

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### Market Oversight

#### 18.02.01 – Insurance Rates and Credit Rating

##### **Who does this rule apply to?**

*This rule applies to insurers of property and casualty insurance.*

##### **What is the purpose of this rule?**

*The purpose of this rule implements Section 41-1843, relating to the use of credit rating or credit history by insurers.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

Insurance -

Department of Insurance:

- [41-211, Idaho Code](#) – Rules

Insurance Contract:

- [41-1843, Idaho Code](#) – Insurance Rates and Credit Rating

##### **Who do I contact for more information on this rule?**

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## 18.02.01 – INSURANCE RATES AND CREDIT RATING

### 000. LEGAL AUTHORITY.

Title 41, Sections 41-211 and 41-1843, Idaho Code.

(7-1-21)T

### 001. TITLE AND SCOPE.

01. **Title.** IDAPA 18.02.01, “Insurance Rates and Credit Rating.”

(7-1-21)T

02. **Scope.** Implements Section 41-1843, Idaho Code, relating to the use of credit rating or credit history by insurers subject to said section.

(7-1-21)T

### 002. – 009. (RESERVED)

### 010. DEFINITIONS.

As used in this chapter, the following words have the following meanings:

(7-1-21)T

01. **Consumer Report.** Any written, oral, or other communication of any information by a consumer reporting agency regulated under the federal Fair Credit Reporting Act (15 U.S.C. 1681) that bears on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(7-1-21)T

02. **Credit Factor.** A factor or criterion that consists of or is derived from information obtained from a consumer report, and is used by an insurer in determining policy premium rates or in determining whether to issue, cancel, or nonrenew a policy.

(7-1-21)T

03. **Noncredit Factor.** Any factor other than a credit factor reasonably expected to affect the risk assumed by an insurer and used by the insurer in determining policy premium rates, or in determining whether to issue, cancel or nonrenew a policy.

(7-1-21)T

04. **Weight.** The consideration given by an insurer to a particular credit or noncredit factor relative to other factors considered in the underwriting or rating process.

(7-1-21)T

### 011. -- 099. (RESERVED)

### 100. USE OF CREDIT FACTORS.

01. **Banned Acts.** An insurer will not charge a higher premium than would otherwise be charged, or cancel, nonrenew or decline to issue a policy, based in any part upon credit factors unless:

(7-1-21)T

a. The decision is also based on a noncredit factor or factors; and

(7-1-21)T

b. The aggregate weight given to the noncredit factors considered in making the decision is at least as great as that given to the credit factors considered in making the decision.

(7-1-21)T

02. **Application of Rule.** To determine whether a decision to issue, nonrenew or cancel a policy, or to charge a higher rate than would otherwise be charged, is not improperly based primarily upon a credit factor or factors, the Department will apply the following criteria:

(7-1-21)T

a. If an insurer declines to issue, nonrenews or cancels a policy based in any part upon a credit factor, then the insurer needs to show it also relied upon a noncredit factor or combination of noncredit factors in making the decision and the noncredit factor(s) played at least as great a role in the decision as did the credit factor.

(7-1-21)T

b. If an insurer relies in any part upon a credit factor in establishing an initial rate for new business or to impose an increase in premium rate for a customer, then the insurer needs to show that it also considered noncredit factors in establishing the initial rate and that not more than one-half ( $\frac{1}{2}$ ) of the initial or renewal premium rate is attributable to the credit factor. To satisfy this requirement, an insurer may do one (1) of the following:

(7-1-21)T

i. Demonstrate that the difference in the premium rate using the highest credit factor and the lowest credit factor, all noncredit factors being unchanged, does not exceed one-half ( $\frac{1}{2}$ ) the higher premium rate; or

(7-1-21)T

ii. Demonstrate that the premium rate calculated without using credit is equal to or greater than one-

half (½) of the premium rate calculated using the highest credit factor. The premium rate without using credit, means the premium rate with all the noncredit factors unchanged and replacing the highest credit factor with the average credit factor. The average credit factor needs to be calculated from the actual distribution of Idaho business by credit factor. (7-1-21)T

**03. Information Used in Reviewing Insurer's Decision.** To evaluate whether an underwriting or rating decision was based primarily upon credit factors, the Department may require the insurer to explain in detail the insurer's underwriting or rating process, identify all factors considered in the process, and describe how the process was applied in the case under review. The Department may also require the insurer to apply its underwriting or rating process to hypothetical cases submitted to the insurer by the Department. (7-1-21)T

**101. -- 199. (RESERVED)**

**200. OTHER LAWS OR RULES.**

Nothing in this chapter limits or modifies any other law or rule imposing restrictions regarding rating, issuing, canceling or nonrenewing a policy. (7-1-21)T

**201. RETENTION OF RECORDS.**

Insurers subject to this rule will document the factors and criteria considered in underwriting and rating decisions and will retain the documentation for at least five (5) years. (7-1-21)T

**202. VIOLATIONS.**

A failure to comply with this rule is a violation of Section 41-1843, Idaho Code. (7-1-21)T

**203. -- 999. (RESERVED)**

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