

January 30, 2017

TO: The Honorable Senator Angel, Chair; and Honorable Senator Ericksen, Vice-Chair; Honorable Ranking Minority Member Mullet, and Honorable Members of the Senate Financial Institutions and Insurance Committee

RE: SB 5497, An Act Relating to transparency in underwriting and rating personal insurance - NAMIC's opposition to proposed legislation

Dear Honorable Members of the Senate Financial Institutions and Insurance Committee:

Thank you for providing the National Association of Mutual Insurance Companies (NAMIC) an opportunity to submit written testimony in opposition to SB 5497.

The National Association of Mutual Insurance Companies (NAMIC) is the largest property/casualty insurance trade association in the country, with more than 1,400 member companies. NAMIC supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC members represent 40 percent of the total property/casualty insurance market, serve more than 170 million policyholders, and write nearly \$225 billion in annual premiums. NAMIC has 138 members who write property/casualty in the State of Washington, which represents 48% of the insurance marketplace.

Although NAMIC's members appreciate and support informed consumer choice, NAMIC is opposed to SB 5497 because the proposed legislation would seriously hinder insurers in their ability to provide consumers with insurance rates that are commensurate with the consumer's personal risk of loss exposure.

NAMIC respectfully tenders the following public policy concerns and practical application concerns with the proposed legislation:

1) The proposed legislation is more likely to confuse insurance consumers than provide meaningful and helpful insurance information.

The proposed legislation is founded upon the belief that more transparency *automatically equates to* better informed consumers. However, this premise is inconsistent with the reality of the situation and the fact that consumers are already inundated with too much information that is of little meaning or value to the consumer in their decision about which insurer or insurance product best addresses their personal needs. Moreover, in Washington's competitive insurance market, there are lots of insurance product options and carriers offering coverage to choose from, so consumers have the opportunity to regularly shop around to see which price point and product best addresses their needs, without having to get confused by the proposed consumer disclosures that provide little practical guidance to the consumer.

SB 5497 would require insurers to send out a consumer notice in a number of situations that are more likely to needlessly confuse and worry consumers than meaningfully assist them in making their insurance selection decisions. Specifically, rating and underwriting practices (currently approved by the OIC) on risk of loss variables used by insurers, like geographic territory of applicant, use of claims history, use of credit history, and premium-transitioning/price elasticity are very complex actuarial science concepts that the average insurance consumer is not

going to understand. Detailed disclosures will likely overwhelm consumers and lead some policyholders to believe there is a problem with their risk profile when there may be nothing of concern for them and no behavior to remedy. Moreover, there is no evidence to support that consumers want or need to be burdened with this information, especially since the OIC is involved in the extensive regulation of and prior approval for the use of these rating and underwriting risk of loss processes.

2) SB 5497 is unnecessary, because the OIC already has a number of effective tools to make sure that insurers comply with appropriate underwriting and rating laws.

The OIC has a proven-record of proficiency in evaluating insurer's underwriting and rating practices, and making sure that insurance rates are not excessive, inadequate, or unfairly discriminatory. Through rate filing review, ongoing regulatory supervision, and market conduct examinations, the OIC has provided consumers with meaningful consumer protection.

Further, in regard to the proposed written notice regarding credit history, NAMIC believes that this new consumer disclosure burden is unnecessary and duplicative, because Washington state law already requires insurers to provide consumers with a credit-based insurance scoring Adverse Action Notice that is based upon the strictest credit history law in the nation.

3) The proposed transparency requirements of SB 5497 could adversely impact market competition in the insurance market and the development of new insurance products for the benefit of consumers.

The personal lines insurance market is robust and competitive in Washington State, with insurers vigorously competing for the business. Insurers seek to distinguish themselves and their products from their competitors by being innovative in their ability to accurately and comprehensively match rate to risk. The proposed transparency requirements would have the effect of requiring insurers to disclose trade secrets and proprietary business rating and underwriting practices that they have invested a great deal of time and money to develop and utilize in their market competition. NAMIC is concerned that the proposed legislation will adversely impact market competition to the detriment of consumers, who clearly benefit from having a multitude of price points and insurance options to choose from in addressing their insurance needs.

4) The overly-broad disclosure requirements of the proposed legislation would seriously hinder insurers in their ability to provide consumers with what they want, deserve, and need – insurance rates that are commensurate with the consumer's personal risk of loss exposure.

NAMIC is concerned that the proposed legislation is influenced by an underlying assumption that the use of comprehensive risk of loss data is a troubling phenomenon that consumers don't understand, want or trust.

In a recent international study, it was found that 75% of millennials say they fully understand the types of information and data that companies collect and share about them and nearly 80% feel in control of their personal online data. The same study found nearly 60% of millennials are fully comfortable providing access to their personal data, if it creates better value for them as a customer or is used to create more personalized products. (Telefonica Global Millennial Survey - Focus on Technology).

This point has been demonstrated repeatedly in the world of insurance where a wealth of federal agency studies and investigations by state regulators, legislators, and the courts have repeatedly and overwhelmingly found that the use of credit-based insurance scoring, for example, is a fair and accurate risk of loss predicting tool for insurers.ⁱ

“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.

Insurance consumers have also expressed their direct opinion on their preference for the use of data analytics, like credit-based insurance scoring, being used in the insurance rating and underwriting process. When Oregon voters were asked to consider a statewide ballot initiative (Measure 42) in the November 2006 elections that would have banned insurers' use of credit histories, the measure was defeated with citizens voting more than 2-1 (65.6% to 34.4%) against it. Informed consumers agreed that allowing insurers to have the ability to use regulated data analytics to assist them in providing consumers with insurance rates that are commensurate with their personal risk of loss exposure was a good thing.

In essence, NAMIC is concerned that the overly-broad proposed written notice requirement, combined with the restriction on what can be included in an insurance score, will ultimately act as a *de-facto ban* on insurers using many important pro-consumer underwriting and rating risk of loss assessment tools.

5) The extensive notification and disclosure requirements in the proposed legislation will create a significant economic burden and expense for insurers, especially small to medium sized insurers in Washington State and could, as a result, drive up the cost of insurance for all consumers.

NAMIC is also concerned that the proposed legislation will create impractical and unworkable notice and internal administrative practices requirements. In consulting with NAMIC members who had to implement a significantly less stringent rating and underwriting transparency law in Maryland, companies reported that they incurred close to 100,000 systems hours to effectuate necessary IT and administrative costing between \$5 - 7 million, and continuing costs to satisfy the notice requirements. We are concerned that the Washington bill, which is *much* more expansive, could require many more systems hours, especially because of the number of lines of insurance it covers and all the enumerated "significant reasons" in the bill. NAMIC fears the proposed legislation will especially create serious problems for small to medium size insurers in the state, who may not have the resources necessary to hire new dedicated staffing and IT specialist to comply with the proposed legislation.

6) SB 5497 would effectuate a fundamental change in the definition of a credit-based insurance, which would make Washington State an outlier in the nation to the detriment of insurance consumers.

The proposed legislation states "'Insurance score' means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole on credit history". SB 5497 thus appears to redefine "insurance score" to apply only to credit factors. Currently "insurance scores" are based on a variety of factors in addition to credit that benefit the majority of insurance consumers. NAMIC is concerned that this proposed definition would fundamentally alter how "insurance scores" are calculated and utilized to the benefit of insurance consumers. Limiting "insurance scores" to only formulas or models that are based "in whole" on credit histories would severely limit insurer's ability to use insurance scoring and would, in effect, turn the "insurance score" into little more than a "credit score" used by lending institutions. Removing all other factors from an insurance score will disadvantage the majority of Washington consumers.

For the aforementioned reasons, NAMIC respectfully requests that the Senate Financial Institutions and Insurance Committee **VOTE NO on SB 5497, because the proposed legislation is not in the best interest of the insurance consumer and will cause an enormous amount of confusion for policyholders.**

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 – State Affairs, Western Region

ⁱ A wealth of studies have demonstrated that the use of credit based insurance scoring clearly benefits the majority of insurance consumers, so well-intended legislation like SB 5497, would actually be counter to the best interest of the insurance consumer.

- 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.)^j
- 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.ⁱ
- 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.
- 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.”