APPROVED REGULATION OF

THE COMMISSIONER OF INSURANCE

LCB File No. R087-20

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AUTHORITY: §§1-4, NRS 679B.130, 679B.150, 686A.015, 686A.100, 686A.130 and 686A.680; §5, NRS 679B.130 and 686A.015.

A REGULATION relating to insurance; prohibiting an insurer from using changes in consumer credit information to increase a policyholder's premium if the changes occurred between March 1, 2020, and the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020; authorizing an insurer to use certain consumer credit reports or insurance scores under certain circumstances; requiring an insurer that increased a policyholder's premium under certain circumstances to revise the premium and refund the amount of overpayment that resulted from the increase; and providing other matters properly relating thereto.

Legislative Counsel's Digest:
    On March 12, 2020, Governor Sisolak issued a Declaration of Emergency for COVID-19, within which he recognized, among other things, that: (1) the respiratory disease named coronavirus disease 2019, abbreviated as COVID-19, had been declared a pandemic by the World Health Organization; (2) multiple confirmed and presumptive cases of COVID-19 were in this State; and (3) the Chief Medical Officer reported that a public health emergency existed in this State. As a result of these findings, the Governor issued the Declaration of Emergency for COVID-19 so that the State could take certain measures to minimize the impacts of the disease and prevent further transmission to persons in this State. This Declaration of Emergency will remain in effect until the Chief Medical Officer notifies the Governor that the health event has been abated and the Governor issues an order terminating the emergency.

    Existing law authorizes the Commissioner of Insurance to adopt reasonable regulations for the administration of the Nevada Insurance Code and sets forth how insurers may use consumer credit information. (NRS 679B.130, 686A.600-686A.730) **Section 2** of this regulation prohibits certain insurers from increasing a policyholder's premium or making an adverse underwriting decision as a result of any change in the policyholder's consumer credit report or insurance score which occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.

Section 3 of this regulation authorizes an insurer to use a consumer credit report or insurance score in rating a policy if any changes to the report or score occurred before March 1, 2020, or after the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020. Existing law requires an insurer to reunderwrite and rerate a policy based on a current consumer credit report or insurance score at the request of the policyholder or the policyholder's agent. (NRS 686A.680) Section 3 further authorizes an insurer, upon such a request or on its own initiative, to reunderwrite and rerate a policy based on an updated consumer credit report or recalculated insurance score during the time period beginning on March 1, 2020, if the updated report or recalculated score results in the policyholder paying a lower premium.

Section 4 of this regulation requires an insurer to: (1) identify any policyholder whose premium was increased as a result of changes in the policyholder's consumer credit report or insurance score which occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020; and (2) revise the premium by using the information as it existed before March 1, 2020, or by reunderwriting and rerating the policy as set forth in section 3. Section 4 further requires an insurer, after revising the premium, to refund the policyholder the amount of overpayment that resulted from the increase and authorizes the insurer to offer: (1) a greater refund; and (2) other refunds or measures for consumer relief. Section 4 further requires the insurer to notify the policyholder of such a revision to the premium and provide an explanation for the revision.

Section 1. Chapter 686A of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *1. An insurer that uses information from a consumer credit report shall not increase a policyholder's premium or make an adverse underwriting decision as a result of any change in the policyholder's consumer credit report or insurance score which occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.*

2. Every such change in the policyholder's consumer credit report or insurance score which occurred during the period of time described in subsection 1 shall be deemed by the Commissioner to be:

(a) Caused by the COVID-19 emergency, which is the subject of the Declaration of Emergency mentioned in subsection 1;

(b)   Independent of the choice or the financial management decisions of any applicable individual; and

(c)   Unrelated to expected losses and expenses for all lines of insurance.

3.   Any increase in a premium or adverse underwriting decision which violates the prohibition in subsection 1 shall be deemed by the Commissioner to be unfairly discriminatory.

4.   As used in this section, "adverse underwriting decision" has the meaning ascribed to it in NAC 679B.565.

Sec. 3.   *1.   An insurer may use a consumer credit report or insurance score in rating a policy if the information used for such a report or score was gathered, calculated, updated or recalculated, as appropriate, and any changes to the report or score occurred, before March 1, 2020, or after the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.*

2.   Except as otherwise provided in subsection 3, an insurer is not required to update such information, reports or scores for changes that occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.

3.   If, pursuant to subsection 2 of NRS 686A.680, a policyholder or a policyholder's agent requests an insurer to reunderwrite and rerate the policyholder's policy based on a current consumer credit report or insurance score, the insurer may use a consumer credit report of the policyholder that is updated during the period described in subsection 2, or may recalculate the insurance score of the policyholder during the period described in subsection 2, if the updated consumer credit report or recalculation results in the policyholder paying a lower

premium than the policyholder would have paid absent the updated consumer credit report or recalculation.

4. If an insurer obtains an updated consumer credit report or recalculates the insurance score of the policyholder without a request from the policyholder or from the policyholder's agent pursuant to subsection 2 of NRS 686A.680, the insurer may use the consumer credit report of the policyholder that was updated during the period described in subsection 2, or may use the insurance score of the policyholder that was recalculated during the period described in subsection 2, if the updated consumer credit report or recalculation results in the policyholder paying a lower premium than the policyholder would have paid absent the updated consumer credit report or recalculation.

Sec. 4. *1. An insurer that uses information from a consumer credit report shall identify any policyholder whose premium was increased as a result of changes in the policyholder's consumer credit report or insurance score which occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.*

2. After identifying any increase pursuant to subsection 1, the insurer shall revise the premium by:

(a) Using a consumer credit report or insurance score that is based on information which was gathered, calculated, updated or recalculated, as appropriate, before March 1, 2020, in rating the policy; or

(b) Reunderwriting and rerating the policyholder's policy pursuant to subsection 3 or 4 of section 3 of this regulation, as applicable,

➥ *whichever results in the lower premium paid by the policyholder.*

3.   After revising the premium pursuant to subsection 2, the insurer shall refund to the policyholder the amount of overpayment that resulted from the increase. The minimum refund must be equal to the amount of the premium increase attributable to the changes in the policyholder's consumer credit report or insurance score which occurred on or after March 1, 2020, and on or before the date which is 2 years after the termination date of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020.

4.   Nothing in this section prohibits insurers from offering:

(a) Greater refunds than the minimum amounts specified in subsection 3; and

(b) Other refunds or measures for consumer relief based on considerations independent of consumer credit information.

5.   An insurer that revises a premium pursuant to this section shall:

(a) Provide notice to the policyholder that the revision has been made; and

(b) Provide notice to the policyholder explaining the reasons for the revision.

Sec. 5.   NAC 686A.700 is hereby amended to read as follows:

686A.700   As used in this section and NAC 686A.710 [,] *and sections 2, 3 and 4 of this regulation,* unless the context otherwise requires, the words and terms defined in NRS 686A.610 to 686A.660, inclusive, have the meanings ascribed to them in those sections.