



Testimony of

American Property Casualty Insurance Association (APCIA) Senate Finance Committee

House Bill 221- Motor Vehicle Insurance - Use of Credit History Rating Policy

March 29, 2022

Support with Amendments

The American Property Casualty Insurance Association (APCIA) is a national trade organization representing nearly 60 percent of the U.S. property casualty insurance market. APCIA appreciates the opportunity to provide written testimony regarding House Bill 436 which would require an insurer who uses credit history in rating a private passenger auto policy to provide exceptions when an insured or applicant has suffered an “Extraordinary Life Circumstance” (ELC). House Bill 436 provides a means for those insureds who may have suffered from certain adverse life events that may have negatively impacted their credit history to contact their insurer and ask that it not impact the price of their coverage at the time of application or renewal. House Bill 436 adopts this provision from the National Conference of Insurance Legislators (NCOIL) Model Law on Credit in Personal Insurance, a provision which 21 other states have adopted.

Use of Credit in Maryland

Section § 27-501(e-2) of the Maryland Insurance Article provides very specific criteria for and restrictions on the use of credit information for rating private passenger auto policies. An insurer may not refuse to underwrite, cancel, refuse to renew, or increase the renewal premium based, in whole or part, on the credit history of an application. An insurer may use credit to rate a **new policy** but 1) may only use credit history going back five years; 2) advise the applicant that credit is used and if requested identify the portion of premium based on credit; 3) may not use the lack of credit or number of credit inquiries as a factor in rating; 4) must review an insured’s credit history every two years or by request; and if there is an improvement adjust the premium to reflect the improvement. Insurers may, if it is actuarially justified, provide a discount or impose a surcharge of up 40%. Maryland law does not permit the use of credit for underwriting or rating of homeowner’s insurance.

House Bill 436 provides additional protections for consumers who have faced challenges in the past several years. The coronavirus and the current economic crisis have impacted so many lives in this country and may have impacted a person’s credit. House Bill 436 addresses these impacts on a person’s credit and provides that if a person has experienced any of the following:

- a catastrophic event declared by the federal or State government;
- serious illness or injury, or serious illness or injury to an immediate family member;
- death of a spouse, child, or parent;
- divorce or involuntary interruption of legally owed alimony or support payments;
- identify theft;

- temporary loss of employment for a period of three months or more, if it results
- from involuntary termination;
- military deployment overseas; or
- other events, as determined by the insurer;

The insured or an applicant for a new auto policy may submit a written request to the insurer to provide an exception to their use of credit. An insurer may but is not required to request additional information but must respond within 30 days of receiving additional information.

Insurers are required to notify all policyholders and applicants of the availability of the exception.

House Bill 436 also contains certain reporting requirements to the Maryland Insurance Administration regarding the number of exceptions requested, the outcome of the exceptions, gathering of certain demographic information which for the most part is not gathered regarding the applicant or insured who made the request, and the criteria for determining a request for an ELC exception. While APCIA does not oppose reporting the number of requests and the outcome, however, is concerned because insurers **are prohibited by statute** to collect most of the demographic information requested, as it cannot be utilized in underwriting or rating.

Specifically, § 27-501 (c) of the Insurance Article states:

(c) (1) Except as provided in paragraph (2) of this subsection, an insurer or insurance producer may not make an inquiry about race, creed, color, or national origin in an insurance form, questionnaire, or other manner of requesting general information that relates to an application for insurance. (emphasis added)

(2) Subject to § 27-914 of this title, an insurer that provides health insurance, a nonprofit health service plan, or a health maintenance organization may make an inquiry about race and ethnicity in an insurance form, questionnaire, or other manner requesting general information, provided the information is used solely for the evaluation of quality of care outcomes and performance measurements, including the collection of information required under §19-134 of the Health- General Article.

Insurers make decisions without any consideration of those demographic factors and do not want to ask for that information. We have little doubt that collecting that information would create unfounded suspicion with policyholders and has the very real potential for policyholders to assume that they are being asked to provide data *because* it is factored into their premiums, and not for any other purpose.

In addition, the reporting requirements require an insurer to submit the criteria of review. This is redundant as the criteria of what is considered an ELC event are already listed in the bill, so we request, therefore, that requirement be struck.

For these reasons, APCIA asks the Committee to consider amending the bill with the following changes.

Amendment Request:

On Page 6, line 29, after “months” insert the word: “**and**” and

on pages 6 and 7, strike beginning with the semicolon in line 31 on page 6 down through “**EXCEPTION**” on in line 5 on page 7, inclusive.

These amendments will strike demographic reporting and the criteria used for review.

With these amendments, APCIA is fully supportive of the House Bill 436. We believe the bill includes important consumer protections, better aligns Maryland law with the majority of other states and prevents the unintended consequences of collecting highly sensitive demographic information.

Respectfully submitted,

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