
Massachusetts Association of Insurance Agents

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August 10, 2015

The Honorable Daniel R. Judson
Commissioner of Insurance
Division of Insurance
1000 Washington Street, Suite 810
Boston, MA 02118-6200

Re: Division of Insurance Regulatory Review

Dear Commissioner Judson:

On behalf of the Massachusetts Association of Insurance Agents (MAIA), I want to thank Governor Baker for undertaking a statewide effort to review all of the existing regulations to determine whether there is clearly a need for continuity to retain a particular regulation. As a trade association that represents some 1300 independent insurance agencies across the Commonwealth, who employ over 11,000 employees, we support this regulatory review process with the goal of reducing the regulatory burdens in order to create a more business friendly environment in Massachusetts.

The following comments and recommendations below address the regulations included under the topic of "Auto Insurance".

211 CMR 54.00: PROCEDURE FOR SURRENDER AND NON-RENEWAL OF LICENSES BY INSURERS AUTHORIZED TO WRITE MOTOR VEHICLE INSURANCE

This regulation sets out the process by which an insurer or group of insurers, authorized to write motor vehicle insurance initiate surrendering or non-renewing any or all of their licenses to engage in the business of insurance. RECOMMENDATION: We recommend that regulation 211 CMR 54:00 be maintained, as is, in order to give the Division of Insurance the opportunity to consider whether an insurance company's refusal to write motor vehicle insurance affects the company's solvency and whether such refusal is contrary to the public interest by disrupting the automobile insurance market.

211 CMR 74.00: STANDARDS OF FAULT TO BE USED BY THE BOARD OF APPEALS ON MOTOR VEHICLE LIABILITY POLICIES AND BONDS AND INSURERS IN PRESUMING FAULT WHEN MAKING AT FAULT DETERMINATIONS.

This regulation establishes the standard of fault that insurers use to determine whether an operator of a private passenger motor vehicle is more than 50% at fault for an accident. 211 CMR 74.00 is authorized



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by the statutory provisions relative to the prior “fix and establish” auto rate setting system as well as under Chapter 175E, the statute for establishing the process for making and using rate in a competitive system.

RECOMMENDATION: Regulation 211 CMR 74.00 needs to be maintained so insurance companies can have some guidance in determining if a driver of a car is more than 50% at fault. The standards of fault, as set out in the regulations, need to be maintained.

211 CMR 77.00: PROCEDURES FOR THE CONDUCT OF PROCEDURES ON FIXED AND ESTABLISHED PRIVATE PASSENGER MOTOR VEHICLE INSURANCE RATES.

The title of this regulation is pretty much self-explanatory. It sets out the conduct of proceeding for fixing and establishing private passenger motor vehicle insurance rates that was the system used in setting rates prior to going to competitive rating or managed competition, so-called in 2008.

RECOMMENDATION: This regulation needs to be maintained because based upon the provisions of Chapter 175E Section 5, the Commissioner, after a hearing, determining, with respect to any territory or any kind, subdivision or class of insurance, that competition is either (i) insufficient to assure that rates will not be excessive, or (ii) so conducted as to be destructive of competition or detrimental to the solvency of insurers, he shall call a hearing under the provisions of Chapter 175 Chapter Section 113B to fix and establish private passenger motor vehicle insurance rates. Until such time as Section 113B is repealed, regulation 211 CMR 77.00 needs to remain.

211 CMR 88.00: PROCEDURES FOR THE APPEAL OF SAFE DRIVER INSURANCE PLAN (SDIP) MOTOR VEHICLE ACCIDENT SURCHARGES AND FOR CONDUCT OF SDIP MOTOR VEHICLE ACCIDENT SURCHARGE HEARINGS.

This regulation establishes the procedures that govern the filing and review of SDIP motor vehicle accident surcharges under the authority granted to the Motor Vehicle Board of Appeals. The process set forth in this regulation allows a policyholder or involved operator, who was involved in an at-fault accident, to file an appeal, with an independent agency if he or she feels that the determination that they were at-fault is wrong.

RECOMMENDATION: This regulation needs to be maintained to preserve the consumer’s right to appeal SDIP surcharges to an independent body – the Motor Vehicle Board of Appeals. In Section 88.01 Authority, Purpose and Scope, we recommend that “M.G.L. Chapter 175 E Section 7A” be inserted as a result of the passage of Chapter 9 of the Acts of 2009, that preserved the consumers’ right to appeal SDIP surcharges as well as preserve the Motor Vehicle Board of Appeals under managed competition.

211 CMR 94.00: PRE-INSURANCE INSPECTION OF PRIVATE PASSENGER MOTOR VEHICLES.

RECOMMENDATION: We recommend that this regulation be maintained.

211 CMR 97.00: PROCEDURES FOR CANCELLATION AND NON-RENEWAL OF MOTOR VEHICLE INSURANCE POLICIES.

RECOMMENDATION: This regulation was revised in 2009 setting forth the procedures for cancelling and non-renewing auto insurance policies. We recommend that this regulation be maintained.

211 CMR 134.00: SAFE DRIVER INSURANCE PLAN

In that this regulation is referenced in both the prior fixed and established auto insurance market and the current competition auto market under managed competition, this regulation needs to be maintained in order to facilitate the operation of Safe Driver Insurance Plans as developed by insurance companies.

211 CMR 135.00: REQUIREMENTS REGARDING REFERRALS TO MOTOR VEHICLE GLASS REPAIR SHOPS.

This regulation sets out the guidelines as to how the referral of insureds to registered motor vehicle glass repair shops are made. Provisions of this regulation were revised as a result of the passage of Chapter 228 Section 20 of the Acts of 2012.

RECOMMENDATION: This regulation should be maintained for the protection of the insureds against “steering” insureds to use specific glass repair shops

The following comments and recommendations below address the regulations included under the topic of “Miscellaneous”.

211 CMR 50.00: CONTINUING EDUCATION FOR INSURANCE PRODUCERS

Regulation 211 CMR 50.00 as promulgated pursuant to Section 177E of M.G.L. Chapter 175 should be retained, but should be amended to reflect the new requirements as established by Chapter 139 of the Acts of 2014.

We would recommend that the following amendment be made to 211 CMR 50.00:

Section 50.05 Hours of Study should be amended by striking out the clause in the first sentence “following the date of original issue of his or her initial insurance license, or the date of any amendment to said license for all additional line or lines of insurance, whichever is later” and insert in its place the following: “prior to the renewal date of the license”.

In addition, the second sentence of Section 50.05 should be amended by inserting after the words “period” the words “prior to the renewal of the license.”

The following sentence should be added at the end of Section 50.05: “As part of such requirements, any person holding 1(one) or more such licenses shall satisfactorily complete a program of instruction or attend a seminar on ethics equivalent to 3 (three) classroom hours of instruction.”

In Section 50.06 Forms of Submission, the clause “of a form prescribed by the Commissioner” should be stricken because the Commissioner no longer approves the CE forms.

In Section 50.07 Application for Program Credit, the clause “approved by the Commissioner” should be stricken for the same reason given above. Also, this section refers to “The Committee” in reviewing CE programs. The Committee, whose membership is set out in Section 177E of Chapter 175, no longer reviews CE programs but the state’s vendor Prometric reviews CE programs.

Finally, Section 50.08 Failure to Comply should be amended by adding the following sentence: “In addition to or in lieu of a license suspension, a person, after a hearing, which may be waived by that person, may be subject to a civil fine of not less than \$20 nor more than \$100 for each hour of instruction by which that person fails to meet the requirement imposed by statute.

On behalf of MAIA, I want to thank you for giving us the opportunity to participate and offer comments on the Division of Insurance’s Regulatory Review of the many regulations over which it has jurisdiction. I hope that these comments are both helpful and useful in deciding what regulations clearly need to be retained.

Sincerely,

Daniel J. Foley, Jr., Esq.

Vice President of Government Affairs & General Counsel.

cc: Robert A. Whitney, Deputy Commissioner & General Counsel