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Under section 95 and subsection 267.9(1) of the *Insurance Act*, the Lieutenant-Governor in Council makes the following Regulation:

Citation

1 This Regulation may be cited as the *Underwriting Practices and Rating Classification Regulation - Insurance Act*.

Definitions

2 The following definitions apply in this Regulation.

“Act” means the *Insurance Act. (Loi)*

“antique vehicle” means an antique vehicle as defined in the *Motor Vehicle Act. (ancien modèle)*

“Automobile Statistical Plan” means the report compiled from the data respecting the experience of insurers’ business and maintained for the purposes of section 75 of the Act by the General Insurance Statistical Agency. (*Plan statistique automobile*)

“contract of residential property insurance” means a contract of insurance within the class of fire insurance, property damage insurance, theft insurance or more than one of those classes, for which premiums are reported under the line item “Property - personal” in the table entitled *Provincial and Territorial Exhibit of Premiums Written in the Annual Return P&C-1 and Annual Return P&C-2* adopted by the Superintendent as annual statements for the purposes of section 79 of the Act. (*contrat d’assurance de biens résidentiels*)

“other personal use vehicle” means a vehicle within the class “Other Personal Use Vehicle” as defined in the New Brunswick section of the Automobile Statistical Plan, version V2.0, dated June 2010. (*autre type de véhicule personnel*)

“private passenger vehicle” means a vehicle within the class “Private Passenger Vehicle” as defined in the New Brunswick section of the Automobile Statistical Plan, version V2.0, dated June 2010. (*voiture de tourisme*)

“reconstructed vehicle” means a reconstructed vehicle as defined in the *Motor Vehicle Act. (véhicule reconstruit)*

Residential property insurance is not a class of insurance

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

RESIDENTIAL PROPERTY INSURANCE

Underwriting practices - prohibitions with respect to financial or credit information

4 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 late or dishonoured premium payments.

Rating classification - prohibitions with respect to financial or credit information

5 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 late or dishonoured premium payments.

AUTOMOBILE INSURANCE**Application**

6 Sections 7 to 13 apply to contracts of insurance approved by the Superintendent under subsection 226(6) of the Act.

Underwriting practices - prohibitions with respect to vehicle characteristics

7 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 because of the age of the vehicle that would be insured by the contract, unless the vehicle

- (a) is an antique vehicle,
- (b) is a reconstructed vehicle, or
- (c) has been substantially modified for enhanced performance.

Underwriting practices - prohibitions with respect to characteristics of the applicant or insured person

8(1) 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) that the applicant or person is or has been insured by the Facility Association;
- (c) that the applicant or person was declined or refused a renewal of insurance by an insurer;
- (d) that the applicant or person has claimed in the past under a policy of automobile insurance, as a result of an accident for which the person was not at fault;

(e) that the applicant or person has failed to make one payment to an insurer, other than the first payment of a periodic payment plan, if the missed payment was made within 30 days after the date on which it was due; or

(f) that the applicant or person has a lapse in coverage under a contract of automobile insurance for a period of less than 24 months, unless the 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 driver's licence of the applicant or person for an offence related to the use or operation of an automobile.

8(2) No insurer shall terminate a contract of automobile insurance or refuse to provide or continue any coverage or endorsement in respect of a contract of automobile insurance in the following circumstances:

(a) the insured ceases to be a member of a group; or

(b) the insurer terminates a group marketing plan.

8(3) In the case of an applicant or a person who would be an insured person under a contract of automobile insurance for a private passenger vehicle or other personal use vehicle, paragraph (1)(e) is subject to paragraph 9(f).

Underwriting practices - prohibitions with respect to financial or credit information

9 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:

- (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) that the applicant or person does not have a credit card; or
- (f) that the applicant or person made a premium payment that was late or dishonored in respect of a contract of insurance that was not terminated by reason of the late or dishonored payment.

Rating classification - Automobile Statistical Plan

10 Subject to sections 11 to 13, in developing rates for automobile insurance, an insurer shall comply with the basic rating classes established in version V2.0 of the Automobile Statistical Plan dated June 2010.

Rating classification - prohibitions with respect to age, gender and marital status

11(1) No insurer shall establish an automobile insurance rating classification to distinguish between insured persons on the basis of age, gender or marital status.

11(2) Distinguishing between persons on the basis of years of driving experience does not contravene subsection (1).

11(3) Nothing in this Regulation affects an insurer's obligations under section 75 of the Act or the insurer's ability to record information about age, gender or marital status of insured persons for statistical purposes.

Rating classification - prohibitions with respect to lapse in coverage

12 No insurer shall establish an automobile insurance rating classification to distinguish between insured persons on the basis of a lapse in coverage under a contract of automobile insurance for a period of less than 24 months, unless the lapse resulted, directly or indirectly, from

- (a) the termination of a policy of automobile insurance for failure to pay premiums due under the terms of the contract,
- (b) the termination of a policy of automobile insurance for failure to disclose an accident or a conviction for an offence related to the use or operation of an automobile which would likely have led to a higher premium being charged, or
- (c) the suspension of a driver's licence for an offence related to the use or operation of an automobile.

Rating classification - prohibitions with respect to financial or credit information

13 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 made a premium payment that was late or dishonored in respect of a contract of insurance that was not terminated by reason of the late or dishonored payment.

REPEALS AND COMMENCEMENT

Repeals

- 14(1) *New Brunswick Regulation 2003-15 under the Insurance Act is repealed.*
- 14(2) *New Brunswick Regulation 2004-139 under the Insurance Act is repealed.*

Commencement

- 15(1) *Sections 1 to 3 and 6 to 14 of this Regulation come into force on January 1, 2012.*
- 15(2) *Sections 4 and 5 of this Regulation come into force on January 1, 2013.*