



K a n s a s I n s u r a n c e D e p a r t m e n t

Sandy Praeger COMMISSIONER OF INSURANCE

Bulletin 2005-1

TO: All Companies Using Credit Information to Underwrite or Rate Risks

FROM: Sandy Praeger
Commissioner of Insurance

DATE: April 1, 2005

RE: Implementation of the Kansas Insurance Score Act
K.S.A. 2003 Supp. 40-5101, et seq. & K.A.R. 40-1-50

Please refer to our bulletin 2004-10 that was issued on December 10, 2004. That bulletin was issued to provide assistance by answering the questions most often received by the Department concerning the Kansas Insurance Score Act. Neither that bulletin, nor this bulletin, can replace, modify or amend existing statutes or regulations.

As noted in the Kansas Insurance Score Act Report to the Legislature of January 26, 2005, ". . . the Department and insurance industry differ on the use of "solely" in K.S.A. 40-5104(c). K.S.A. 40-5104(c). . ." Portions of Bulletin 2004-10 reflected that difference.¹

¹ "No insurer shall take any 'adverse action' based solely upon credit information. See K.S.A. 2003 Supp. 40-5104 (c) & (d).

As to applicants (see K.S.A. 2003 Supp. 40-5103(d), in that the information provided to the company by the applicant is new, and represents a change in the companies previous knowledge, it is not possible that a company's 'adverse action' regarding an applicant consumer is based solely on credit information.

As to non-applicant consumers, the rule is that a non-applicant consumer with the worst credit history is entitled to the same treatment as the nonapplicant consumer with the best credit history. Only factors having nothing to do with credit information allows insurers to offer different treatment to different non-applicant consumers. If there is a non-credit information reason to take an 'adverse action,' then and only then can a non-applicant consumer's credit information be considered." KID Bulletin 2004-10, pp.1 & 2.

The Department's opinion as to the "solely" issue has been thoroughly examined and debated. Based on this examination, which has included a review of Attorneys General's opinions and correspondence from both within and outside the State of Kansas, communications with other insurance departments, and re-review of the legislative history of 2003 Senate Bill 144, as well as discussions and reviews of correspondence with members and staff of the NCOIL and the NAIC; the Department's opinion regarding K.S.A. 40-5104 is presented in this bulletin.

Those portions of Bulletin 2004-10, contained in footnote one of this Bulletin, are no longer a reflection of the Department's opinion and policy. As to the remainder of Bulletin 2004-10, all portions of the bulletin, not contained in footnote one remain the Department's interpretation of the Insurance Score Act.

If you have questions regarding this Bulletin, please contact Hsing-Kan Chiang at 420 S.W. 9th Street, Topeka, Kansas, 66612, by telephone at 785-296-7874, or email at hchiang@ksinsurance.org.
