

November 26, 2012

## CONSULTATION DRAFT

### INSURANCE ACT

#### PROHIBITED UNDERWRITING PRACTICES AND RATING CLASSIFICATION REGULATIONS

Pursuant to sections 74.1, 219.2 and 258.9 of the *Insurance Act* R.S.P.E.I. 1988, Cap. I-4, Council made the following regulations:

**1. In these regulations**

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|---|--|
|   | Definitions                                |
| (a) “antique vehicle” means a motor vehicle that  | antique vehicle                            |
| (i) is at least thirty years old or is a recognized classic, and  |  |
| (ii) has been restored to its original condition;   |  |
| (b) “automobile statistical plan” means the report compiled in accordance with section 65 of the Act by the agency designated by the Superintendent for the purposes of that section;   | automobile statistical plan                |
| (c) “contract of residential property insurance” means a contract within the class of fire insurance, property damage insurance or theft insurance, or more than one of those classes, for which premiums                               | contract of residential property insurance |
| (i) are reported under the line item “Property-personal” in the annual statement required to be delivered to the Superintendent under section 69 of the Act, or   |  |
| (ii) would be reported under the line item “Property-personal” in the annual statement of the insurer if the insurer were an insurer that is required to deliver an annual statement to the Superintendent under section 69 of the Act; |  |
| (d) “other personal use vehicle” means a vehicle within the class “Other Personal Use Vehicle” as defined for Prince Edward Island in the automobile statistical plan;  | other personal use vehicle                 |
| (e) “private passenger vehicle” means a vehicle within the class “Private Passenger Vehicle” as defined for Prince Edward Island in the automobile statistical plan;  | private passenger vehicle                  |
| (f) “reconstructed vehicle” means a reconstructed vehicle as defined in the <i>Highway Traffic Act</i> R.S.P.E.I. 1988, Cap. H-5.   | reconstructed vehicle                      |

Residential Property  
Insurance

**2.** Residential property insurance shall not be considered a class of insurance for purposes of the Act.

#### RESIDENTIAL PROPERTY INSURANCE

Prohibited grounds -  
financial or credit  
information

**3.** No insurer shall decline to issue, refuse to renew, terminate a contract of residential property insurance or refuse to provide or continue any coverage or endorsement in respect of a contract of residential property insurance on the basis of any of the following grounds with respect to an applicant for insurance or a person who would be an insured person under the contract:

- (a) the credit history, credit rating, credit score or credit-based insurance score of the applicant or person;
- (b) the income level of the applicant or person;
- (c) the gross or net worth of the applicant or person;
- (d) the indebtedness of the applicant or person;
- (e) whether the applicant or person has a credit card; or
- (f) whether the applicant or person has made late or dishonoured premium payments in respect of a contract of insurance that was not terminated by reason of the late or dishonoured premium payments.

Prohibited grounds  
re rating  
classification

**4.** No insurer shall establish an insurance rating classification in respect of a contract of residential property insurance to distinguish between insured persons on the basis of any of the following grounds with respect to an applicant for insurance or a person who would be an insured person under the contract:

- (a) the credit history, credit rating, credit score or credit-based insurance score of the applicant or person;
- (b) the income level of the applicant or person;
- (c) the gross or net worth of the applicant or person;
- (d) the indebtedness of the applicant or person;
- (e) whether the applicant or person has a credit card; or
- (f) whether the applicant or person has made late or dishonoured premium payments in respect of a contract of insurance that was not terminated by reason of the late or dishonoured premium payments.

#### AUTOMOBILE INSURANCE

Application

**5.** Sections 6 to 9 apply to contracts of insurance in the form approved by the Superintendent under subsection 216(9) of the Act.

Prohibited grounds  
for declining to  
issue, refusing to  
renew or  
terminating a  
contract, or for  
refusing coverage or  
endorsement

**6.** No insurer shall decline to issue, refuse to renew, terminate a contract of automobile insurance or refuse to provide or continue any coverage or endorsement in respect of a contract of automobile insurance on the basis of any of the following grounds with respect to an applicant for insurance or a person who would be an insured person under the contract:

- (a) the age of the applicant or person;
- (b) the age of the vehicle that would be insured by the contract, unless the vehicle
  - (i) is an antique vehicle,
  - (ii) is a reconstructed vehicle, or
  - (iii) has been substantially modified for enhanced performance;
- (c) whether the applicant or person is or has been insured by the Facility Association;
- (d) whether the applicant or person was declined insurance or refused a renewal of insurance by an insurer;
- (e) whether the applicant or person has claimed in the past under a policy of automobile insurance, as a result of accidents for which the applicant or the person was not at fault;
- (f) whether the applicant or person failed to make one payment to an insurer, other than the first payment of a periodic payment plan, if the missed payment is the only payment missed under a policy of automobile insurance in the past 24 months, and if the missed payment was made within 30 days of the date on which it was originally due;
- (g) whether the applicant or person has a lapse in coverage under a contract of automobile insurance, for a period of no more than 12 months, unless that lapse resulted, directly or indirectly, from
  - (i) the termination of a policy of automobile insurance, as a result of a failure to pay premiums due under the contract, or
  - (ii) the suspension of the applicant's or person's driver's licence for an offence related to the use or operation of an automobile.

7. No insurer shall decline to issue, refuse to renew, terminate a contract of automobile insurance for a private passenger vehicle or other personal use vehicle or refuse to provide or continue any coverage or endorsement in respect of a contract of automobile insurance for a private passenger vehicle or other personal use vehicle on the basis of any of the following grounds with respect to an applicant for insurance or a person who would be an insured person under the contract:

Prohibited grounds  
re automobile  
insurance for  
private passenger  
vehicle or other  
personal use vehicle

- (a) the credit history, credit rating, credit score or credit-based insurance score of the applicant or person;
- (b) the income level of the applicant or person;
- (c) the gross or net worth of the applicant or person;
- (d) the indebtedness of the applicant or person;
- (e) whether the applicant or person has a credit card; or
- (f) whether the applicant or person has made late or dishonoured premium payments in respect of a contract of insurance that was not terminated by reason of the late or dishonoured payments.

Rating  
classification-  
automobile  
statistical plan  
Rating  
classification-  
prohibitions

**8.** In developing rates for automobile insurance an insurer shall comply with the basic rating classes established in the automobile statistical plan.

**9.** No insurer shall establish an automobile insurance rating classification in respect of private passenger vehicles or other personal use vehicles to distinguish between insured persons on any of the following grounds with respect to the person insured:

- (a) the person’s credit history, credit rating, credit score or credit-based insurance score;
- (b) the person’s income level;
- (c) the gross or net worth of the person;
- (d) the person’s indebtedness;
- (e) that the person does not hold a credit card; or
- (f) that the person has made late or dishonoured premium payments in respect of a contract of insurance that was not terminated by reason of the late or dishonoured payments.

Revocation

**10.** The *Insurance Act* Prohibited Underwriting Practices Regulations (EC697/03) are revoked.

Commencement

**11.** These regulations come into force on .....

## **EXPLANATORY NOTES**

**SECTION 1** defines terms, including “contract of residential property insurance”, for the purposes of these regulations.

**SECTION 2** provides that residential property insurance is not a class of insurance for the purposes of the Act.

**SECTION 3** establishes prohibited underwriting practices with respect to a contract of residential property insurance, including credit history, income level, gross or net worth, indebtedness, past payment history of the applicant or the person insured and whether the applicant or person has a credit card.

**SECTION 4** prohibits an insurer from establishing an insurance rating classification based on the prohibited grounds set out in section 3.

**SECTION 5** clarifies the application of sections 6 to 9 of these regulations.

**SECTION 6** establishes prohibited underwriting practices with respect to a contract of automobile insurance, including the age of the applicant or insured person, the age of the vehicle, unless the vehicle is an antique, reconstructed or substantially modified vehicle, the applicant’s or person’s previous insurance history or payment history, or whether the applicant or person has had a lapse in coverage that is less than 12 months, unless the lapse was due to termination of a policy because of a failure to pay the premiums or the suspension of the applicant’s or person’s driver’s license for an offence related to the use or operation of an automobile.

**SECTION 7** establishes further prohibited underwriting practices with respect to a contract of automobile insurance, including credit history, income level, gross or net worth, indebtedness, past payment history of the applicant or the person insured and whether the applicant or person has a credit card.

**SECTION 8** requires an insurer, in developing rates for automobile insurance, to comply with the basic rating classes established in the automobile statistical plan.

**SECTION 9** prohibits an insurer from establishing an automobile insurance rating classification for private passenger vehicles or other personal use vehicles that distinguishes between insured persons based

on the same prohibited underwriting practices established under section 7.

**SECTION 10** revokes the current *Insurance Act Prohibited Underwriting Practices Regulations*.

**SECTION 11** provides for the commencement of these regulations.