



Oregon

Theodore R. Kulongoski, Governor

Department of Consumer and Business Services

Insurance Division

350 Winter St. NE

PO Box 14480, Salem, OR 97309-0405

503-947-7980

Fax: 503-378-4351

www.insurance.oregon.gov

OREGON INSURANCE DIVISION BULLETIN INS 2010-4

TO: All Property & Casualty Insurers

RE: Credit Scoring Legislation – Senate Bill 377

This Bulletin replaces Bulletin INS 2010-2, which is hereby withdrawn, and further clarifies when an insurer is required to re-rate a policy under ORS 746.661(2)(a).

Background:

Senate Bill 260, passed in the 2003 Legislative Session, imposed limits on an insurer's use of credit history or insurance scoring for certain types of personal insurance. It allowed insurers to use a consumer's credit information only when issuing new personal insurance policies. If an insurer assigned a consumer to a less favorable rating category for a personal insurance policy based on the use of the consumer's credit information, that consumer could request a re-rating of that policy no more than once annually. Senate Bill 377 (SB 377), passed in the 2009 Legislative Session, expanded the rights of a consumer to request re-rating of a personal insurance policy and provided additional consumer protections. In particular, the results of a re-rating can only be used by an insurer to reduce a consumer's premiums.

Purpose:

Questions have been raised regarding the interpretation of certain provisions in sections (2)(a) and (2)(b) of SB 377. This bulletin is intended to provide guidance to insurers about the Insurance Division's interpretation of these provisions.

Question: Does ORS 746.661(2)(a) allow a consumer to request a re-rating when the consumer's credit information was never used at any time in the rating of the policy?

Answer: No. ORS 746.661(2)(a) provides:

If an insurer uses the consumer's credit history or insurance score at any time in the rating of a personal insurance policy, the consumer may request, no more than once per insurer per policy line annually, that the insurer re-rate the consumer according to the standards that the insurer would apply if the consumer were initially applying for the same insurance policy.

If an insurer ever used a specific consumer's credit history or insurance score in the rating of a specific personal insurance policy, that consumer may request re-rating of that personal insurance

policy no more than once per insurer per policy line annually. That specific policy qualifies for rerating even if the insurer no longer uses credit history or insurance score to determine that policy's rates or if the insurer no longer uses a rating plan for new policies that includes credit information. **An insurer is not required to rerate a policy under ORS 746.661(2)(a) where credit information was never used at any time in the rating of that policy.**

For example, Joe is a policyholder with ABC insurer and has had an automobile insurance policy with them for 15 years. ABC insurer started using a credit rating plan 10 years ago. If Joe requests a rerate, ABC insurer would NOT have to rerate this policy because Joe's automobile policy was never rated using credit information.

On the other hand, if Joe purchased an automobile policy from ABC insurer in 2006, then ABC insurer would have used credit information when rating his policy. ABC insurer would have to rerate Joe's automobile policy upon his request. Even if ABC insurer moved Joe's automobile policy to a renewal rating plan that did not use credit information in 2009, ABC insurer would have to rerate Joe's automobile policy upon his request.

Another situation where an insurer may be required to rerate a consumer's policy under ORS 746.661(2)(a) is addressed in ORS 746.661(2)(b). This provision requires an insurer, under certain circumstances, to rerate policies in the "related policy line" even if those policies were never rated using credit information.

For example, Joe has two automobile policies with ABC insurer (one policy where credit information was NOT used in rating the policy and one policy where credit information was used in rating the policy). Joe requested a rerate of the policy where credit information was used and that resulted in reduced premiums. Under ORS 746.661(2)(b), ABC insurer would then have to rerate the other policy where credit information had never been used to rate the policy. If the rerate of this policy results in reduced premiums, in the future Joe would be able to request a rerate of this policy under ORS 746.661(2)(a).

Question: What do the terms "policy line" in ORS 746.661(2)(a) and "related policy line" in ORS 746.661(2)(b) mean?

Answer: The terms "policy line" and "related policy line" mean insurance products that serve the same or very similar purposes and which provide for indemnity of similar risks. The requirements in ORS 746.661 pertain to "personal insurance", i.e., those products or services that are used primarily for personal, family or household purposes. (*See* the definition of "personal insurance" in ORS 746.600(33).) For example, all personal insurance policies for private passenger automobiles would be considered a related policy line. Personal insurance policies for homeowners may include other coverage such as condominium owners in the related policy line.

As used in ORS 746.661(2)(b), "standards that an insurer would apply if the consumer were initially applying for the same insurance policy" and "if the consumer were applying for a new policy" mean **the insurer must rerate a policy based on the rating plan that the insurer would use if the consumer were applying for a new policy.**

Question: If an insurer rerates a policy at the consumer's request under ORS 746.661(2)(a) that results in reduced premiums, must "affiliates" of that insurer rerate other personal insurance policies in the related policy line issued by the affiliate to the consumer?

Answer: No. ORS 746.600(25) defines "insurer" by reference to ORS 731.106, which defines insurer as "every person engaged in the business of entering into policies of insurance." A "person" means an individual or business entity (ORS 731.116). Each insurer is a separate business entity.

Question: Does ORS 746.661(2)(b) require an insurer to rerate all the other policies in the related policy line (once the requirements of ORS 746.661(2)(a) have been met) whether or not credit information was used at any time in the rating of the other policies?

Answer: Yes, with one exception. ORS 746.661(2)(b) provides:

The insurer shall rerate the consumer within 30 days after receiving a request from the consumer. After rerating the consumer based upon the request, the insurer may not use credit information from rerating to increase the premium on any personal insurance policy the consumer holds. If the consumer qualifies for a more favorable rating category, the insurer shall reduce the premiums on all the personal insurance policies the consumer holds in the related policy line for which the consumer's credit history and insurance score would entitle the consumer to lower premiums if the consumer were applying for a new policy. The effective date of any rate change is the date of the consumer's request.

If the consumer qualifies for a more favorable rating category after the insurer rerates a specific policy under ORS 746.661(2)(a), **the insurer must rerate all of the consumer's policies written by that insurer in the related policy line and reduce premiums on those policies for which the consumer's credit history or insurance score would entitle the consumer to lower premiums if they were applying for a new policy. This may require the insurer to rerate policies where credit information was never used at any time in the rating of the policy.** The insurer is prohibited from using credit information from rerating to increase premiums on any personal insurance policies the consumer holds.

For example, if Joe requests a rerate of one of his automobile policies that was rated with credit information, ABC insurer would have to rerate his policy as if it was a new policy. In addition, if Joe qualifies for a reduction in premiums on that policy, ABC insurer would have to rerate all of Joe's other automobile policies (whether or not credit information was ever used at any time in the rating of those policies) and then reduce premiums if some or all of those policies qualify for reduced premiums.

However, if an insurer no longer uses a credit rating plan for new policies, then a consumer's credit information would never "entitle the consumer to lower premiums if they were applying for a new policy." In this situation, an insurer would not be required to rerate all of the consumer's policies in the related policy line pursuant to ORS 746.661(2)(b).

The amendments to ORS 746.661 apply to personal insurance policies issued or renewed on or after January 1, 2010.

This bulletin is dated August 31st, 2010 at Salem, Oregon.

(Signed)	August 31, 2010
_____ Teresa D. Miller, Administrator	_____ Date