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DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE

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**NOTICE OF INTENT TO ACT UPON REGULATION
LCB File No. R087-20
AND HEARING AGENDA**

The Nevada Division of Insurance (“Division”) is proposing the adoption, amendment, or repeal of regulations pertaining to chapter 686A of the Nevada Administrative Code (“NAC”). The public hearing shall take place as follows:

Date: October 20, 2020
Time: 1:30 p.m.
Location: This meeting will be held virtually via Webex, which allows participation by video or telephone.*

To join by Webex, click on the URL and enter the meeting number and password when prompted.

URL: <https://doinv.webex.com/doinv/j.php?MTID=mc025a9d17a68577fb03b37f9bcddc1298>
Meeting Number: 132 345 6171
Password: xW8ChYK8DF6

To join by telephone, call the toll-free number and enter the access code when prompted.

Phone-in Access: 1-844-621-3956 United States Toll Free
Access Code: 132 345 6171

If you need help using Webex, visit <http://help.webex.com>.

*Pursuant to Governor Sisolak’s March 22, 2020 Declaration of Emergency Directive 006 (extended by Declaration of Emergency Directive 029), the requirement contained in NRS 241.023.1(b) that there be a physical location designated for meetings of public bodies where members of the public are permitted to attend and participate is suspended in order to mitigate the possible exposure or transmission of COVID-19 (Coronavirus). Accordingly, any person planning to participate must participate using the Webex link for video access or calling the phone-in access for telephone access. Meeting materials are available on the Division’s website at: <http://doi.nv.gov/News-Notices/Regulations/>.

The purpose of the hearing is to solicit comments from interested persons on the following general topic(s) that may be addressed in the proposed regulation; and to assist in determining whether the proposed regulation is likely to impose a direct and significant burden upon a small business or directly restricts the formation, operation or expansion of a small business.

HEARING AGENDA

1. Open Hearing: R087-20.
2. Presentation of Proposed Regulation.

LCB File No. R087-20. ADVERSE CREDIT-BASED RESCORING.

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.

3. Public Comment.
4. Close Hearing: R087-20.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and, discussion relating to an item may be delayed or continued at any time. The meeting host/presenter, within his/her discretion, may allow for public comment on individual agenda items. Public comment may be limited to three minutes per speaker.

Supporting public material for this hearing may be requested from Patti Flasch, Administrative Assistant III, Nevada Division of Insurance, by phone, (775) 687-0773, or email, pflasch@doi.nv.gov.

Persons wishing to comment upon the proposed actions of the Division may appear at the hearing via Webex and/or may address their comments, data, views or arguments, in written form, to the Division via email (regs@doi.nv.gov) or mail (1818 East College Parkway, Suite 103, Carson City, Nevada 89706). **Written submissions must be received by the Division on or before September 29, 2020.** Members of the public are encouraged to submit written comments for the record.

A copy of all materials relating to the proposal may be obtained by visiting the Division's internet website at <http://doi.nv.gov/> or by contacting the Division, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, (775) 687-0700. A reasonable fee for copying may be charged. Members of the public who would like additional information about a proposed regulation may contact the Division by email at regs@doi.nv.gov.

The following information is provided pursuant to the requirements of Nevada Revised Statutes (“NRS”) 233B.0603:

(1) Why is the regulation necessary and what is its purpose?

This regulation is necessary to achieve the following purposes:

- *To protect Nevada consumers from premium increases in personal lines of property and casualty insurance arising out of deteriorations in consumer credit information resulting from the COVID-19 pandemic.*
- *To prevent all missed payments or other derogatory credit-report items during the COVID-19 emergency from indirectly harming consumers through premium increases that are inherently unrelated to the prospective risk of insurance loss. This protection would apply both during the state of emergency which is presently in effect, as well as during the recovery phase from the COVID-19 emergency, until two years after the cessation of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020, since the adverse financial and economic ramifications of the pandemic will require considerable time for many individuals to recover.*
- *To prohibit adverse consideration of all deterioration in a policyholder’s or insured’s consumer credit information or credit-based insurance score due to changes occurring on or after March 1, 2020, as an unfairly discriminatory rating treatment which is not a reasonable way of classifying insurance risks.*

(2) What are the terms or substance of the proposed regulation?

This proposed regulation is to limit how insurers can use credit-based insurance scoring in rates and underwriting decisions due to the impact of the COVID-19 pandemic on consumer credit information.

Section 1 of this regulation amends Chapter 686A of NAC by adding thereto the provisions set forth as Sections 2, 3, and 4 of this regulation.

Section 2 of this regulation provides that an insurer that uses information from a consumer credit report shall not increase a policyholder’s or insured’s premium or make an adverse underwriting decision based on changes in consumer credit information or a credit-based insurance score occurring on or after March 1, 2020, and until two 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 clarifies the manner in which insurers may continue to consider consumer credit information in rating under certain circumstances.

Section 4 of this regulation sets forth a refund process to reimburse those consumers who have already been surcharged because of COVID-19-related disruptions to their credit information.

Section 5 of this regulation amends NAC 686A.700 to incorporate Sections 2, 3, and 4 of this regulation into it by reference and state that the words and terms defined in NRS 686A.610 to 686A.660, inclusive, have the meanings ascribed to them in those sections.

(3) What is the anticipated impact of the regulation on the problem(s)?

By prohibiting adverse credit-based re-scoring for the duration of the COVID-19 pandemic and the subsequent recovery phase, for two years after the cessation of the Declaration of Emergency for COVID-19 issued by the Governor on March 12, 2020, this regulation will solve the problem of unjustified premium increases faced by individuals due to systemic economic disruptions arising out of the pandemic.

(4) Do other regulations address the same problem(s)?

No other regulation at any level of government addresses this problem.

(5) Are alternate forms of regulation sufficient to address the problem(s)?

There are no alternate forms of regulation sufficient to address this problem.

(6) What value does the regulation have to the public?

This regulation would protect the public against unjustified, sometimes major, premium increases in personal lines of insurance, arising out of credit deteriorations that directly result from COVID-19-related impacts – such as involuntary unemployment, increases in credit utilization by consumers seeking to mitigate the immediate effects of income loss, closures of credit accounts, or reductions to credit limits initiated by lenders.

(7) What is the anticipated economic benefit of the regulation?

a. Public

1. Immediate: *Consumers will not experience premium increases in personal lines of property and casualty insurance, such as their automobile and home insurance policies, arising out of adverse credit information that results from the COVID-19 pandemic and associated economic disruptions. This will protect consumers who have already been hard-hit financially from additional adverse impacts due to events beyond their control. Consumers will receive refunds if they have already been surcharged due to such adverse impacts. For some consumers, this relief will be an important component of helping them withstand the pandemic-related disruptions while remaining financially intact.*
2. Long-Term: *Because consumers will be protected from insurance premium increases due to credit deteriorations that were outside of their control, they will be in a more stable financial position once the COVID-19 pandemic subsides. They will not have to experience unjustified premium increases. Over the long term, this regulation will alleviate hardship in one dimension of consumers' lives.*

b. Insurance Business

1. Immediate: *For property and casualty personal-lines insurers, the immediate effects of this regulation would be no change to the premium impacts from consumer credit information, relative to pre-COVID-19 rating practices.*
2. Long-Term: *Insurers will benefit in the long-term because of fewer cancellations of policies for non-payment of premium. Because consumers will be protected from premium increases due to credit deteriorations that were outside of their control, they will be in a financially more stable position once the COVID-19 pandemic subsides and will be able to more consistently afford premiums that are set at reasonable levels. Consumers who are more financially secure will be able to make timely insurance premium payments, leading to less revenue loss for insurers.*

c. Small Businesses

1. Immediate: *None anticipated.*
2. Long-Term: *Because consumers will be protected from premium increases due to credit deteriorations that were outside of their control, they will be in a financially more stable position once the COVID-19 pandemic subsides. Consumers who are more financially secure will be able to make timely insurance premium payments and also*

will be more likely to patronize Nevada businesses and to start or support small businesses during the recovery phase. The consumer protections in this regulation is anticipated to promote Nevada's business recovery in the long term.

- d. Small Communities
 - 1. Immediate: *Less disruption to life in small communities, since fewer individuals will face financial hardship due to unjustified insurance premium increases.*
 - 2. Long-Term: *Faster economic recovery in small communities because of reduced financial strain on individuals within them.*
- e. Government Entities
 - 1. Immediate: *None anticipated.*
 - 2. Long-Term: *None anticipated.*

(8) What is the anticipated adverse impact, if any?

- a. Public
 - 1. Immediate: *None anticipated.*
 - 2. Long-Term: *None anticipated.*
- b. Insurance Business
 - 1. Immediate: *Those insurers who may have increased some renewal customers' premiums due to credit-history deterioration subsequent to March 1, 2020, would be required to offer refunds, but the refunded amounts are expected to be modest if the regulation is adopted in the proximate future. The affected insurers are expected to be a minority within the personal-lines market because many insurers already refrain from credit-based rescoring at renewal, unless requested to recalculate the credit-based insurance score by the consumer.*
 - 2. Long-Term: *None anticipated.*
- c. Small Businesses
 - 1. Immediate: *None anticipated.*
 - 2. Long-Term: *None anticipated.*
- d. Small Communities
 - 1. Immediate: *None anticipated.*
 - 2. Long-Term: *None anticipated.*
- e. Government Entities
 - 1. Immediate: *None anticipated.*
 - 2. Long-Term: *None anticipated.*

(9) What is the anticipated cost of the regulation, both direct and indirect?

- a. Enactment: *No costs anticipated.*
- b. Enforcement: *No costs anticipated.*
- c. Compliance: *No costs anticipated.*

(10) Does the regulation establish a new fee or increase an existing fee?

This regulation does not establish a new fee or increase an existing fee.

