Jim Poolman
Commissioner of Insurance

DEPARTMENT OF INSURANCE
STATE OF NORTH DAKOTA

MEMORANDUM

TO: All Property and Casualty Companies Writing Personal Lines Insurance

FROM: Jim Poolman, Commissioner

DATE: September 27, 2005

SUBJECT: Use of Credit Information in Personal Lines – Reynolds Decision

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N.D. Cent. Code Chapter 26.1-25.1 – Personal Insurance Credit Information requires that an insurer provide notice to a consumer if the insurer takes adverse action in the underwriting or rating of personal insurance based upon credit information.

Further, the chapter requires that an insurer adhere to the Fair Credit Reporting Act (FCRA) and provide an understandable description of the primary factors that influenced the adverse action.

Recently the Ninth Circuit Federal Court rendered a decision in Reynolds v. Hartford Financial Services, et al. regarding the circumstances under which the FCRA requires that an insurer provide notice of an adverse action to a consumer. The decision is not binding in North Dakota, which is in the Eighth Circuit; however, we find that the Reynolds opinion supports our interpretation of an "adverse action".

Accordingly, it is expected all property and casualty companies that use credit information in the underwriting and rating of personal lines insurance to give notice of an adverse action in accordance with the Reynolds decision.

Any questions should be directed to Larry Maslowski at lmaslows@state.nd.us or (701) 328-4976 or Charles E. Johnson at cejohnso@state.nd.us or (701) 328-4984.

JP/njb

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