

**No. 2023-8118**

**Official Order  
of the  
Texas Commissioner of Insurance**

**Date: 8/7/2023**

**Subjects Considered:**

State Farm Fire and Casualty Company  
State Farm Mutual Automobile Insurance Company  
One State Farm Plaza D2  
Bloomington, Illinois 61710-0001

Consent Order  
TDI Enforcement File Nos. 29337 & 29338

**General remarks and official action taken:**

This is a consent order with State Farm Fire and Casualty Company and State Farm Mutual Automobile Insurance Company (collectively referred to as State Farm). The department alleges State Farm improperly used an applicant's lack of prior insurance to determine personal automobile rates. State Farm has agreed to pay an administrative penalty of \$75,000.

**Waiver**

State Farm acknowledges that the Texas Insurance Code and other applicable law provide certain rights. State Farm waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

**Findings of Fact**

1. State Farm holds certificates of authority to transact business in Texas.

Rating Error – Lack of Prior Insurance

2. Texas law, under 28 TEX. ADMIN. CODE § 5.401(b), prohibits insurers from using an applicant's lack of prior insurance in determining the appropriate rate for private passenger automobile liability insurance where the applicant has not been operating an uninsured motor vehicle in the state for more than 30 days during the 12 months immediately preceding the date of the application.
3. State Farm's personal automobile rate filings considered a policyholder's prior insurance, including any lapse in insurance over 30 days, in its placement guidelines. This affected the final premium an indeterminate number of policyholders paid.
4. After objections from department staff in filing SFMA-132472388, State Farm submitted filing SFMA-133119570, which remedied the department's concerns regarding State Farm's consideration of a policyholder's prior insurance in its placement guidelines.
5. As a result of the individualized instances and individualized reporting, State Farm does not have data to identify applicants whose lapse in insurance coverage is not associated with unlawful vehicle operation.

**Conclusions of Law**

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, and 801.052–801.053.
2. The commissioner has the authority to dispose informally of this matter as set forth in TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. State Farm has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. State Farm violated 28 TEX. ADMIN. CODE § 5.401(b) by assigning a rate consequence to an applicant's lack of prior insurance without having specific evidence that the

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Commissioner's Order

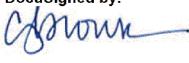
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applicant had been operating an uninsured motor vehicle in the state for more than 30 days during the 12 months immediately preceding the date of the application.

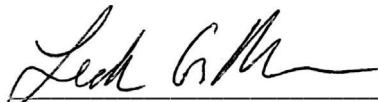
**Order**

It is ordered that State Farm pay, jointly and severally, an administrative penalty of \$75,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

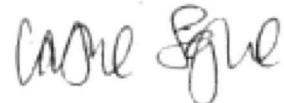
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Cassie Brown  
Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner  
Fraud and Enforcement Division



Cassie Tigue, Staff Attorney  
Enforcement

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**Affidavit**

**STATE OF Illinois §**  
§  
**COUNTY OF McLean §**

Before me, the undersigned authority, personally appeared Erin Fogarty, who being by me duly sworn, deposed as follows:

"My name is Erin Fogarty. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

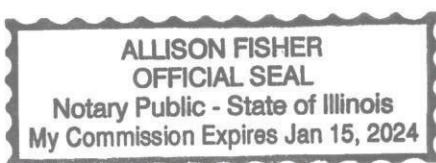
I hold the office of Assistant Secretary-Treasurer and am the authorized representative of State Farm Fire and Casualty Company and State Farm Mutual Automobile Insurance Company (collectively referred to as "State Farm"). I am duly authorized by said organizations to execute this statement.

State Farm has knowingly and voluntarily entered into the foregoing consent order and agree with and consent to the issuance and service of the same by the commissioner of insurance of the State of Texas."

  
\_\_\_\_\_  
Affiant

SWORN TO AND SUBSCRIBED before me on July 19<sup>th</sup>, 2023.

(NOTARY SEAL)



  
\_\_\_\_\_  
Signature of Notary Public  
Allison Fisher  
Printed Name of Notary Public