Illinois Department of Insurance

September 29, 2009

To: **All Licensed Property & Casualty Insurers**

From: **Michael T. McRaith, Director**

Re: **CB# 2009-06 - Addendum to CB# 2003-03 Guidance on HB1640 and Insurance Scoring Provisions of HB3661**

Reply To: We request that you e-mail your questions or inquiries whenever possible.

For Personal Auto Filing Questions:
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Background

This bulletin is designed to give industry guidance on adverse notification requirements addressed by the U.S. Supreme Court.

Interpretation

On June 4, 2007, the Supreme Court of the United States issued a decision in two court cases (Safeco Insurance Company of America et al. v. Burr et al., and GEICO General Insurance Co. et al. v. Edo) regarding the Fair Credit Reporting Act (FCRA). The Department of Insurance (DOI) reviewed and compared the court's decisions regarding adverse action notification to the previous position on adverse action notification set forth in CB2003-03.

Based on the U.S. Supreme Court decisions, we are revising the previous position on adverse action notification to adopt the U.S. Supreme Court's interpretation of when adverse action notification is required. Specifically, insurers will no longer be required to provide adverse action notification if an applicant or insured doesn't receive the best rate, tier, company, coverage, etc. as required in CB2003-03 as long as the rate, tier, company, coverage, etc., offered is the same or better from what would be offered to an applicant or insured who had a 'neutral score.' If requested by the DOI, insurers will be expected to document and should be prepared to explain and defend how such treatment is equal to or better than 'neutral.'"