on the use of credit history to underwrite or rate a homeowner's risk does not apply to a boat.

Question:

- Does the prohibition on the use of credit history to underwrite or rate a homeowner's risk apply to a stand-alone fire insurance policy on a dwelling?

MIA Position:

- Yes, the term "homeowner's insurance" includes stand-alone fire insurance and other stand-alone coverages that typically are part of a homeowner's insurance package.

Question:

- May a homeowner's insurer vary the amount of a multi-policy discount based on the insured's motor vehicle policy rating tier?

MIA Position:

- No, a homeowner's insurer may not vary the amount of a multi-policy discount based on the insured's motor vehicle policy rating tier if the credit history of the insured was used wholly or partly as a factor for tier placement.

Required Action by Insurers:

Underwriting Standards:

- An insurer that uses credit history as part of its underwriting standards for homeowner's insurance must revise its underwriting standards to remove credit history.
- The insurer must use the revised underwriting standards for all underwriting decisions (i.e., refusals to underwrite, cancellations, nonrenewals) that will take effect on or after October 1, 2002.

Rating Plans

- An insurer that has a rating plan for homeowner's insurance that includes modifications based on credit history must withdraw its rating plan and file a new rating plan that does not use credit history.
- The insurer must use the new rating plan for all rate modifications that will take effect on or after October 1, 2002.
- In order to allow for review by October 1, 2002, an insurer must file its new rating plans with the MIA by July 1, 2002.

Re-Underwriting and Re-Rating Existing Book of Business:

- With respect to an insurer's existing book of business, all homeowner's risks that have been underwritten or rated using credit history must be re-

underwritten and re-rated without the use of credit history at the first renewal that falls on or after October 1, 2002.

Limited Prohibition on Use of Credit History for Private Passenger Motor Vehicle Insurance – 27-501(e-1)(3)(i) (page 4, lines 5 – 11)

This provision prohibits an insurer from using credit history to underwrite or increase a renewal premium for a private passenger motor vehicle risk.

Question:

- Does the prohibition on using credit history to underwrite or increase a renewal premium for a private passenger motor vehicle risk apply to a motorcycle policy?

MIA Position:

- Yes. Section 19-501 of the Insurance Article defines “motor vehicle” to mean “a vehicle, including a trailer, that is operated or designed for operation on a public road by any power other than animal or muscular power.” The definition further provides that “motor vehicle” does not include a “bus” or a “taxicab.”

Question:

- May an insurer increase a renewal premium based wholly or partly on credit history provided that the insurer does not increase the rate modification factor based on credit history?

MIA Position:

- No, an insurer may not increase a renewal premium based wholly or partly on credit history even if the insurer does not increase the rate modification factor based on credit history.

Required Action by Insurers:

- An insurer that uses credit history as part of its underwriting standards for private passenger motor vehicle insurance must revise its underwriting standards to remove credit history.
- An insurer that uses credit history wholly or partly to rate a new policy of private passenger motor vehicle insurance must file a rating rule that provides that, if the insurer imposes a surcharge based wholly or partly on credit history at initial rating, the insurer may not increase the dollar amount of the surcharge at renewal.
- The insurer must use the revised underwriting standards for all underwriting decisions (i.e., refusals to underwrite, cancellations, nonrenewals) and use the new rating rule for all rating decisions that will take effect on or after October 1, 2002.

Permissible Use of Credit History for Private Passenger Motor Vehicle Insurance – 27-501 (e-1)(3)(ii) (page 4, lines 12 – 18)

This provision allows an insurer to use the credit history of an applicant to rate a new policy of private passenger motor vehicle insurance.

Question:

- Does this provision allow an insurer to use the credit history of an insured other than the applicant to rate a new policy of private passenger motor vehicle insurance?

MIA Position:

- No, this provision authorizes an insurer to use the credit history of an “applicant” only, and does not allow the insurer to use the credit history of any other individual insured under the policy.

Question:

- How does this provision apply to existing policies that were rated using credit prior to the effective date of the bill?

MIA Position:

- If an insured under an existing policy is not receiving the most favorable rate or discount due to credit history, the insurer shall re-rate the policy based on current credit history at the first renewal of the policy that falls on or after October 1, 2002.
- The insurer shall adjust the premium to reflect any improvement in the insured’s credit history.

Five Year Look-Back Limit - 27-501(e-1)(4)(i) (page 4, lines 22 – 24)

With respect to private passenger motor vehicle insurance, this provision prohibits an insurer from using a factor on the credit history of an applicant that occurred more than 5 years before the issuance of the new policy.

Question:

- Can an insurer consider a positive factor that requires a look-back of greater than five years?

MIA Position:

- No, an insurer may not consider a positive factor that requires a look-back of greater than five years.

Question:

- In measuring the longevity of a currently-existing account, is an insurer limited to five years?

MIA Position:

- Yes, in measuring the longevity of a currently-existing account, an insurer is limited to five years.

Question:

- If an account was established more than five years ago, does this mean that an insurer cannot consider the account or can only consider account activity that occurred during the past five years?

MIA Position:

- With respect to an account that was established more than five years ago, an insurer can consider the account but can only consider account activity that occurred during the past five years.

Required Action by Insurers and/or Credit Scoring Modelers:

- Insurers, or credit scoring modelers on behalf of insurers, must revise credit scoring models to exclude credit history that occurred more than 5 years before the issuance of a new policy.
- Insurers must use the revised credit scoring models for all rating decisions based wholly or partly on credit history for policies issued or renewed on or after October 1, 2002.

Disclosure of Use of Credit History - 27-501(e-1)(4)(ii)1 (page 4, lines 25 – 26)

This provision requires an insurer that uses credit history to rate private passenger motor vehicle policies to advise an applicant that credit history is used.

Required Action by Insurers:

- An insurer that is required to advise an applicant that credit history is used must advise the applicant in writing on the application form.
- The insurer also must advise the applicant in writing on the application form that the applicant may request a premium quotation that separately identifies the portion of the premium attributable to the applicant's credit history.

Premium Quotation - 27-501(e-1)(4)(ii)2 (page 4, lines 27 – 29)

This provision requires an insurer, on request of an applicant, to provide a premium quotation that separately identifies the portion of the premium attributable to the applicant's credit history.

Question:

- How are insurers to separately identify the portion of the premium attributable to credit history?

MIA Position:

- An insurer should calculate the premium based on all rating factors with the exception of credit history. The resultant amount will represent the portion of the premium attributable to factors other than credit history. That amount should be multiplied by a rate modification factor attributable solely to credit history not exceeding a surcharge factor of 1.4 or not less than a discount factor of .6. The resultant product is the total policy premium. The difference between total policy premium and the portion of the premium attributable to

factors other than credit history is the amount of the discount or surcharge based on credit history.

- When providing a premium quotation to an applicant or insured, an insurer should list the total policy premium, the amount of the premium attributable to factors other than credit history, and the amount of the discount or surcharge based on credit history.

Question:

- What flexibility can insurers expect from the MIA in complying with the premium quotation requirement by October 1, 2002?

MIA Position:

- An insurer that uses credit history to rate private passenger motor vehicle insurance risks shall provide a premium quotation that separately identifies the portion of the premium attributable to the applicant's credit history on request of an applicant made on or after October 1, 2002.

Required Action by Insurers:

- An insurer that is required to provide a premium quotation must provide the premium quotation in writing.
- If an insurer charges an applicant a higher premium due to credit history or does not provide the best discount due to credit history, the insurer must give the applicant the FCRA notice.

Prohibited Credit Factors - 27-501(e-1)(4)(iii) (page 4, lines 30 – 35)

This provision prohibits an insurer from using the absence of or inability to determine credit history or the number of credit inquiries as factors in rating a private passenger motor vehicle policy.

Question:

- Can an insurer use the absence of credit history to assign a neutral credit rating to an applicant?

MIA Position:

- No, an insurer may not use the absence of credit history to assign any credit rating to an applicant. An applicant that does not have any credit history or has insufficient credit history to generate a credit score must be rated without the use of credit history.

Question:

- Is the failure to provide an accurate Social Security number, address, or other item of information that results in a no hit or no score a material misrepresentation that will allow a cancellation of the policy?

MIA Position:

- The standards for verification of the accuracy of information, conducting a diligent search, and material misrepresentation will be addressed by regulation.

Question:

- Can an insurer use the age of credit inquiries as a factor in rating a private passenger motor vehicle policy?

MIA Position:

- No, the intent of the bill is to prohibit any use of credit inquiries as a factor in rating a private passenger motor vehicle policy.

Required Action by Insurers and/or Credit Scoring Modelers:

- Insurers, or credit scoring modelers on behalf of insurers, must revise credit scoring models to exclude credit inquiries and absence of or inability to determine credit history.

Periodic Review of Credit History - 27-501(e-1)(iv)1 (page 5, lines 1 – 5)

This provision requires an insurer to review the credit history of an insured who was adversely impacted by the use of credit history at the initial rating of the policy: (1) every 2 years; or (2) on request of the insured.

Question:

- What is meant by “adversely impacted by credit history”?

MIA Position:

- An applicant is adversely impacted by credit history if, due to the use of the applicant’s credit history, the applicant:
 - is charged a higher premium than the applicant would have been charged without the use of credit history; or
 - fails to qualify for the best discount available based on credit history.

Question:

- How often may an insured request that the credit history of the insured be reviewed?

MIA Position:

- An insured may request that the credit history of the insured be reviewed once per policy period. The MIA will adopt regulations establishing standards for requesting a review of the credit history of an insured.

Question:

- How does the requirement to periodically review the credit history of an insured apply to an insurer’s existing book of business?

MIA Position:

- The requirement that an insurer review the credit history of an insured who was adversely impacted by the use of the credit history applies to all insureds who were adversely affected by the use of credit history prior to the effective date of the bill.

Adjustment of Premium – 27-501(e-1)(iv)2 (page 5, lines 6 – 8)

This provision requires an insurer to adjust the premium of an insured whose credit history was reviewed to reflect any improvement in the insured’s credit history.

Question:

- If the credit history of an insured has improved, when does the adjustment of the premium take effect?

MIA Position:

- In general, an adjustment required by this provision should take effect at the next renewal following review of the insured’s credit history.
- If the adjustment is due to the correction of erroneous or incomplete information in the insured’s credit report, however, the adjustment must be retroactive to the last renewal.

Disclosure of Requirement to Review Credit History - 27-501(e-1)(4)(v) (page 5, lines 9 – 18)

This provision requires an insurer to disclose to an applicant at the time of the issuance of a policy that the insurer is required to review the credit history of an insured who was adversely impacted by credit every 2 years or on the request of the insured and adjust the premium to reflect any improvement in the insured’s credit history.

Question:

- If an insurer reviews the credit history of an insured under subsection (e-1)(4)(iv), does the MIA intend to require the insurer to provide the notice to the insured under subsection (e-1)(4)(v)? If so, under what authority?

MIA Position:

- Yes. The bill and its legislative history clearly indicate that the General Assembly intended insurers to comply with all of the requirements of subsection (e-1)(4)(i) through (v).

Required Action by Insurers:

- An insurer that is required to provide the disclosure must provide the disclosure in writing as part of the statement of rate classifications that is provided to an insured pursuant to §11-317 of the Insurance Article.

Limit on Modification of Rate - 27-501(e-1)(5) (page 5, lines 22 – 26)

This provision allows an insurer that rates a new policy of private passenger auto insurance based wholly or partly on credit history to provide a discount of up to 40% or impose a surcharge of up to 40% based on credit history.

Question:

- Does the 40% limit on discounts and surcharges apply to a group of affiliated insurers?

MIA Position:

- Yes. If a group of affiliated insurers uses credit history to place an insured within a particular affiliated insurer, each insurer shall be required to:
 - indicate a specific rate modification factor that is based solely on credit history and results from placement of any and all insureds within the affiliated insurer; and
 - verify that no insured will receive a rate modification factor greater than 1.4 or less than .6 when all rating factors relating to credit history are considered.

Question:

- What standards will be applied to the review of rate filings to ensure that they comply with the 40% limit on discounts and surcharges?

MIA Position:

- Rate filings will be reviewed to verify that insurers that use credit history in rating apply a rate modification factor based solely on credit history that is no greater than 1.4 or less than .6 as the final step in the rating process.

Required Action by Insurers

- An insurer that uses credit history to rate a new policy of private passenger motor vehicle insurance must revise its rating plan so that rate modifications based on credit history do not provide for surcharge factors greater than 1.4 or discount factors less than .6.
- If an insurer's current rating plan provides for rate modifications based on credit history in combination with other rating factors, the insurer's rating plan must be modified to provide that rate modifications based on credit history are derived solely from credit history.
- The insurer must use the revised rating plan for all rating decisions based wholly or partly on credit history for policies issued or renewed on or after October 1, 2002.

Study of Use of Credit Scoring – Section 3 (page 5, lines 27 – 36 and page 6, lines 1- 2)

This provision requires the MIA to conduct a study on whether the use of credit scoring has an adverse impact on any demographic group defined by race or socio-economic status. The MIA also is required to study the impact of premium rates on policies issued by MAIF on the insurance market. The study is due on or before January 1, 2004.

Effective Date – Sections 4 – 6 (page 6, lines 3 – 12)

The bill applies to policies and contracts issued, delivered, or renewed on or after October 1, 2002.