Oregon

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OREGON INSURANCE DIVISION BULLETIN INS 2003-8

DATE: January 30, 2004

TO: All Insurers

SUBJECT: Credit Scoring (Insurance Scoring) Legislation - SB 260

This bulletin supersedes the original Bulletin 2003-8 dated November 10, 2003.

The scenarios in the original bulletin have been removed and placed on our Web site (**oregoninsurance.org**) in a separate *Credit Scoring Questions and Answers* document, which is intended to answer the many practical and specific questions that have arisen and will continue to arise as SB 260 is implemented. The Questions and Answers document is necessarily a work in progress and is subject to change. Placing the Questions and Answers in a separate document will preserve the long-term purpose of this bulletin, which is to call attention to the new legislation, while allowing an ongoing discussion of specific issues as they arise.

Senate Bill 260

Senate Bill 260, passed in the 2003 session of the Oregon Legislative Assembly, imposes new limits on the use of insurance scoring or credit history for personal insurance underwriting and rating. The legislation (chapter 788, Oregon Laws 2003) was effective January 1, 2004.

The Insurance Division will engage in rulemaking to aid in implementing the legislation and to reconcile existing rules governing insurance scoring with the legislation. Topics for rulemaking may include a requirement of notice to insureds, to ensure that they will be informed about their rights, and the adverse underwriting decision issue, which is subject currently to varying legal interpretations.

In 2004, the Insurance Division will begin market conduct examinations, based on the legislation and any new rulemaking, to monitor compliance with insurance scoring laws and rules. Prior to conducting the examinations, the Insurance Division will hold a seminar to share with the industry the specific standards that we will be using in our market conduct examinations.

This bulletin:

- Summarizes key provisions of SB 260
- Explains filing requirements insurers must meet if they plan to use insurance scores or credit history for personal insurance on or after January 1, 2004.

SB 260 is available on the Insurance Division's Web site: **oregoninsurance.org**. Click on *2003 Legislature*, then *Casualty Insurance*. Information about rulemaking and details of the insurance scoring seminar will be posted on our Web site as they become available.

Applicability

SB 260 applies to "personal insurance," which is defined in SB 260 as the following types of insurance products or services that are to be used primarily for personal, family or household purposes:

- private passenger automobile (including motorcycle) insurance
- homeowners, mobile homeowners, and manufactured homeowners insurance
- condominium owners and renters insurance
- personal dwelling property coverage
- personal liability and theft coverage
- excess personal liability and theft coverage
- personal inland marine coverage

Underwriting and Rating

SB 260 allows an insurer:

- To use credit history or an insurance score to decline coverage in the initial underwriting decision based on an insurance application only if this credit history is used in combination with other substantive underwriting factors.
- To use disputed credit history to determine eligibility or charge higher premiums. However, if the disputed credit history is later settled in the consumer's favor, the insurer must rerate the consumer retroactive to the effective date of the current policy term.

SB 260 prohibits an insurer from:

- Canceling or non-renewing a policy that has been in effect for at least 60 days, based wholly or in part on an insured's insurance score or credit history.
- Using an insurance score or credit history to rerate a policy at renewal, unless the insured requests rerating. SB 260 allows an insured to request rerating once a year based on credit history.
- Declining coverage because of the absence of credit history or the inability to determine an insurance score.
- Using the absence of credit history or the inability to determine an insurance score for rating purposes, unless one of the following applies:

    1. If the insurer presents statistical information that the absence of credit history or the inability to determine an insurance score relates to the risk of the insured, the insurer may use the absence of credit history or the inability to determine an insurance score in accordance with rules adopted by the Insurance Division of the Department of Consumer and Business Services. The Insurance Division will consider both the statistical credibility and the homogeneity of the data when determining compliance with existing

rules and statutes. For classification purposes, the division considers applicants without credit history to be a different group from applicants who have insufficient credit history to calculate an insurance score. Supporting actuarial information must be in sufficient detail to demonstrate compliance with ORS 737.310 and 746.015.

2. The insurer may treat the absence of credit history or inability to determine an insurance score as a neutral credit history or insurance score, as defined by the insurer, in determining eligibility and premium.

3. The insurer may exclude credit history or insurance score and rate and underwrite the insurance applicant on other criteria.

Insurance Scoring Model Requirements

An insurer may not use credit history to determine personal insurance eligibility, premiums or rates unless its insurance scoring models have been filed with the Director of the Department of Consumer and Business Services.

An insurer is prohibited from using the following information in an insurance scoring model:

- Credit inquiries not initiated by the consumer.
- Credit inquiries initiated by the consumer for the purpose of obtaining information about the consumer's own credit.
- Inquiries by the consumer relating to insurance coverage.
- Multiple lender inquiries within 30 days identified as being for a home mortgage unless the inquiries are considered a single inquiry.
- Multiple lender inquiries within 30 days identified as being for automobile lending unless these inquiries are considered a single inquiry.
- The consumer's total available credit. However, an insurer may consider the ratio of total outstanding debt to the consumer's total available line of credit.

Refiling Requirements

Each property and casualty insurer writing personal insurance and using credit history to determine eligibility, premiums or rates for coverage must refile its insurance scoring model, statistical support for the model and all underwriting and rating rules for new and renewal policies, to comply with SB 260, as follows:

- If the model or underwriting and rating rules do not comply with SB 260, the models or rules may not be used on and after January 1, 2004, the effective date of SB 260. In order to use a corrected model or rules on or after that date, an insurer must file corrections with the Insurance Division. The filing requirements for credit scoring underwriting models and rating rules are governed by ORS 737.205 and 737.310, and OAR 836-010-0021 (2).
- If the model or underwriting and rating rules previously filed with the Insurance Division comply with SB 260, please file a letter stating that the insurer is in compliance.
- An insurer using a model provided by an independent vendor must include a letter from the vendor that the vendor's model complies with SB 260. Any changes in vendor models must be filed with the Division prior to use.

Rating Examples

Please see *Credit Scoring Questions and Answers* on the Insurance Division's Web site: **oregoninsurance.org**. Click on *Rates and Forms*, then *New Developments in Rates and Forms.*

This bulletin is dated the 29th day of January 2004, at Salem, Oregon.

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Joel Ario, Insurance Administrator