



# Consumer Federation of America

September 17, 2021

David Forte  
Senior Policy Analyst, Property & Casualty  
CPCU, AIC  
Policy and Legislative Affairs Division  
Washington State Office of the Insurance Commissioner  
Via email to: [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov)

Re: R2021-07 Temporary prohibition on use of credit history on some personal lines  
Second Stakeholder Draft

Dear Mr. Forte:

The Consumer Federation of America (CFA) strongly supports the Office's work to address the unfair discrimination that would result from the continued use of credit history in insurance rating and underwriting both during and in the aftermath of the COVID-19 pandemic. CFA will, when there are additional opportunities for comment, present a detailed explanation of our support for this rule and why it is critical to protecting Washington residents who need auto and homeowners insurance during this challenging time.

In these brief comments, however, we would like to provide suggested changes to the draft regulation that the Office has presented to the public. We offer the following proposals:

1. Section 5 of the draft regulation, which allows insurers to comply by substituting any credit scoring rating factor used in a rate filing with a neutral rating factor, should be deleted. In its place, the rule should require that all insurers develop rates based on pricing models that exclude credit. An insurer's typical pricing model is based on a multi-variate analysis that simultaneously analyzes multiple predictive variables. Consequently, there will be impacts on other predictive variables (rating factors) if one factor is removed from the model. Stated differently, using a neutral credit scoring factor leaves the values for the other rating factors unchanged, but re-running the pricing model without the credit variable recalibrates the remaining predictive variables.
2. Regarding Section 7, insurers should not be assigning responsibility for insurers' actions required by the Commissioner carrying out laws enacted by the Legislature. The Legislature has determined that rates must not be unfairly discriminatory. The Commissioner is carrying out a statutory responsibility by promulgating a moratorium on an objectively unfairly discriminatory practice given the conditions created by the pandemic. Further, insurers change rates generally and for specific consumers for a variety of reasons. Consequently, it is deceptive and misleading to ascribe a negative outcome to a single factor without a broader disclosure of all the factors involved in a

change in premium for a consumer. The fact that insurers are blaming the Commissioner for rate changes is deceptive, misleading, and misrepresents the statutory responsibilities the Legislature has assigned to the Commissioner. To address that, Section 7's specific disclosure should be replaced with a standard that prohibits any disclosure about these rules in any policy document that is

- false,
- misleading,
- provided selectively such that only certain policyholders are apprised of the rule, or
- assigns responsibility to the Commissioner for actions taken by the company to comply with laws or regulations.

The rule should, further, require that any insurer seeking to include a disclosure related to this rule in its policy documents shall submit the form and demonstrate compliance with this standard.

We applaud the leadership of the Office on this critical consumer protection issue and we look forward to the opportunity to provide more detailed comments about the benefits and protections you have crafted with this rule.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Heller", with a long horizontal flourish extending to the right.

Douglas Heller  
Insurance Expert  
Consumer Federation of America