1212 New York Ave. NW
Suite 900
Washington, D.C. 20005
202-525-5717

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Comments from:
Steven Greenhut, Western Region Director, R Street Institute

Comment on WSR 21-13-131, possible rule making on the temporary prohibition on use of credit history

Rules Coordinator
Office of the Washington Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255
July 30, 2021

Dear Commissioner Kreidler,

I am the Western region director for the R Street Institute, which is a nonprofit, nonpartisan, public policy organization based in Washington, D.C., and with a western office in Sacramento. Our mission is to engage in policy research and outreach to promote free markets and limited and effective government—including the regulation of property and casualty insurance. I am writing to oppose proposed rules from the Washington insurance commissioner, which would prohibit the use of credit scoring to calculate rates for personal lines of insurance.

Since its founding, R Street has supported the use of credit scoring and a variety of other non-claims-related variables as major contributors to more accurate and lower insurance rates. Our research finds that credit scoring is a remarkably fair and non-discriminatory factor in rate setting—and removing the use of that variable would harm the vast majority of Washington's insurance consumers.[1]

Keep in mind that credit-based insurance scores and credit scores are vastly different. "Credit scores predict credit delinquency whereas insurance scores predict insurance losses," explains the Insurance Information Institute.[2] The use of credit scoring is fair. According to the National Association of Insurance Commissioners (NAIC), "A credit-based insurance score cannot use any personal information to determine your score."[3] Indeed, variables like race, gender, age, income, employment history, interest rates currently being charged and so on—which have been used to make unfair public policy decisions in the past—cannot and should never be used. State and federal law forbids insurers from such discrimination in setting rates.

Insurers often consider a formula of various credit characteristics that indicate the likelihood that someone will submit insurance claims and to what degree. Further, credit-based insurance scores are never the sole factor in setting premiums and deciding whether to underwrite an individual. The most used framework for credit-based insurance scoring is the model law developed by the National Council of Insurance Legislators (NCOIL) and presents commonsense guidelines and guardrails for the use of

credit scores.[4] The framework—periodically updated for emerging realities—reflects what we believe is the best thinking on the proper use of credit scores.

There are many misconceptions with regard to credit-based insurance scores. Credit information and other factors allow insurers to construct tremendously innovative proprietary rating models that can assign an accurate rate to virtually any potential insured. They are actuarially sound. This is evident by the fact that credit-based insurance scores provide an excellent indicator of risk, which allows insurers to make informed decisions when setting premiums and, by being more efficient, provide lower rates to consumers. Accurate ratings provide more-competitive insurance rates. They also enable insurers to offer varied products, including higher-risk products.

A 2007 report from the U.S. Federal Trade Commission (FTC) found that, "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."[5]

Further, the FTC concluded that the "use of credit-based insurance scores may result in benefits for consumers. For example, scores permit insurance companies to evaluate risk with greater accuracy, which may make them more willing to offer insurance to higher-risk consumers for whom they would otherwise not be able to determine an appropriate premium."[6] The lifeblood of the insurance industry is accurate pricing—rates that reflect the actual risks posed by individuals. If insurance rates do not properly assess risk, that will boost insurance costs and result in higher rates for everyone else and fewer available policies for people with specialized needs (e.g., drivers with poor records or homeowners living in a high wildfire-risk area).

There is no compelling reason to adopt this proposed ban on the use of credit-based insurance scores. In defense of this recent proposed rulemaking to prohibit the use of credit history on some personal insurance lines temporarily, the Washington insurance commissioner argued that COVID-19-related consumer protections (such as anti-eviction rules and mortgage forbearance rules) have disrupted credit reporting and made these scoring models unreliable and inaccurate.[7] Yet the Consumer Data Industry Association rebutted that point in its testimony this month to the commissioner.[8]

"Even though millions of U.S residents continue to feel the painful effects of the COVID-19 pandemic, the national average FICO score increased by seven points in 2020, the largest annual improvement in at least a decade," the group noted. "Consumers reduced their credit card debt by 14 percent, which impacts credit utilization, and the portion of consumers with a subprime score decreased nearly 3 percent."[9] Such evidence is a clear contradiction to the commissioner's proposal, which amounts to a radical rollback of one of the industry's most reliable rate-setting measures.

This proposed rulemaking and similar legislative approaches are well intentioned, in that they seek to help people who are struggling financially to get the insurance they need at reasonable rates. But distorting the insurance marketplace this way will have unintended consequences that, on balance, are bad for the vast majority of Washington's insurance consumers.

Best regards,

Steven Greenhut
Western Region Director
R Street Institute
Sacramento, CA
(909) 260-9836
sgreenhut@rstreet.org

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[2] "Background on: Credit scoring," Insurance Information Institute, April 8, 2019. https://www.iii.org/article/background-on-credit-scoring.
[3] "Credit-Based Insurance Scores Aren't the Same as a Credit Score. Understand How Credit and Other Factors Determine Your Premiums," National Association of Insurance Commissioners, July 22, 2020. https://content.naic.org/article/consumer_insight_creditbased_insurance_scores_arent_same_credit_score_understand_how_credit_and_other_factors.htm.
[4] "Model Act Regarding Use of Credit Information in Personal Insurance," National Council of Insurance Legislators, Sept. 26, 2020. http://ncoil.org/wp-content/uploads/2020/10/Credit-Model-readopted-9-26-20.pdf.
[5] Federal Trade Commission, *Credit-Based Insurance Scores: Impacts on Consumers of Auto Insurance*, U.S. Department of Commerce, July 2007. https://www.ftc.gov/sites/default/files/documents/reports/credit-based-insurance-scores-impacts-consumers-automobile-insurance-report-congress-federal-trade/p044804facta_report_credit-based_insurance_scores.pdf.
[6] Ibid.
[7] Joseph O'Sullivan, "Insurers banned from using your credit score to set rates for car, home insurance under temporary Washington order," *Seattle Times*, March 24, 2021. https://www.seattletimes.com/seattle-news/politics/washington-insurance-commissioner-puts-temporary-ban-on-credit-scoring-for-personal-property-insurance-amid-covid-19-pandemic/.
[8] Eric Ellman, "Comment on WSR 21-113-131, possible rule making on the temporary prohibition on use of credit history on some personal lines," Consumer Data Industry Association, July 21, 2021.
[9] Ibid.