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December 22, 2003

VIA FAX AND E-MAIL

Administrator Joel Ario, Oregon
Commissioner Michael Kreidler,
Washington
Co-chairs, Credit Scoring Working Group
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, MO 64108-2662

Dear Colleagues:

I write as Chair of the National Conference of Insurance Legislators' (NCOIL) Property-Casualty Insurance Committee to clarify an issue that has developed regarding state implementation of the NCOIL *Model Act Regarding Use of Credit Information in Personal Insurance*. In particular, an unusual interpretation of the "sole use" provisions in Section 5 of the model act appears inconsistent with the Committee's original intent and may jeopardize the effectiveness of the NCOIL bill. We earnestly hope that the NAIC Working Group's future discussions on this issue will improve understanding of what state legislators intended.

NCOIL adopted its insurance-scoring model act in November 2002 in the belief that restricting insurers' use of credit information would protect consumers while helping promote a competitive insurance marketplace. The model was the product of much deliberation, and Section 5, which outlines appropriate use of credit information by insurers, may be viewed as the core of the bill.

Section 5 provides, among other things, that an insurer 1) cannot deny, cancel, or non-renew a policy of personal insurance based solely on credit information; 2) cannot base an insured's renewal rates solely on credit information; and 3) cannot take an

adverse action against a consumer solely because he or she does not have a credit card account. This “sole use” language was drafted with a simple mandate in mind: that other factors must be considered in addition to credit experience. It was not intended to reflect on whether the combination of all factors would result in credit information being the ultimate discretionary factor. NCOIL’s concern was to assert the role of traditional underwriting influences while acknowledging the legitimacy of insurance scoring.

It may happen that credit experience, at times, will be the definitive influence on an underwriting decision because an insurance score does measure different risk-of-loss concerns than do driving record and other underwriting elements. Still, the NCOIL Property-Casualty Insurance Committee did not believe that its “sole use” language would minimize the importance of standard loss predictors in favor of credit history, or that it would result in unfair treatment of consumers. It would be difficult to imagine an auto insurer that failed to place due importance on driving record when underwriting a personal lines auto insurance policy.

Sixteen states have now adopted legislation based on the NCOIL insurance-scoring model act, and several additional states are addressing the matter through NCOIL-based regulations. The NCOIL P-C Committee hopes that as regulators work to implement the bill, they do so in a manner consistent with the intentions of the state legislators who drafted it.

NCOIL very much appreciates your time on this issue and hopes to work with you in the months ahead. Please feel free to call Candace Frick in the NCOIL National Office (518-449-3210) should you have any questions.

Sincerely,



Rep. George Keiser, ND
Chair, NCOIL Property-Casualty
Insurance Committee

Enclosure

cc: Sen. Steven Geller, FL,
NCOIL President
Director Ernst Csiszar, SC,
NAIC President
Tim Mullen, NAIC
Shelly Schuman, NAIC