

**December 2007**

**West Virginia Informational Letter**

**No. 142B**

To: All Insurance Companies Licensed To Do Business in the State of West Virginia, Insurance Trade Associations, Insurance Media Publications and All Other Interested Persons

Re: Insurance Scoring for Personal Lines

The purpose of this letter is to replace Informational Letter 142A, regarding the West Virginia Insurance Commissioner's policy on the use of insurance scoring. We have developed an internal procedure, which can be modified as the need arises, for the review of filings which rely, in any way, upon the use of credit reports or insurance scoring. All such filings are expected to meet the following guidelines:

1. The insurer, rating organization or model provider has tested and certified, and further retains documentary evidence available to the Department upon request, that such data are not used in an unfairly discriminatory manner based upon age, race, socioeconomic class, occupation, nationality, religion, sex, or handicap, either directly or indirectly.
2. The insurer, rating organization or model provider has tested and certified, and further retains documentary evidence available to the Department upon request, that the algorithm is an accurate and statistically credible predictor of loss.
3. That the insurer, rating organization or model provider maintains and uses, without exception, random testing procedures for auditing the accuracy of an insurance scored assignment. In the event an inaccuracy is discovered, affected scores will be re-run and the insurer will reevaluate those risks based on the corrected score, refunding any difference in premium overpayments.
4. The Commissioner may request that the model developer provide the actual insurance scoring algorithm in use by the insurer together with all statistical data used to develop the algorithm. The Commissioner recognizes that such information may be proprietary trade secret and, if so designated by the insurer or model developer, the same shall be withheld from public disclosure, provided that the insurer or model developer files the same separately and clearly identifies the material as such.
5. Implementation of the use of credit reports or insurance scoring for the first time will not have any overall rate impact. Any change which results in an overall rate change will be accompanied by a rate change request.

6. Insurance scoring shall not be the sole basis for the declination of a request for personal lines automobile or homeowners insurance. Placement of insurance with an affiliate company shall not be considered a declination.

7. In the event of the absence of credit information or if an insurer is unable to obtain sufficient information to produce an accurate insurance score, the insurer must do one of the following:

1. Treat the consumer as otherwise approved by the Insurance Commissioner, if the insurer presents information that such an absence or inability relates to the risk for the insurer; or
2. Treat the consumer as if the applicant or insured had neutral credit information; or
3. Exclude the use of credit information and use only other underwriting criteria.

8. The methodology and logistics in obtaining the credit report are not in violation of the Fair Credit Reporting Act.

9. The insurer consistently uses the same source of credit reports and insurance scores, as to all insureds, and will not change said source more than once per year.

10. The insurer consistently uses the same insurance score model and methodology and will not change said model or methodology more than once per year. Any change in the way that insurance scores are used as part of a rating plan must receive prior approval.

11a. The insurer shall disclose, either on the insurance application or at the time the insurance application is taken, that it may obtain credit information in connection with such application. Such disclosure shall also give notice that the policyholder may request a recalculation of insurance score once in a 12-month period. The insurer must provide the notice required under this section at least once. However, if the insurer uses insurance scores in connection with rating or tier placement, including future tier adjustments, but does not re-check the same at every renewal, then the notice must be provided at least 60 days before each renewal. If the insurer rechecks/rescores the insured at each renewal, and has previously provided a disclosure statement to the insured as set forth below, the insurer is not required to send the disclosure statement again after the issuance of this Informational Letter. Said Notice shall be in 14 pt. font size and shall state the following:

*Your credit information is used by (company) to produce an insurance score. This insurance score has an effect on the premium that you pay for your insurance. (Company) is required by the Insurance Commissioner to recheck your credit information no less than once every 36 months for changes. You have the option to request that (company) recheck your insurance score more frequently*

*than once every 36 months, but you can only make this request once during any twelve-month period. If there has been a change in your insurance score, (company) shall re-underwrite and re-rate the policy based upon the current credit report or insurance score. The change in your insurance score may result in an increase or a decrease in the premium that you pay for your insurance. Any changes in your premium will take place upon renewal if your request is made at least 45 days before your renewal. If the request is made less than 45 days before your renewal date, the insurer shall re-underwrite and re-rate the policy for the following renewal.*

11b. If an insurer takes an adverse action (as defined in the Fair Credit Reporting Act, 15 USC 1681a (k)) based upon credit information, the insurer shall provide notification to the consumer that an adverse action has been taken based upon credit information and shall further provide the insured with the name and address of the source from which the information was obtained. The notification shall explain the reason for the adverse action in clear and specific language so that a person can identify the basis for the insurer's decision to take adverse action. The use of generalized terms such as "poor credit history", "poor credit rating", or "poor insurance score" does not meet the explanation requirements of this subsection. Standardized credit explanations provided by consumer reporting agencies or other third party vendors are deemed to comply with this subsection.

11c. No insurer may take an adverse action against a consumer based on credit information, unless an insurer obtains and uses a credit report issued or an insurance score calculated within 90 days from the date the policy is first written or renewal is issued.

12.a. The insurance score model does not consider multiple inquiries from the insurance, mortgage lending, or auto finance industries within a 30 day period, i.e., shopping for insurance or credit rates does not adversely affect the insurance score.

12b. The insurance score model shall not consider as a negative factor collection accounts with a medical industry code, if so identified on the consumer's credit report.

13a. If the insurance company uses credit information for tiering or rating, the insurance company shall recheck the insurance scores of policyholders within 36 months of the last insurance score calculated to determine if the policyholder's insurance score has changed. The insurer shall have the discretion to obtain current credit information upon any renewal before the 36 months. If there has been a change, the insurer shall re-underwrite and re-rate the policy based upon the current credit report or insurance score at the next renewal. The insurance company is not required to recheck the insurance scores of policyholders that are already receiving the best rate available when considering solely the insurance score and excluding all other non-credit related factors.

13b. Upon request of the insured, the insurer shall re-underwrite and re-rate the policy based upon a current credit report or insurance score at renewal. An insurer need not recalculate the insurance score or obtain the updated credit report at the request of the insured more frequently than once in a twelve-month period. If such request is made less than 45 days prior to the next renewal date, the insurer shall re-underwrite and re-rate the policy for the following renewal.

14. Insurers using insurance scores for rating shall make a filing that includes actuarial justification for those factors when there is a change in rating factors, as this effectively constitutes a pricing revision.

15. The insurer does not use credit information to underwrite or rate a risk where such information has been identified on the records of the credit bureau as in dispute by the policyholder or applicant. (A) If a credit bureau determines that the credit report or credit score of an applicant is incorrect due to inaccurate or incomplete information contained in the credit report and if the insurer receives notice of this determination from the applicant or the credit bureau, the insurer shall, within 30 days after receiving the notice: (i) re-underwrite the applicant; (ii) re-rate the applicant; and (iii) adjust the premium as indicated in subsection (B). (B) If it is determined, by the re-underwriting or re-rating completed in accordance with the above, that the applicant has overpaid the premium, the insurer shall refund to the applicant the amount of the overpayment of premium. Such payment shall be calculated back to the shorter of: (1) the last 12 months of coverage; or (2) the actual period of coverage.

16. This informational letter only applies to personal lines property and casualty insurance.

If you have any questions regarding the contents of this Informational Letter, you may contact the Rates and Forms Division at (304) 558-2094.

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Insurance Commissioner