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National Council of Insurance Legislators (NCOIL)

Insurance Underwriting Transparency Model Act

**Sponsor's substitute as of November 10, 2022*

**To be discussed and considered by the NCOIL Property & Casualty Insurance Committee on November 18, 2022.*

**Sponsored by Rep. Matt Lehman (IN) – NCOIL Immediate Past President*

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Section 1. Title

This Act shall be known and cited as the “[State] Insurance Underwriting Transparency Act.”

Section 2. Purpose

The purpose of this legislation is to provide personal auto and homeowners insurance consumers with clear and useful information explaining a declination to provide coverage, nonrenewal, or company-initiated increase in premiums.

Section 3. Definitions

“**Adverse Action**” means a declination, non-renewal, cancellation, or an increase of more than 9.99% over the expiring premium for, or a reduction in coverage or other adverse or unfavorable change in the terms of coverage or amount of insurance in connection with the underwriting of a property & casualty personal private passenger

automobile or homeowners insurance policy, excluding any increase in the insurer's statewide base rate and any additional premium due to a policyholder-initiated change in the insured's coverage.

“Applicant” means a person who has completed and submitted an application to an insurer for the purpose of obtaining insurance coverage.

“Policyholder-initiated change” includes but is not limited to adding or removing vehicles or drivers, adding an endorsement, adding additional coverages, adding covered premises, or increasing or decreasing coverage limits or deductibles.

Section 4. Transparency Requirements

- (a) When an insurer communicates an adverse action to an applicant or insured, the notification shall include either:
 - (1) A statement describing the policyholder's right to request and obtain a notice explaining the principal factors for the adverse action; or
 - (2) A notice explaining the principal factors for the adverse action.
- (b) If an insurer takes an adverse action, the insurer shall, upon a written request from the applicant or insured, or that person's authorized insurance producer, provide a written notice to the applicant or insured explaining the principal factors for the adverse action. The request or the notice may be provided by postal mail or, if the applicant or insured has provided consent, in electronic form, via e-mail, via electronic document or by providing a link to the personalized statement specific to that applicant or insured posted to a secure location on the insurer's website or mobile device application.
- (c) The notices required by this section must be sufficiently clear and use specific language so the applicant or insured is able to identify the basis for the insurer's decision to take an adverse action. Statements that the adverse action was based on the insurer's internal standards, policies, or models or that the policyholder failed to achieve a particular score on the insurer's scoring system, has a poor credit history or poor credit rating do not satisfy this requirement. The notices must also include a description of the specific principal factors most heavily weighed by the insurer for the adverse action in no particular order; however, if the insurer uses more than ten (10) such factors, then only the 10 most heavily weighed must be disclosed in no particular order. This section does not require disclosure of factors known to the insurer as a result of the applicant's or insured's participation in a usage based or telematics insurance program that are otherwise disclosed to the applicant or insured. The notice may also provide a point of contact for the recipient to discuss the reasons for the adverse action.

- (d) An insurer shall provide copies of the notices described in this section to the applicant's or insured's authorized insurance producer, if any. The notices may be provided to the producer in electronic form, via e-mail, via electronic document or by providing a link to the personalized statement specific to that applicant or insured posted on the insurer's website.
- (e) Nothing in this Act prohibits an insurer from voluntarily providing the disclosures required by this section.

Section 5. Rules and Penalties

The Commissioner shall adopt rules as necessary to effectuate the provisions of this Act. Those rules shall include monetary penalties consistent with those assessed for other similar violations of this State's insurance code. Violations shall be enforced solely by the Commissioner. A violation of this Act shall not create a private cause of action.

Section 6. Effective Date

The required notices shall be provided on applications submitted and policies eligible for renewal on or after [date 12 months following enactment of this law].

Drafting Notes:

1) This Model is intended to apply to property & casualty personal lines insurance policies such as personal auto insurance and personal homeowners' insurance. This may also include farm and farm auto policies. Other lines of insurance, such as life insurance and commercial property & casualty insurance, are not intended to be brought within the scope of this Model.

2) Some states have existing laws governing notices for cancellations, non-renewals, and/or significant premium increases. Where in place, this model should be modified to be consistent with the percentages in these existing laws.

3) Terms such as "insurer" are intentionally not defined in this Model so that the specific definitions of each state's insurance code shall govern.

4) "Commissioner" may be replaced with the title of the state's chief insurance regulatory officer.