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NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES

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February 19, 2015

Montana State Legislature
House Business and Labor Committee
P.O. Box 200400
Helena, MT 59620-0400

sent via email to:
karmstrong@mt.gov

RE: HB 531, Prohibit Certain Underwriting Factors – NAMIC's Written Testimony in Opposition

Dear Representative Berry, Chair; Representative Salomon, Vice-Chair; Representative Lynch, Vice-Chair; and honorable members of the House Business and Labor Committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the House Business and Labor Committee for the February 20, 2015, public hearing.

NAMIC is the largest property/casualty insurance trade association in the country, serving regional and local mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

The 1,400 NAMIC member companies serve more than 135 million auto, home and business policyholders and write more than $196 billion in annual premiums, accounting for 50 percent of the automobile/homeowners market and 31 percent of the business insurance market. NAMIC has 134 members who write property/casualty insurance in the State of Montana, which represents 40% of the insurance marketplace.

Through our advocacy programs we promote public policy solutions that benefit NAMIC companies and the consumers we serve. Our educational programs enable us to become better leaders in our companies and the insurance industry for the benefit of our policyholders.

NAMIC is opposed to HB 531, because the bill would seriously hinder insurers in their ability to provide insurance consumers with what they want, need, and deserve – insurance rates that thoroughly, accurately, and fairly reflect the consumer's personal risk of loss exposure.

The proposed legislation is founded upon a misconception about insurance rating and underwriting, insurers use a multitude of different risk factor information to provide consumers with a broad-based and comprehensive assessment of their risk of loss exposure. This "totality of factors" approach to assessing risk of loss exposure is to the benefit of insurance consumers, because it prevents any one adverse rating factor from having a disproportionally detrimental impact upon the insurance consumer's rating.

Additionally, it allows insurers to compete for the consumer's business. Every insurer considers and weighs rating factors differently, so a broad and comprehensive assessment of the consumer's personal risk of loss exposure affords consumers a variety of price-points from different insurers to choose from to address their insurance needs. HB 531 would reduce the number of rating factors that may be considered, thereby restricting

market competition and reducing insurance price-point options for consumers. A "one size fits-all" approach to insurance rating and underwriting will harm *not* help insurance consumers.

NAMIC is specifically concerned about a number of the proposed rating factor prohibitions, particularly the ban on the use of credit-based insurance scoring (CBIS). The evidence in support of the reliability, predictive value, and benefit of CBIS to insurance consumers is extensive. In fact, *every study* conducted by the federal government, state departments of insurance, universities, and private research firms have repeatedly found that CBIS is a fair, accurate, and reliable predictor of risk of loss exposure.

"Credit-based insurance scores are effective predictors of risk under automobile policies. They are predictive of the number of claims consumers file and the total cost of those claims. The use of scores is therefore likely to make the price of insurance better match the risk of loss posed by the consumer." **"Credit-based Insurance Scores: Impacts on Consumers of Automobile Insurance" A Report to Congress by the Federal Trade Commission, July 2007.**

The use of Credit-Based Insurance Scoring (CBIS) benefits the majority of insurance consumers. The evidence in support of this fact is profound:

- In January 2009, a North Dakota domestic insurer testified before a Senate committee that "**upwards of 80 percent**" of its auto and homeowners customers are now receiving a discount because of their credit information.

- A 2009 Arkansas Department of Insurance survey reported that **"87% of consumers either received a discount for credit or it had no effect on their premium**" and "for those policies in which credit played some role in determining the final premium, those receiving a decrease outnumbered those who received an increase by **3.21 to 1**." (Bold font appears in original report.)[1]

- The Federal Trade Commission's (FTC) 2007 study of insurers' use of credit scoring in auto insurance indicated that when credit scoring is used as an underwriting tool, **59% of consumers pay less for insurance** versus 41% who pay more.

- In the 2007 legislative session in Wisconsin, a domestic company testified before the Wisconsin Senate that nearly **75% of their customers receive a discount** because of the use of credit information.

- A 2006 study of the Oregon insurance market showed **58% of private auto policyholders paid lower premiums** than they would have paid if insurance companies did not use credit information.[2]

- In 2005, Michigan insurers reported in legal filings that a proposed **ban on insurers' use of credit would produce premium increases of up to 68%** for both auto and homeowner policies, <u>with individual rates rising hundreds of dollars.</u>[3]

- In July 2005, the Nevada State Insurance Division conducted a study on credit based insurance scoring and said that their investigation "corroborates the insurance industry's contention that the **majority of policyholders benefit** from the use of credit scoring."

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[1] "Use and Impact of Credit in Personal Lines Insurance Premiums Pursuant to Ark. Code Ann. §23-67-415"; A report to the Legislative Council and the Senate and House Committees on Insurance and Commerce of the Arkansas General Assembly (as required by Act 1452 of 2003) by the Arkansas Insurance Dept., July 20, 2007.

[2] Oregon voters were asked to consider a statewide ballot initiative (Measure 42) in the November 2006 elections that would have banned insurer use of credit. The measure was defeated with citizens voting more than 2-1 (65.6% to 34.4%) against it, rejecting "mass subsidization." Study conducted by ECONorthwest in November 2006.

[3] In the case of *Insurance Institute of Mich., et. al. v Commissioner of the Office of Financial and Insurance Services*, (2005) Case #05-156-CZ, Barry County (MI) Circuit Court. There the Judge issued a clear and definitive opinion saying in part credit "clearly shows an <u>actual</u> effect on losses <u>and</u> expenses" (Judge's emphasis). The case is now on appeal (#262385).

The statistical evidence throughout the country clearly supports the conclusion that credit-based insurance scoring is an underwriting tool that helps insurance carriers offer consumers a range of products and rates that work to the benefit of the majority of insurance consumers.

NAMIC is also quite concerned about the proposed prohibitions upon the use of (i) employment or occupation; (j) the level of income or wealth; and (k) education level attained in the rating and underwriting process. Insurance is about risk of loss exposure assessment and contractual risk sharing. Therefore, it is reasonable and appropriate for insurers to be able to consider variables that assist them in evaluating the risk of loss exposure posed by a certain consumer. In fact, insurers have a responsibility to be thorough in their risk-sharing decision-making, because insurers have a duty to their policyholders as individual insureds and as a collective body of insureds to rate and underwrite insurance in a way that prevents unfair rate subsidization of high-risk of loss exposure insurance consumers by low-risk of loss of exposure consumers.

The proponents of HB 531 would like you to think that prohibiting insurers from being able to consider a multitude of risk factors protects all consumers and is fair to all consumers, but in reality it will adversely impact all insurance consumers, and is inconsistent with the desires of the majority of insurance consumers, who want insurers to be more precise in their rating and underwriting.

Specifically, in November of 2006, 65.58% of Oregon's voters voted to oppose Ballot Measure 42, which would have banned the use of credit-based insurance scoring in rating and underwriting. Voter sentiment was that they didn't want insurers to be hampered in their ability to provide the insurance consumer with a finely-tuned assessment of the individual consumer's personal risk of loss exposure, nor did the voter want to be required to subside the rates of high risk of loss exposure consumers as a result of insurers being forced to disregard relevant and predictive risk factor information.

Furthermore, the national trend has been to promote more comprehensive and efficient rating and underwriting tools. In recent years, a number of state legislatures have considered the idea of banning the outright use of credit-based insurance scoring, but not a single state has recently enacted legislation that effectuates such a prohibition. *Only 2 states* in the country have an outright ban on all use of CBIS. In fact, in 2013, sixteen (16) states introduced bills on point and *not one* bill passed out of the house of origin.

NAMIC appreciates the fact that it isn't always easy to see how a rating factor like CBIS or education level relates to risk of loss exposure, but the mere fact that it is difficult for non-actuaries to understand the predictive value of these risk of loss exposure rating factors, doesn't negate their legitimate existence. For example, in 2004-2005, the Texas Department of Insurance studied CBIS and found that *"credit is a better predictor of claims than most other rating factors . . . ."*

Insurers don't use rating factors like CBIS, education level, occupation, etc. to treat certain consumers unfairly. The contrary is true; insurers use these risk factors to treat all consumers fairly. According to the FTC's own July 24, 2007 press release on their study of credit-based insurance scoring, the FTC study concluded that "[credit-based insurance] scores effectively predict the number of claims consumers file and the total cost of those claims. Their use is likely to make the price of insurance better match the risk of loss that consumers pose. Thus, on average, as a result of the use of scores, higher-risk consumers pay higher premiums and lower-risk consumers pay lower premiums."

For the aforementioned reasons, NAMIC respectfully requests that this committee **"VOTE NO" on HB 531**, because the proposed legislation may sound like it promotes fairness, but in reality it will prevent fairness. High risk of loss exposure consumers should pay higher rates than low risk of loss exposure consumers – common-sense and common-experience dictates that is the fair thing to do. Preventing insurers from being able to thoroughly and accurately distinguish high risk of loss exposure consumers from low risk of loss exposure

consumers, by preventing insurers from being able to look at the "complete risk of loss exposure picture" won't promote fairness in rating and underwriting – *it will prevent fairness.*

Thank you for your time and consideration. Please feel free to contact me at 303.907.0587 or at crataj@namic.org, if you would like to discuss NAMIC's written testimony.

Respectfully,

Christian John Rataj, Esq.
NAMIC – Senior Director of State Affairs
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