February 13, 2017

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 291, Underwriting Restrictions - NAMIC's, AIA's, and PCI's written testimony IN OPPOSITION

Dear Representative Noland, Chair; Representative Curtis, Vice-Chair; Representative Ricci, Vice-Chair; and honorable members of the House Business and Labor Committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC), the American Insurance Association (AIA) and the Property Casualty Insurers Association of America (PCI), whose member write the vast majority of automobile, homeowners', commercial and workers' compensation insurance in the State of Montana, an opportunity to submit written testimony to the House Business and Labor Committee for the February 16, 2017, public hearing.

The trades are opposed to HB 291, 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.

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 291 would seriously 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.

The trades are 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 a 2016 study by the Vermont Department of Financial Regulations on the impact of the use of credit histories in auto insurance, the state agency found that **66% of consumers received lower insurance rates as a result of its use**, 18% experienced no change in their auto insurance rates, and only 16% experienced increased rates.

- 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]

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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.

- 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, with individual rates rising hundreds of dollars.[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."

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

The trades are also quite concerned about the proposed prohibitions upon the use of (i) employment or occupation; (j) the level of income or wealth; (k) education level attained in the rating and underwriting process; (h) "price elasticity", because this concept has been defined in a number of fundamentally different ways by regulators and is rife with potential for misunderstandings and misapplication; and (l) Homeownership – because most carriers offer a multi-line discount, and this could be interpreted to prevent such a pro-consumer premium discount.

Insurance is about risk of loss exposure assessment and contractual risk of loss sharing. Therefore, it is reasonable and appropriate for insurers to be able to consider variables that assist them in evaluating the full risk of loss exposure posed by an individual consumer. In fact, insurers have a responsibility to be thorough in their risk of loss sharing decision-making, because insurers have a duty to their policyholders (both 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, and preservation of resources necessary to pay covered claims.

The proponents of HB 291 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, not less 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.

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[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 actual effect on losses and expenses" (Judge's emphasis). The case is now on appeal (#262385).

The trades 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, the trades respectfully requests that this committee **"VOTE NO" on HB 291.**

Thank you for your time and consideration. Please feel free to contact us, if you have any questions pertaining to our written testimony.

Respectfully,

Christian Rataj, NAMIC
Katie Pettibone, AIA
Melanie Smith, PCI