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TESTIMONY OF
THE
MARYLAND INSURANCE ADMINISTRATION
BEFORE THE
SENATE FINANCE COMMITTEE

MARCH 29, 2022

HOUSE BILL 436 –MOTOR VEHICLE INSURANCE - USE OF CREDIT HISTORY RATING POLICY

POSITION: LETTER OF INFORMATION

Thank you for the opportunity to provide written comments regarding HB 436.

The amended version of HB 436 presently under consideration by the Senate Finance Committee requires a private passenger motor vehicle insurer that uses an applicant’s or policyholder’s credit history as a rating factor to make “reasonable exceptions” to the insurer’s filed rates and rating rules upon receipt of a written request from an applicant or insured whose credit information has been “directly influenced” by certain events. The Maryland Insurance Administration (MIA) appreciates the opportunity to provide important information relating to the construction of the bill as well as compliance and enforcement concerns should the bill pass into law in its current form.

The Insurance Article does not prevent private passenger motor vehicle insurers that use credit history as an initial rating factor from creating a hardship exception and some currently do so. The intent of HB 436 is to require all such insurers to provide this exception. **The MIA is concerned, however, that HB 436, in its current form, presents compliance and enforcement issues and conflicts with existing laws that provide important consumer protections.**

First, because the bill allows an insurer to take certain verification steps “in its sole discretion,” and because the term “reasonable exceptions” is ambiguous, the process is open to abuse based on arbitrary, capricious or unfairly discriminatory decisions by the insurer. This is amplified by the fact that the bill takes the exceptions process out of the carrier’s rate filings, even though it is intended as an exception to the application of a rating factor. Some carriers already provide hardship exceptions of this nature. They do so, however, by making a rate filing with the MIA. Doing so assures that the criteria that are employed are clearly stated, lawful, and not unfairly discriminatory. This process also enables the

MIA to assure that such standards are applied fairly and consistently and to take enforcement action if they are not.

Additionally, HB 436 includes the option for an insurer to make exceptions to underwriting rules or guidelines based on credit impact. **This conflicts with current law which prohibits the use of credit entirely for underwriting eligibility decisions by an insurer.**

HB 436 also includes a requirement that, beginning on July 1, 2023, and continuing every 6 months thereafter, each insurer must report certain information to the MIA, including: the number of requests received; the outcome of each request; the criteria used by the insurer to determine the outcome of the request; and, the income, race and ethnicity, gender, education level, and zip code for each applicant or insured that has made a request. The MIA notes that insurers do not presently collect income, race, and ethnicity information for underwriting or rating purposes, and doing so would violate current Maryland insurance law. Private passenger motor vehicle insurers are not permitted to consider such factors as race, ethnicity or income in underwriting or pricing. Thus, they are not allowed to collect this information as part of their application process. Further, demographic data is difficult to collect, as those individuals who are members of classes that are subject to protection are often reluctant to provide that data.

The MIA appreciates the desire to mandate a mechanism for providing premium relief to citizens whose credit history has been adversely impacted due to life circumstances beyond their control. **However, HB 436, as presently written, contains technical, compliance and enforcement issues that require resolution before passage.** The MIA is available to work with the sponsors and interested stakeholders toward such a resolution.