October 26, 2020

The Honorable Mike Kreidler, Insurance Commissioner
State of Washington
302 Sid Snyder Ave., SW, Suite 200
Olympia, WA 98504

Via email to Jon Noski, OIC Legislative Liaison

Dear Commissioner Kreidler,

On behalf of the **American Property Casualty Insurance Association** (APCIA), the **National Association of Mutual Insurance Companies** (NAMIC) and the **Northwest Insurance Council** (NWIC) (hereafter referred to as the "trades"), whose members collectively write the vast majority of property & casualty insurance policies in the state of Washington, thank you for the opportunity to express our concerns regarding the Commissioner Kreidler's proposal to prohibit consideration of credit-based insurance scores (CBIS) in insurance rating.

Insurers, like other businesses and leaders in our society today, welcome the still-fresh national discussion over the need for racial and social equity and justice. To that end, it is proper for policymakers to raise important questions about policies and practices of the financial services industry to ensure they are applied fairly and equitably to all. We believe a fact-and-data-based review of what we know about insurers' use of CBIS argues against the Commissioner's proposal, and we must oppose the bill as it is currently drafted.

When insurers are free to responsibly underwrite and rate risks, consumers benefit with lower rates, more choices and greater market and price stability. That is why we support the ability of insurers to consider risk-based underwriting and rating criteria – including CBIS – that are proven objective and fair; are supported by actuarial and statistical evidence; and which are consistently shown to provide reduced insurance rates for the majority of policyholders in Washington.

The federal Fair Credit Reporting Act first authorized insurers to consider credit information nearly 40 years ago. Within the past 15 years, however, the use of credit information in insurance has grown, as ever-increasing evidence (demonstrated in numerous state regulatory, federal, university and industry studies over decades) has proven just how predictive and accurate it is.

CBIS is an objective and accurate method for assessing the likelihood and severity of insurance loss. Insurers that consider credit information in their pricing decisions do so for only one reason

– insurance scoring allows them to underwrite and price insureds with a greater degree of accuracy and certainty. Sound underwriting and rating, in turn, allows insurers to offer a wider range of products at more competitive, accurate prices; providing a direct benefit to consumers.

As our industry has frequently shared with policymakers, regulators, industry professionals and consumers over the past several years, there are significant differences between "credit scores" used by lenders, employers, government agencies and others; and the credit-based insurance scores used by many insurers. You may recall this was highlighted in a recent release by the National Association of Insurance Commissioners.

As you know, although both "credit scores" and CBIS are derived from information found on consumer credit reports, the information is measured differently. Insurers use credit information in developing insurance scores to predict the *likelihood of future insurance loss,* which does not include or rely on income-related information. Lending institutions, on the other hand, use credit scores *to determine the availability, amount and price of credit products* offered to the consumer. Income is naturally a major component in the calculation of the likelihood of repayment.

By law, insurers cannot inquire about race or income on applications or renewals for insurance policies. Credit-based insurance scores in and of themselves do not consider income level, address, race, ethnicity, religion, gender, familial status, nationality, age, and marital status. Further, there is no reliable evidence that points to insurance scoring resulting in higher insurance rates for any specific class of individual. Low insurance scores do not correlate to specific geographies or classes of individuals. On the contrary, both high and low scores are found across all income levels and geographies. And what cannot be disputed is that higher insurance scores strongly correlate to lower risk of insurance loss and vice-versa. Thus, we argue that rates are tied to risk and not to race or income.

Every serious and reputable actuarial study on the issue, including a study released in 2007 by the **Federal Trade Commission**, has reached the same conclusion: there is high correlation between insurance scores and the likelihood of filing insurance claims.

Credit-based insurance scores allow insurers to write business they may not have underwritten in the past, and to offer lower rates to many policyholders. Most consumers have good credit-based insurance scores and benefit accordingly – with rates refined to reduce disproportionate subsidies of higher risk individuals. An annual survey released by the **Arkansas Insurance Department** since 2005 consistently finds approximately 50 percent of consumers in that state save money due to insurers' use of credit information while only 15-20 percent pay more (because those policyholders are actuarially predicted to be higher risk insureds). The remaining 30-35 percent are otherwise unaffected. The most recent Arkansas study, issued in 2017, found that **"80% of consumers either received a discount for credit or it had no effect on their premium."**

The **Vermont Department of Financial Regulation** reached a similar conclusion in 2016, finding that 84% of drivers either receive a discount for credit or it had no effect on their premium. The Vermont study further found that although 16% of drivers pay more for auto insurance than they would if credit-based insurance scoring were not used, there is no evidence that a driver's premium is related to income. Several other studies have come to a similar conclusion that insurance scores do not act as a proxy for income.

The Vermont study also considered what the potential impact might be if credit-based insurance scoring was banned as a rating tool such as this bill would propose and the study found that in addition to the premium discount being removed, implementation of a ban could also cause significant upheaval, stating that "implementation of a ban would be a complex undertaking, since insurers would need to develop new actuarial models to try to account for the variability in risk currently predicted with credit-based insurance scores." Relative to the impact of a ban, the Vermont study stated, **"Given how widely credit is used and how highly it is valued by insurers as a predictive factor, however, removing it as a pricing factor is likely to affect the entire market and to result in higher premiums for many customers."**

It should also be noted that only two states (California and Massachusetts) prohibit the use of credit information for auto and homeowner's insurance and only two other states ban it for either line of insurance (Hawaii bans for auto and Maryland bans for homeowners). Accordingly, if Washington were to enact a ban on this highly predictive tool, Washington would be an outlier relative to the laws of most states. Our member companies tell us, here in Washington and elsewhere, that insurance scoring consistently allows them to provide discounted rates for most of their policyholders. It stands to reason that removal of a rating tool that provides discounts for most insureds would likely result in those insureds losing those discounts. Additionally, without the ability to consider credit, many insurers may be less aggressive in their marketing, and more cautious in underwriting new business. Thus, consumers could quickly have fewer choices in the marketplace.

As you know, Washington already strictly regulates insurers' use of credit information (RCW 48.18.545). Insurers cannot cancel or non-renew personal insurance based in whole or in part on an insurance score, and there are a number of specific factors – including history of payments for medical treatment – that cannot be considered in an insurance score in Washington. Insurers must also file their insurance scoring models and policy rates and forms with the Office of the Insurance Commissioner, which must approve them prior to use. Further, if an insurer takes an adverse action against a consumer, which also includes not offering the insurer's best possible rates, the insurer must provide an adverse action notice to the consumer.

Credit-based insurance scoring is a predictive tool for insurers - and a fair one for consumers. To protect competition and consumer choice, it is imperative that insurers be permitted to fairly price risks using nondiscriminatory and statistically valid tools available to them.

As such, we do not support the Commissioner's proposed legislation to ban the use of CBIS in Washington. However, we do welcome further discussion about ways to improve CBIS restrictions for the benefit of consumers. We also welcome further study that might better inform discussions that could lead to more certainty about equity and stability in the insurance market.

If you have any questions, please feel free to contact **Mark Sektnan**, APCIA: (916) 716-7902; **Christian Rataj**, NAMIC: 303-907-0587 or **Kenton Brine**, NWIC: 206.624.3330.