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February 4, 2015

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

sent via email to:
lkeim@mt.gov

Re: NAMIC's written comments in <u>opposition</u> to SB 208, Credit-Based Insurance Scoring Prohibition

Dear Senator Buttrey, Chair; Senator Anntzen, Vice-Chair; Senator Stewart-Peregory, Vice-Chair; and honorable members of the Senate Business, Labor, and Economic Affairs Committee:

Thank you for affording the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony to the Senate Business, Labor, and Economic Affairs Committee for the February 6, 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 SB 208, 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.

"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.**

On behalf of NAMIC's members, we respectfully submit the following comments and concerns to the proposed legislation:

1) **The use of Credit-Based Insurance Scoring (CBIS) benefits the majority of insurance consumers.**

   The evidence in support of the reliability, predictive value, and benefit of CBIS to insurance consumers is extensive.

   - 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.

2) The proposed regulation will limit market competition in the insurance industry and limit consumer choice

The insurance underwriting process varies greatly between insurance companies, and is a comprehensive risk of loss exposure assessment that evaluates a large number of risk variables. Credit-based insurance scoring is just one of the many risk variables utilized by insurers, who each weigh said insurance score differently so that they can offer diverse and competitive rates, products, and services to the insurance consumer.

In today's competitive marketplace, insurance carriers use credit-based insurance scoring and other risk of loss assessment tools to improve the availability and affordability of insurance. The proposed credit-based insurance scoring ban would reduce the flexibility insurers currently have to offer a range of rating categories, price points, and product options for consumers.

Restricting how insurance carriers evaluate and rate insurance applicants will harm, not help insurance consumers, especially those consumers who benefit from being able to "shop the market" and take advantage of the different marketing strategies carriers are able to employ as a result of the existence of credit-based insurance scoring. If you limit underwriting tools, you ultimately limit consumer insurance options.

3) Insurance consumers need and desire insurance rates that accurately reflect their personal risk of loss exposure

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.

Moreover, 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.

Once consumers and legislators are educated about how credit-based insurance scoring works, how it is different from credit scoring used by the financial lending industry, the rating benefits derived from the use of this risk of loss exposure assessment tool, and how it is actually utilized by insurers in their underwriting process, the ranks of those opposed to insurer's using credit-based insurance scoring markedly dwindle, and prohibition bills

end up dead in committee. In fact, in 2013, sixteen (16) states introduced bills on point and not one bill passed out of the house of origin.

4) Federal agencies and state Departments of Insurance studies have consistently found that Credit-Based Insurance Scoring is a fair, equitable and appropriate predictor of a consumer's claims potential

The list of state and federal agencies that have studied the correlation between a consumer's credit-based insurance score and the frequency and severity of the consumer's claims history is impressive. These studies have repeatedly reported that a consumer's credit-based insurance score provides insurers with valuable information that assists insurers in predicting a consumers claims potential.

In fact, a 2004-2005 study by the Texas Department of Insurance found that *"credit is a better predictor of claims than most other rating factors . . . ."*

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."

5) A complete ban on the use of Credit-Based Insurance Scoring is unnecessary and inconsistent with the national trend on the regulation of this underwriting tool

The National Conference of Insurance Legislators (NCOIL) has studied and debated the issue of whether credit-based insurance scoring is a reasonable and appropriate underwriting tool for many years now, and this learned counsel of experienced insurance legislators from the four-corners of this country have consistently concluded that regulation not prohibition of the use of credit-based insurance scoring is best for the insurance consumer.

Twenty-seven (27) states, including Montana, have enacted some version of the NCOIL "Model Act Regarding the Use of Credit Information in Personal Insurance", and forty-seven (47) states have enacted legislation regulating and preserving the use of credit-based insurance scoring. The overwhelming national trend is to regulate, not ban, the use of this valuable underwriting tool, so that it takes into account extraordinary life circumstance that may adversely impact a consumer's credit-based insurance score. In essence, the CBIS ban proposed by SB 208 would "throw the baby out with the bath water."

6) Consumers already have legal and regulatory protections against unfair discrimination

The “Montana Use of Credit Information in Personal Insurance Act" sets forth, in Section 33-18-605, MCA, very specific provisions as to when and how consumer credit information may be used by an insurer in their rate setting and underwriting process.

Additionally, the Fair Credit Reporting Act (FCRA) provides consumers with ample protection against unlawful discrimination by insurers in their use of credit-based insurance scores. Thus, from a consumer protection standpoint, SB 208 is entirely unnecessary.

For the aforementioned reasons, NAMIC respectfully requests that the Senate Business, Labor and Economic Affairs Committee **“VOTE NO” on SB 208**, so that insurance consumers in the state of Montana will be able to continue to enjoy the benefits of price competition that has resulted from the use credit-based insurance scoring by the insurance industry.

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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