

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
1511 Pontiac Avenue, Bldg. 69-2
Cranston, RI 02920

INSURANCE REGULATION 116

Use of Credit - Extraordinary Life Events and Insufficient Credit

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Section 1 *Authority*

This regulation is promulgated in accordance with R.I. Gen. Laws §§ 27-6-1 *et seq.*, 27-9-1 *et seq.*; 27-44-1 *et seq.* and 42-14-17.

Section 2 *Scope*

This Regulation shall apply to all insurers that issue homeowners and/or private passenger automobile insurance to residents of Rhode Island. An insurer that chooses to utilize insurance scores in the underwriting and rating of these policies must comply with the requirements of this regulation.

Section 3 *Purpose*

The purpose of this Regulation is to establish guidelines regarding insurer's use of insurance scores in underwriting and rating of homeowners and/or private passenger automobile insurance when a consumer experiences an extraordinary life event as defined in this Regulation and/or to address the absence of or insufficient credit history for an applicant or insured.

Section 4 *Definitions*

As used in this Regulation:

- A. “Consumer” shall mean either an applicant for insurance or an existing insured.
- B. “Department” shall mean the Insurance Division of the Department of Business Regulation.
- C. “Extraordinary Life Event” shall mean an event identified in Section 6 that directly influences a consumer’s credit history.
- D. “Homeowners Insurance” shall mean any personal lines insurance policy providing coverage to a domicile.
- E. “Insurance Score” shall mean a number, rating or any categorization that is derived from an algorithm, computer application, model or other process that is based in whole or in part on credit history for the purposes of predicting the future insurance loss experience of an individual applicant or insured.
- F. “Private Passenger Automobile” shall mean any vehicle insured by a personal automobile insurance policy.
- G. "Renewal" or "to renew" shall mean the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than twelve (12) months shall for the purpose of this section be considered as if written for a policy period or term of twelve (12) months. Provided, further, that for purposes of this Regulation any policy written for a term longer than one (1) year or any policy with no fixed expiration date shall be considered as if written for successive policy periods or terms of one (1) year and any termination by an insurer effective on an anniversary date of such policy shall be deemed a failure to renew.

Section 5 *Absence of or Insufficient Credit History*

- A. An insurer using an insurance score for underwriting and rating of homeowners and/or private passenger automobile insurance must comply with the following conditions:
 - 1. If an insurer issuing or delivering a policy is unable to obtain credit history from a consumer report or in cases where an insured or applicant has insufficient credit history to produce an insurance score, the insurer shall underwrite, tier, or rate the individual risk in one of the following ways:
 - (i) as if the risk received a neutral or average insurance score, as defined by the insurer,
 - (ii) by excluding the use of insurance score as a factor and using only other underwriting, tiering, or rating criteria; or

- (iii) in accordance with established underwriting guidelines or filed tiering or rating criteria.
 2. The application and definition of a neutral or average insurance score; the manner in which credit history is excluded; and the use of other underwriting, tiering, or rating criteria are subject to the Department's review and approval. Any such established underwriting guidelines or filed tiering or rating rules shall consider other actuarially justified factors associated with the risk in addition to the inability to obtain credit history or the insufficiency of the credit history.
 3. The absence of or inability to obtain an insurance score or insufficient credit history does not include situations where an applicant or insured refuses to allow the insurer access to the customer's credit history. Insurers are not required to provide a quote, or issue or renew a policy should a customer or existing insured refuse to provide access to a customer's credit history.
- B. The provisions of this regulation are in addition to the requirements of R.I. Gen. Laws §§ 27-6-53 and 27-9-56 and Insurance Regulations 16 and 25 where applicable.

Section 6 *Extraordinary Life Events*

- A. Notwithstanding any other law or regulation, an insurer that uses insurance scores shall, on written request from an applicant for insurance coverage or an insured, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced and whose credit history has been directly influenced by any of the following events:
 1. Catastrophic event, as declared by the federal or state government;
 2. Serious illness or injury, or serious illness or injury to an immediate family member;
 3. Death of a spouse, child, or parent;
 4. Divorce or involuntary interruption of legally-owed alimony or support payments;
 5. Identity theft;
 6. Temporary loss of employment for a period of 3 months or more, if it results from involuntary termination;
 7. Military deployment overseas; or

8. Other events, as determined by the insurer
- B. If an applicant or insured submits a request for an exception as set forth in Section 6(A) of this Regulation, an insurer may, in its sole discretion:
1. Require the consumer to provide reasonable written and independently verifiable documentation of the event. Such documentation may be submitted electronically;
 2. Require the consumer to demonstrate that the event had direct and meaningful impact on the consumer's credit history; and/or
 3. Require that the request from the consumer be made no more than 60 days from the date of the application for insurance or the policy renewal;
- C. Section 6(B) is not mandatory. Insurers may grant the exception whether or not the consumer provides the information allowed in 6(B). Insurers may also grant an exception even if the initial request for an exception is not in writing or where the consumer asks for consideration of repeated events or the insurer has considered the event previously.
- D. Notice requirements. Insurers are required to establish internal procedures for notifying an applicant or insured of the availability of Extraordinary Life Event exceptions as provided for in above subsection 6(A), including customer notices. These notices shall be provided by the insurer any time the insurer utilizes a insurance score which has an adverse effect on the insureds rating as part of the policy issuance and/or renewal process. This notice corresponds to and shall be sent under the same conditions as the Fair Credit Reporting Act adverse action notices. Notices are not required to be filed with the Department for approval.
- E. If the insurer grants an exception, an insurer may consider only credit history not affected by the event if such score can be reasonably recalculated, or shall assign a neutral or average insurance score as defined by the insurer and subject to the Department's review and approval.
- F. The provisions of this regulation are in addition to the provisions provided for in R.I. Gen. Laws §§ 27-6-53 and 27-9-56 and Insurance Regulations 16 and 25 where applicable.

Section 7 **Policy Forms, Rules and Rates**

Insurers are required to review existing policy forms, rules and rates and bring all filings into compliance with the provisions of this Regulation. Revised filings must be submitted to the Department via SERFF no later than April 1, 2011. Underwriting guidelines are not required to be filed but may be requested by the Department. The

insurer may request that the documents produced be accorded treatment under R.I. Gen. Laws § 38-2-2(4)(B).

Section 8 **Severability**

If any provision of this regulation or the application thereof to any person or circumstance is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Regulation are severable.

Section 9 **Effective Date**

This regulation is effective as indicated below.

EFFECTIVE DATE: July 1, 2011