

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB FILE NO. R087-201

**The following document is the initial draft regulation proposed
by the agency submitted on 06/17/2020**

**PROPOSED PERMANENT REGULATION OF
THE COMMISSIONER OF INSURANCE**

LCB File No. R____-20

Date May **XX**, 2020

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: NRS 679B.130; NRS 686A.680; NRS 686B.050; NRS 686B.060

A REGULATION relating to insurance; prohibiting insurers that use information from a consumer credit report from increasing a policyholder's or insured's premium, or engaging in an adverse underwriting decision, due to deterioration in consumer credit information occurring on or after March 1, 2020, and until December 31, 2021; determining such adverse consideration of such deterioration in consumer credit information to be unfairly discriminatory; specifying the circumstances under which updated consumer credit information may be used in rating; and requiring insurers that use information from a consumer credit report to provide refunds to all renewal policyholders whose premiums were previously increased as a result of changes in consumer credit information occurring on or after March 1, 2020.

Section 1. Chapter 686A of NAC is hereby amended by adding thereto a new section to read as follows:

1. An insurer that uses information from a consumer credit report shall not increase a policyholder's or insured's premium or engage in an adverse underwriting decision, as that term is defined in NAC 679B.565, based on a change or multiple changes in consumer credit information or a credit-based insurance score occurring on or after March 1, 2020, and until December 31, 2021. Every such change to consumer credit information, whether resulting in deterioration in a policyholder's credit-based insurance score or otherwise affecting a consumer's premium, shall be understood to arise from the COVID-19 pandemic, to be independent of individual choice or financial management decisions, and therefore to be unrelated to expected losses and expenses for all lines of insurance. The Commissioner shall deem the adverse consideration by an insurer of such deterioration in a policyholder's or insured's consumer credit information or credit-based insurance score to be unfairly discriminatory, as that term is defined in NRS 686B.050(4).

2. (a) An insurer that uses information from a consumer credit report may continue to use such information in rating if that information predated March 1, 2020, and is not required to update that information for subsequent changes, unless requested to do so by the policyholder pursuant to NRS 686A.680(2).

(b) If the policyholder requests pursuant to NRS 686A.680(2) that an insurer re-underwrite and rerate the policy based upon a current consumer credit report or insurance score, then the insurer may only use the current consumer credit report or the results of the recalculation of the credit-based insurance score if such use leads to a lower premium amount than the policyholder would have paid in the absence of the recalculation.

(c) If the insurer obtains updated consumer credit information at the insurer's own initiative, then the insurer may only use the updated consumer credit information in rating if such use results in a lower premium amount than the policyholder would have paid in the absence of such use.

3. An insurer that uses information from a consumer credit report shall identify all renewal policyholders whose premiums were previously increased as a result of changes in consumer credit information occurring on or after March 1, 2020, and shall refund the amounts of such increases to those policyholders. The minimum refund amount for each affected renewal policyholder shall be equal to the amount of the premium increase attributable to the deterioration in consumer credit information for policies renewing on or after March 1, 2020, relative to the consumer credit information used in rating the immediate prior policy term. Nothing in this section prohibits insurers from offering greater refunds than the minimum amounts specified herein. Furthermore, nothing in this section prohibits insurers from offering other refunds or measures for consumer relief based on considerations independent of consumer credit information.

Section 2. NAC 686A.700 is hereby amended to read as follows:

As used in this section and NAC 686A.710 *and Section 1 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.