Testimony of the
National Association of Insurance Commissioners

Before the
Subcommittee on Financial Institutions and Consumer Credit

Committee on Financial Services
United States House of Representatives

Regarding:
The Fair Credit Reporting Act: How it Functions for Consumers and the Economy

June 4, 2003

Gregory V. Serio
Superintendent of Insurance
New York

Testimony of Gregory V. Serio, Superintendent of Insurance
New York Department of Insurance

Introduction

My name is Greg Serio. I am the Superintendent of Insurance for the State of New York. I serve as Chair of the National Association of Insurance Commissioners Privacy Issues Working Group. I am pleased to be here on behalf of the NAIC and its members to update the Subcommittee on Financial Institutions and Consumer Credit on the impact of the Fair Credit Reporting Act (FCRA) and its preemption provisions on insurance, particularly in the areas of credit scoring and privacy.

State insurance commissioners recognize that FCRA provides an important tool to insurers and consumers alike by requiring accurate and complete credit reports, which enable more informed and potentially quicker decision making. FCRA specifically applies to credit report information used to determine eligibility for insurance and defines certain parameters under which that information can be used and disclosed. In addition, FCRA preempts state laws to the extent they conflict with the federal law and explicitly prohibits states from enacting laws and regulations on issues already covered by FCRA even if they do not conflict. These latter preemptions expire at the end of this year.

You asked me to talk today about FCRA's impact on insurance and the role of insurance regulators. Before I address that issue, I would like to make a preliminary point, but one that is critical when considering the role that state insurance regulators play in the insurance sector and the wider financial services marketplace. This is a theme we have presented in previous testimony:

An important reason for government regulation of insurers is to protect American consumers. Effective consumer protection, which to date has focused on local needs, is the hallmark of state insurance regulation. We understand local and regional markets and the needs of consumers in these markets. We recognize that consumer protection is the central purpose of our jobs. In addition, protecting insurance consumers in a world of hybrid institutions and products must start with a basic understanding that insurance is a different business from banking and securities and these differences need to be thoughtfully considered. For that reason, I appreciate the opportunity to bring the insurance regulatory perspective to your FCRA deliberations.

I would like to focus on two issues today, both of which are central to state insurance regulators' efforts to protect insurance consumers:

First, I will provide an update on the current debate over insurers' use of credit scores in the underwriting and rating of insurance, and the legislative and regulatory approaches the states are using to ensure credit scores are used fairly.

Second, I will address the relationship between the states' privacy efforts and FCRA's preemption provisions, which prohibit the states from restricting the sharing of information among affiliates.

The Use of Credit Scoring in Insurance Rating and Underwriting

Background

Over the past decade, insurers have begun using consumer credit histories to create "credit scores"[1] for individuals who apply for, or renew, homeowner and automobile insurance policies. Credit scores are used by insurers as one of the factors in determining the premium for a customer's policy. They are also used as a factor in underwriting procedures, including placement of policyholders within insurance company groups and determinations of whether to cancel or non-renew a policy. Credit scores are high if an

[1] Note that credit scores used for insurance purposes are now sometimes called "insurance scores" to distinguish them from those used by banks and other institutions for credit purposes. In my testimony, I will use the more commonly used term, "credit score."

individual's credit history is good, and low if it is not good. A low credit score could increase premiums and a high credit score could lower premiums.

The use of credit scores by insurers has generated a vigorous public policy debate as to whether a statistically significant relationship exists between credit history and insurance loss. Questions have been raised not only about the validity of credit history as a predictor of risk, but also its fundamental fairness, and the impact of credit scoring on minority and low income groups.

Insurers contend that studies show a correlation between lower credit scores and higher loss ratios. Therefore, the use of credit history is fair and benefits consumers whose good credit scores indicate lower risks. Insurance companies also argue that using consumer credit history is non-discriminatory because it is "color blind" and because there is no consistent correlation between income level and credit score.

Consumer groups concede credit scoring may not be intentionally discriminatory. However, they claim credit scoring may nonetheless produce disparate impacts that unjustly harm minorities and the poor. Consumer groups also contend that the data in credit reports are often inaccurate and that the process for correcting inaccuracies is cumbersome and time-consuming, especially for those whose time is already stretched by work and family obligations. Moreover, credit scoring models and how they are used, vary from one insurance company to another. Therefore, it can be difficult for consumers to know how they are affected when credit scores are used as one element in a complex formula for determining rates or assigning consumers to risk pools.

Extensive Activity in the States to Ensure Fair Use of Credit Scores

Since 1996, insurers' use of credit scoring has increased and so has the intensity of the public policy debate about this practice. While FCRA allows insurers to use credit reports in determining eligibility for insurance, the states are integrally involved in this issue because, as the regulators of the business of insurance, we regulate the use of such information as part of our oversight of insurers' solvency and to ensure the protection of insurance consumers.

Specifically, state law regulates the factors that insurers use for underwriting and rating. As with any underwriting or rating factor, insurance regulators are concerned with two issues in connection with the use of credit scoring:

- Is there a correlation between the factor (credit scores) and risk of loss?
- Does the use of credit scores in rating and underwriting result in unfair discrimination against protected classes?

This year, a majority of the state legislatures have considered bills to regulate or restrict the use of credit scores. To date, at least 11 states have adopted legislation, and a dozen states have legislation pending. Nine of the state laws that were enacted this spring are based on the National Conference of Insurance Legislators (NCOIL) "Model Act Regarding Use of Credit Information In Personal Insurance." The NCOIL model prohibits insurers from using credit information as the sole basis for increasing rates or denying, canceling or non-renewing a policy. The NCOIL model requires insurers:

- to notify an applicant for insurance if credit information will be used in underwriting and rating;
- to notify a consumer in the event of an adverse action based on credit information, including notification of factors that were the primary influences on the adverse action;
- to re-underwrite and re-rate a policyholder whose credit report was corrected;
- to indemnify insurance agents/brokers who obtained credit information and/or insurance scores according to an insurer's procedures and according to applicable laws and regulations; and
- to file its scoring models with the applicable state department of insurance; such filings are deemed trade secrets.

The model act also prohibits a consumer reporting agency from providing or selling information submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score.

In Kansas, Governor Kathleen Sebelius has signed credit scoring legislation similar to the NCOIL model. The new law, based on recommendations from the state's Credit Scoring Task Force, applies to auto and homeowner's insurance. The Task Force concluded that neither unfettered use of credit-based insurance scoring nor a total ban of credit-based insurance scoring is appropriate. For that reason, the Kansas law prohibits insurers from using credit scoring as the sole factor in determining an insurance risk. Among other things, the law also requires a change in a "traditional" underwriting factor (age, driving record, etc.) before credit can be used against a consumer and requires insurers to file their methodology with the state insurance department.

In Texas, the House and Senate initially took differing approaches to the issue. Earlier this week, however, a legislative conference committee adopted a final bill based on the NCOIL model. Governor Perry is expected to sign the legislation.

In California, legislation is still pending. The Senate has cleared SB 691, which would ban the use of credit scoring by insurers to underwrite, cancel or non-renew homeowner policies. The bill will be considered by the Assembly sometime in June. Note that California already bans the use of credit scores in the underwriting of auto insurance as a result of the adoption of Proposition 103 in 1988. The current legislation extends that ban to homeowners insurance.

In New York, there are a number of bills pending in the Legislature limiting or prohibiting the use of credit scoring in an insurer's underwriting criteria. Respectively, these bills prohibit an insurer from using a person's credit history in the setting of rates for homeowners' insurance; prohibit an insurer from using a person's credit history in determining whether or not to issue or renew a motor vehicle liability insurance policy; and prohibit an insurer from using a consumer's credit history in the determination of rates and premiums and in determining whether to cancel, deny or non-renew any kind of insurance policy. In addition, another bill would add several provisions regulating consumer credit information to our General Business Law and adopts various provisions of the Federal Fair Credit Reporting Act.

In addition to legislative action, states have taken other action, including the issuance of regulations, bulletins and formal studies, to educate insurers and consumers as to acceptable uses of credit scores.

- In Alabama, Commissioner Walter Bell is in the process of finalizing a credit scoring regulation that is set to take effect June 7. The regulation requires insurers to make available to the commissioner procedures used to obtain credit reports and insurance scores, and it prohibits insurers from calculating a credit score based on an applicant's lack of credit history.
- Ohio has issued a regulation similar to the NCOIL model law, prohibiting credit scores from being used as the sole criterion in underwriting and rating personal auto and homeowners insurance. The regulation also requires a comprehensive notice to consumers. Coupled with their consumer information bulletin, the insurance department has provided consumers with a strong baseline of protection.
- Michigan has issued bulletins giving insurers guidance as to the use of credit scores.
- A number of states have independently reviewed the use of credit scores:
  - Alaska: Insurance Credit Scoring in Alaska; February 21, 2003
  - Florida: Task Force on the Use of Credit Reports in Underwriting Automobile and Homeowners Insurance, January 23, 2002
  - Michigan: The Use of Insurance Credit Scoring in Automobile and Homeowners Insurance; December, 2002
  - Texas: A Statistical Analysis of the Relationship Between Credit History and Insurance Losses; March, 2003 -- prepared by the Bureau of Business Research, McCombs School of Business and the University of Texas at Austin

- Washington: A Report to the Legislature: Effect of Credit Scoring on Auto Insurance Underwriting and Pricing; January, 2003.

The NAIC Credit Scoring Working Group has requested the American Academy of Actuaries to review and comment on the credit scoring studies conducted in the states of Alaska, Texas and Washington.

In New York, we have seen a number of proposals designed to use credit characteristics in private passenger automobile rate filings. Generally, the filings have utilized a credit "score" established by private vendors that have traditionally tracked credit report data (such as Fair Isaac, Inc.). The methods involved in establishing the credit score are proprietary to the vendors. Accordingly, this represents a "black-box" approach since neither the insurance department, the insurer, nor the consumer can be 100% sure how the score is established, or even the variables used in the scores' determination. To date - with one exception - the New York Insurance Department has not approved the use of credit information in private passenger automobile insurance rating.

The one filing that was approved for an insurer allowed it to use credit information for the purpose of granting a discount to insureds possessing what the insurer has determined to be "good" credit characteristics. This discount differed from other "credit score" proposals in that it does not use the "black-box" approach based on an independent vendor's data. Rather, it has selected specific credit characteristics that appear to be correlated with insurance loss experience of its own insureds. We approved this insurer's use of credit reports in the determination of a discount on automobile insurance rates on an experimental basis, provided the insurer complied with the disclosure requirements for an "adverse action" under Federal and State law, whereby the insurer agreed to provide an appropriate notice to any affected insured.

For more information on state action on credit scoring, please see the attached Appendix A. This chart gives a brief description of the laws and rules in each state.

NAIC Activity Reflects Strong Interest In Credit Scoring Among Insurance Commissioners

Credit scoring has been a focus of interest at the NAIC for several years. In fact, in 1998, the NAIC adopted a white paper on the subject. The white paper, "Credit Reports and Insurance Underwriting," gives an excellent overview of the use of credit scores in insurance, the policy issues involved, and information for consumers.

Last year, the NAIC formed a working group to study the use of credit scores and credit history in the insurance underwriting and rating process. Joel Ario, the NAIC's Secretary-Treasurer and Oregon Insurance Administrator, and Mike Kreidler, Washington Insurance Commissioner, co-chair the working group.

Credit Scoring Education Tools for Regulators and Consumers

In order to help regulators and consumers better understand credit scoring, which can be a complicated issue, the working group recently developed two documents that are scheduled for adoption by the full NAIC membership next month:

- "Credit Based Insurance Scoring: Regulatory Options" is an analysis of regulatory alternatives for regulators (Appendix B); and
- "Understanding How Insurers Use Credit Scoring" is a consumer education brochure (Appendix C).

Credit Based Insurance Scoring: Regulatory Options

This document provides the pros and cons of a broad range of regulatory options states may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores. Specifically, the document addresses underwriting, rating, modeling insurance scores, and disclosures. By way of illustration: a state may wish to prohibit the use of credit scores as the sole underwriting criterion or may wish to ban the use of credit scores in the cancellation or non-renewal of insurance policies. When it comes to rating, a state may wish to prohibit the use of credit scores for rating or may wish to place a cap on the amount of premium surcharge or discount that results due to credit history. When addressing insurance scoring models, states may wish to restrict the use of certain credit attributes or prohibit the use of credit history in dispute. In terms of disclosure, a state may wish to require an insurer provide advance notice to a consumer that his or her credit history will be used or require an insurer to disclose the specific attributes of a consumer's credit history that result in an adverse action.

Consumer Brochure: Understanding How Insurers Use Credit Information

The Consumer Brochure is designed to help consumers understand how insurance companies use credit information and how the use of credit scores affects how much individuals pay for insurance. States may choose to modify the brochure to ensure consistency with state public policy, laws and regulations addressing the use of credit scores. The brochure answers the following types of questions:

- Can an insurance company look at consumers' credit information without their permission?
- What kind of credit information do insurance companies use?
- Must an agent or company tell a consumer what his/her insurance credit score is?
- How can consumers improve their credit score if they have been adversely affected?

In addition to drafting the regulatory and consumer documents, the working group has achieved two other specific goals:

Consultation with the Federal Trade Commission

After consultations with the NAIC, the Federal Trade Commission (FTC) has reiterated that insurers must provide notice to consumers when an action based on a credit score adversely affects them. Prior to this statement, insurers maintained that certain actions, such as not offering the lowest price, were not necessarily adverse actions.

American Academy of Actuaries Report on Credit Scoring Studies

At the request of the NAIC, the American Academy of Actuaries has evaluated four studies on insurance credit scoring. The studies are:

1. The Impact of Personal Insurance Credit History on Loss Performance in Personal Lines by James E. Monaghan (2000);

2. Insurance Scoring in Personal Automobile Insurance - Breaking the Silence by Conning & Company (2001);

3. Predictiveness of Credit History for Insurance Loss Ratio Relativities by Fair, Isaac (1999); and

4. Use of Credit Reports in Underwriting by the Commonwealth of Virginia, State Corporation Commission, Bureau of Insurance (1999).

Based on their review of the four studies and their expertise in the development and review of rating models based on credit history, the Academy members that reviewed the studies believe that credit history can be used effectively to differentiate between groups of policyholders. Therefore, they believe credit scoring is an effective tool in the underwriting and rating of personal lines of insurance. Having said that, they also concluded that none of the four studies contained the necessary information to enable an evaluation as to whether credit-related insurance scoring results in a disproportionate impact for protected classes or for low-income policyholders.

Following on its report on the four studies, the Academy continues to work with the NAIC to develop guidelines for a potential NAIC study of credit scoring. The issues being discussed for inclusion in a study include determining the correlation between credit history and risk of loss, and whether insurance scoring disproportionately affects protected classes and low-income groups.

States are Actively Working to Protect Consumer Privacy

Section 624(b)(2) of FCRA prohibits the states from placing any requirement or prohibition "with respect to the exchange of information among persons affiliated by common ownership or common corporate control…" This provision effectively creates a uniform privacy standard with respect to the treatment of the disclosure of certain information among affiliates. This concept was incorporated into the privacy provisions of the Gramm-Leach-Bliley Act (GLBA), which state that "nothing in this title shall be construed to modify, limit, or supersede the operation of" FCRA (15 USC 6806), as well as the state and federal implementing regulations.

The states have worked actively to protect consumer privacy and meet the requirements mandated by GLBA. All of the states and the District of Columbia have taken action to ensure that insurance companies meet GLBA's privacy requirements. In 2000, the NAIC adopted the "Privacy of Consumer Financial and Health Information Model Regulation" to serve as a guide for the states as they sought to comply with the enforcement requirements of GLBA's privacy provisions. Most of the states have promulgated this model regulation and I am proud to note that New York was the first state to take action. The remaining states have revisited the privacy laws that they had in force before GLBA was enacted in 1999. These state laws, based on the 1980 NAIC Insurance Information and Privacy Protection Model Act, are considered by insurance regulators to be generally more protective of consumer privacy than GLBA.

While privacy rules in some states have unique aspects, for the most part the states have achieved "operational uniformity." This means an insurer can operate across the country utilizing a single privacy policy. Although there may be differences in state requirements, there are no conflicts, so insurers can take a uniform approach nationwide. This brings stability and allows the marketplace to function efficiently nationwide.

It should be noted that limitations on inter-affiliate information sharing are not due to FCRA "occupying the field." In fact, FCRA only addresses certain inter-affiliate disclosures, thus making those disclosures “off limits” to state regulation. FCRA does not address disclosure of other information, such as “transaction or experience” information, “credit header” information (such as identifying information), or disclosures made for non-FCRA uses, such as marketing. Inter-affiliate disclosures of such information could be restricted by the states if the states so chose.

Although GLBA permits the states to provide greater privacy protections than the federal law requires, for the most part the states have chosen to follow GLBA, the NAIC model, and the federal banking agencies’ implementing regulations fairly closely, including avoiding restrictions on inter-affiliate information sharing. This conscious decision was made for two reasons:

- to encourage uniformity among the states, thereby ensuring that insurance consumers would have consistent treatment of their personal information from state to state, and insurers would have an even playing field across the country; and
- to ensure that insurers would not be at a competitive disadvantage in comparison with their counterparts in the other financial services sectors, banking and securities.

Thus, the state insurance regulators have satisfied their obligations under GLBA and stayed within the limits imposed by FCRA. In addition, although they have the authority to promulgate stricter privacy protections in some areas, most insurance regulators have chosen not to do so, believing that uniformity and consistency with the federal requirements is in the best interests of consumers and insurers, alike. The goal for insurance regulators is, as always, consumer protection. In the privacy context, that means effective privacy protections that provide real security for consumers and uniform requirements, not only among the states but across the financial services industry.

Conclusion

The impact of the Fair Credit Reporting Act on insurance, the relationship between FCRA and other privacy protections (including GLBA), and the use of credit scores in insurance underwriting and rate-setting are enormously complicated issues. As you proceed with your deliberations, I urge you to keep in mind what I mentioned earlier is the central purpose of my role as a state insurance regulator: protecting consumers. Making sure this complicated system is used fairly and for the benefit of consumers, and helping them understand their rights and responsibilities should be our ultimate goal.

Accurate credit reporting is essential to ensure that consumers are treated fairly in the pricing and underwriting of insurance. FCRA is an effective means of accomplishing this goal. The other essential element is the role of the states. In credit scoring, the states have devoted tremendous resources to determining if there is a relationship between a credit score and risk of loss, and, equally important, to determining if the use of credit scores is fair to consumers. In privacy, the states have implemented strong consumer protections in a fair and "operationally uniform" manner. The states have taken action to ensure that consumers are educated and treated fairly. In so doing, we are fulfilling the central role of our jobs, which is protecting American insurance consumers.

G:\DATA\JPF\FCRA\6-3-03 Final Testimony.doc

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
AL	No provision			*Reg. 482-1-127 pending (2003)* *SB 271 pending (2003)*	*Personal lines* *Property and casualty*	*Make procedures used to obtain credit reports and insurance scores available to commissioner. May not calculate score based on lack of credit history.* *An insurer may not base an underwriting decision, in whole or in part, on a credit report.*
AK	§§ 21.36.120, 21.36.150, 21.39.030	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	*HB 5, HB 47, SB 13 pending (2003)* *HB 85, SB 64 pending (2003)*	*All lines* *Consumer reporting agencies*	*May not base rates on credit score.* *Consumer reporting agency shall provide complete file to consumer on request without charge.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
AZ	§ 20-448	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 44-1692	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting.
				§§ 20-2102, 20-2109 to 20-2110	Property and casualty	Must provide specific reasons for adverse decision based on credit history or credit score.
				HB 2183 pending (2003) **DIED**	*Property and casualty*	*May not use credit history to determine rates or eligibility for coverage unless models to calculate are filed with the commissioner. May not consider absence of credit or medical industry codes.*
				HB 2032 (2003)	All lines	In the event of an adverse underwriting decision, provide the specific reasons. If based on credit-related information, must decide factors that were primary cause. May not use the following credit-related factors for property or casualty premiums: absence of credit history, credit history based on collection of medical bills, total available credit, etc.

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
AR	§ 23-66-205, 23-66-206	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 23-66-317 (Repealed eff. 1/1/04)	Auto	Auto insurer may not refuse to issue or renew coverage or limit coverage solely upon the applicant's credit history unless the credit report reveals an increased hazard and the insurer or its agent sends written notice to the applicant explaining the insurer's actions.
				Directive 2-2002	Personal lines property and casualty	May not refuse to issue or renew coverage based solely on credit report unless report shows substantially increased risk to insurer and insured is given notice. If insurer relies on credit scoring, system must be filed with department.
				SB 846 (2003) will be §§ 23-67-401 to 23-67-415 (Eff. 1/1/04)	Personal lines P/C	May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. (NCOIL model)

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
CA	Ins. § 790.93	Life	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Civ. §§ 1785.10 to 1785.11	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting. Agency must notify consumer of rights and provide copy of file, including any credit score used.
				AB 800 pending (2003)	*Consumer reporting agencies*	*Amends Civ. § 1785.25 to state that the credit reporting agency may only furnish information if it reasonably knows the information is accurate and complete.*
	Reg. tit. 10 § 2632.5	Private auto	Credit scores are not listed as an allowable auto rating factor.	Civ. § 1786.18	All lines	May not include specified information in an investigative report except when used in underwriting life insurance expected to amount to $250,000 or more.
				Bulletin 76-3	All lines	Users of credit reports who deny insurance or increase the prices charged on the basis of information contained in the reports must disclose the information that was the basis for the adverse decision.
				AB 227 pending (2003)	*Auto, property*	*May not use credit scoring to underwrite or rate insurance.*
				AB 3 pending (2003)		*Consumer credit reporting agency must remove derogatory information more than 7 years old. Credit score may not be affected by number of inquiries. Provide one free copy of report to consumers yearly.*
				SB 691 pending (2003)	*Homeowners*	*May not use credit history to underwrite a risk.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
CO	§ 10-3-1104	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 12-14.3-103	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting. Must notify consumers that will be using credit report for determination of eligibility for coverage or to determine premiums.
				§ 12-14.3-105.3	Life	May not use credit report in underwriting life insurance expected to amount to $100,000 or more.
				Reg. 5-1-16	Personal auto, homeowners, non-commercial fire, mobile home owners	Safeguards and standards for proper use of credit information. May not use credit information as sole basis for underwriting or refusing to renew. Insurer must have written guidelines that are consistently applied. Must provide notice to consumers advising them that credit information will be used for underwriting/rating.
				HB 03-1273 (2003) (Eff. 7/1/04)	Auto	Disclose to a consumer that a credit score will be considered, the range of scores, and how the score is calculated.

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
CT	§ 38a-816, 38a-818	Disability specifically addressed; commissioner may pursue undefined unfair practices.	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Guidelines for the Examination of Financial History Measurement Programs for Personal Risk Insurance Underwriting and Rating Plans. *AB 5490 pending (2003)*	All lines *All lines*	File measurement tools with the department. May only be used for new business. May not consider lack of credit history. Demonstrate coordination with expected risk of loss. Disclosure to customer. *May not use credit history for underwriting or setting rates.*
DE	tit. 18 § 2304	Life, health	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	*Ins. Reg. 87 pending (2002)*	*Personal lines*	*May not use credit report or score unless the company has obtained authority to do so in its rate filing. File supporting information showing it is actuarially supported and is not the sole basis for denying coverage or assigning the consumer to a premium class. May not assign a higher rate because the consumer has no credit history. Provide notice to consumers of use of credit history.*
DC	No provision			No provision		

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
FL	§ 626.9541	Life, health	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Reg. 4-125.004	All lines	An insurer shall notify an insurance applicant in writing, or in the same medium as the application, that a credit report will or may be requested as part of the application process. If the application is denied, the insurer must tell the applicant in the notice of the denial how a copy of the credit report can be obtained so the applicant can identify the items that resulted in the denial.
				HB 233 pending (2003)	*Personal lines*	*May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department.* (NCOIL model)
				SB 204 (2003)	Auto and homeowners	Notify consumers that the credit report will be considered; may not use as sole criteria for adverse underwriting decision. May not consider absence of credit history or problems resulting from medical bills, must provide information to insurance department showing credit history is a reasonable predictor of insurance risk. Must review score after 2 years or earlier if requested by consumer. Implementation contingent on passage of HB 1895, which provides a public records exception for credit scoring methodology.

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
GA	§ 33-6-4	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Reg. 120-2-15	Private passenger auto, residential property	Insurer may cancel, nonrenew or decline a policy based on an individual's credit report. Insurer shall file this information quarterly with the commissioner. Insurer shall provide notice and the specific reason for the decision to the insured.
				Reg. 120-2-65	Private passenger auto	An insurer shall not use underwriting criteria or guidelines that result in the fictitious grouping of risks and results in unfair discrimination. The use of credit reports in determining an applicant's or insured's acceptability for coverage may create fictitious grouping and unfair discrimination.
				HB 215 pending (2003) (would be eff. 7/1/03)	*Personal lines P/C*	*May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. (NCOIL model)*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
HI	§ 431:13-103	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 431:10C-207	Auto	Insurer shall not base standard or rating plan upon a person's credit bureau rating.
ID	§ 41-1313	Life, disability	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Bulletin 91-9 § 41-1843	All lines Property or casualty	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting. May not charge a higher rate or cancel coverage based primarily on a credit rating or credit history.

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
IL	No provision			215 ILCS 5/155.38	Personal lines	May not refuse to issue or renew a policy solely on the basis of a credit report. Provide policyholder with notice.
				HB 502, SB 92 pending (2003)	*Homeowners and renters insurance*	*May not consider credit score.*
				HB 1640 pending (2003)	*Personal lines P/C*	*May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. (NCOIL model)*
				HB 2378 pending (2003)	*Credit reporting agencies*	*Establishes the duties of credit reporting agencies.*
				SB 818 pending (2003)	*Personal lines P/C*	*May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. Methodology considered a trade secret under IL law. May not sell any data or lists regarding credit inquiries or credit reports. (Based on NCOIL model)*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
IN	§ 27-4-1-4	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 25-1-22-25	Personal auto	May not charge higher rate because policyholder has filed bankruptcy petition.
				Bulletin 111 (July 1, 2002)	Personal lines property and casualty	Submit to insurance department information on how credit information is utilized in underwriting, including the factors from a credit report that are included in a credit score, the computer model used to determine a credit score, any underwriting guidelines related to the use of credit scores and documentation to demonstrate the correlation between credit information and expected risk of loss. May not use credit scores after 10/1x/02 unless the information is filed with the department.
				SB 178 (2003)	Personal lines property and casualty	May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. (NCOIL model)
				HB 1634, HB 1187 pending (2003) **DIED**	*Personal lines property and casualty*	*May not use credit score to underwrite or rate a policy.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
IA	§ 507B.4	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Reg. § 191-20.12	Auto and homeowners	May not underwrite or cancel based solely on credit report or scores. Commissioner may request copy of factors used in decision and the model used in credit scoring.
KS	§ 40-2404	Life, health	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Concurrent Resolution 1623 (2002)		Study the issue and report to 2003 legislature.
				HB 2071 (2003) (Eff. 1/1/04)	Personal lines P/C	May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. (NCOIL model)
	§ 40-2,112	All lines	Insurer submitting an adverse underwriting decision shall either provide, in writing, the applicant, policyholder or individual with the specific reason for the decision or advice the person that they may receive the reason in writing.			
	§ 40-953	Property and casualty	Rates shall not be unfairly discriminatory. Differences in rates must reflect the differences in risk with reasonable accuracy.			

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
KY	§ 304.12-080	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 304.20-040	Auto	May not refuse to issue or renew a policy solely because of credit history, or lack of credit history of the applicant.
	Dept. policy	All lines	Underwriting guidelines must be in written form and filed with the Dept. of Insurance. The guidelines must be used uniformly.			

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
LA	§ 22:1214	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 22:1214(7)(i)	Auto liability	Prohibits an insurer from terminating, refusing to renew or refusing to issue insurance because the insured has declared bankruptcy.
				HB 53, HB 58, HB 118, SB 206 pending (2003)	*Auto and homeowners*	*Use of credit reports and credit scores is an unfair trade practice.*
				HB 399, HB 1448, SB 56, SB 391 pending (2003)	*Personal lines P/C*	*May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. (NCOIL model)*
				HB 1107 pending (2003)	*Auto and homeowners*	*May not use credit score in underwriting homeowner's insurance. May use for auto only to rate a new policy. Limits on the considerations that may be included.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
ME	tit. 24 § 2159	Life, health	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	tit. 10 § 1313-A	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting.
				tit. 24-A § 2917	All lines	Insurer must notify policyholder of reason intend to nonrenew, such as "credit report."
				LD 470 (2003)	Personal lines auto and property and casualty	May not use an insurance score calculated using income, gender, ZIP code, religion, etc. or raise rates based solely on credit score. Provide notice to consumer.
				LD 556 (2003)	Credit reporting agencies	Disclose procedures to consumers to correct inaccurate credit reports.

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
MD	Ins. § 27-208	Life, health	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Ins. § 27-501	Private auto	May not refuse to underwrite based solely on credit history.
				Commercial § 14-1202	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting.
				Reg. 31.15.11	Personal lines property and casualty	Insurers that use credit reports or credit scores must provide the commissioner with underlying information so the commissioner can ensure that reports are used in accordance with the law. Must notify consumers of actual reason for an adverse action.
				Ins. § 27-501	Personal lines property and casualty	May not use credit history to rate or refuse to underwrite homeowners coverage. May not use credit history to refuse to renew an auto policy or increase its premium. May use credit history to rate a new auto policy. Advise applicant that credit history is being used. May not consider the absence of a credit history as a factor.
				SB 444 pending (2003) **DIED**		*Would amend § 27-501 by deleting the provision that allows credit history to raise the premium for auto.*
				SB 174 pending (2003) **DIED**		*Would amend § 27-501 by requiring permission of the applicant to use credit history.*
				Ins. § 11-317	Private auto	Must provide a policyholder statement on rating factors. If use credit scoring, explain how it may cause an increase in premiums.
				Bulletin 02-14, 02-16	Personal lines property and casualty	Address questions in implementation.

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
MA	ch. 176D	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory. Department does not allow credit scoring, based on Unfair Trade Practices Act.	§ 93:51 § 93:62 *Regulation pending (2003)*	All lines Insurance for personal, family or household purposes *Personal lines property and casualty*	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting. If coverage is denied or price increased because of credit report, must notify consumer of right to receive a credit report.
MI	§§ 500.2019, 500.2020, 500.2027 § 500.2110a	All lines All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory. If uniformly applied to all its insureds, an insurer may establish a premium discount plan. Insurers utilize this provision to justify using credit scores.	Bulletin 2003-01-INS Bulletin 2003-02-INS *HB 4268, SB 191 pending (2003)*	Personal lines Personal lines *Auto and homeowners*	File formula used to compute credit score with the department. Must recalculate credit score at least yearly. Revises 2003-01-INS to require rescoring only at the request of the policyholder. Notify consumers of their score and the discount tier they are in. *May not rate based on credit history or lack thereof.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
MN	§ 72A.20	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 72A.20 subd. 36 *HF 76 pending (2003)*	Private passenger auto and homeowners *Auto and homeowners*	May not reject, cancel or nonrenew a policy solely on the basis of credit information. If will use credit information, must notify consumer. If use a credit scoring system, must have methodology on file with the commissioner. *Prohibits use of credit information.*
MS	§§ 83-5-35, 83-5-45	Life, health specifically mentioned; commissioner may pursue undefined unfair practices.	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Dept. policy		Credit information may not be sole criteria.

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
MO	§ 375.936	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Reg. tit. 20 § 500-9.100	Homeowner	Insurer must inform the Dept. of Insurance that it is using credit history as an underwriting guideline.
				§ 375.918 (Eff. 7/5/03)	*Personal lines property and casualty*	May not use credit report or credit score as the sole rating factor. Must disclose the fact that will gather credit information. Must inform applicant if credit score or report adversely affected him.
				HB 259 pending (2003) **DIED**	*Auto or personal property*	*Would amend § 375.918 to broaden its provisions from underwriting to "any other insurance purpose."*
				SB 670 pending (2003) **DIED**	*Credit reporting agencies*	*May not determine credit risk in whole or in part by the number of inquiries posted.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
MT	§§ 33-12-206, 33-18-210	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 31-3-111	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting.
				§ 33-18-210	Auto, homeowners	An insurer may not refuse to insure or refuse to renew, charge higher rates or limit the scope of coverage based on credit history unless related to the risk of the insured.
				SB 349 pending (2003) **DIED**	*Personal lines*	*May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department.* (NCOIL model)
				HB 184 pending (2003) **DIED**	*Personal lines*	*May not cancel or refuse to renew existing coverage based on credit score. May not use score as sole basis to deny coverage. File credit scoring methodology with commissioner. Provide consumer notice if take adverse action based on credit information*
				HB 332 pending (2003) **DIED**	*Auto and homeowners*	*May not use credit score as a rating factor.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
NE	§ 44-5019	Property, casualty	Rating systems shall not produce premiums that are excessive, inadequate or unfairly discriminatory.	§ 44-7516.01	Private passenger auto	Policy must be accompanied by disclosure stating if any credit-based rating was used to determine rate charged for coverage.
	§ 44-1525	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	LB 487 (2003)	Personal lines	May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Most recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. (NCOIL model)
				LB 693 pending (2003)	*Homeowners, renters, auto*	*It is an unfair trade practice to use credit scores.*
NV	§§ 686A.100, 686A.170	Life, health specifically mentioned; commissioner may pursue undefined unfair practices.	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	*AB 194 pending (2003)*	*All lines except surety*	*May not use credit reports in underwriting insurance.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
NH	§ 417:4	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 359-B:4	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting.
				§ 359-B:5	Life	May not use credit report in underwriting life insurance expected to amount to $50,000 or more.
				§ 412:14-a	Auto	Use of credit reports, credit histories and credit scoring for underwriting purposes shall be based upon objective and measurable standards with appropriate consumer protections.
				HB 557 pending (2003)		*Would revise § 412:14-a by forbidding the use of credit history.*
				§ 414:3	Fire, certain casualty	Use of credit reports, credit histories and credit scoring for underwriting purposes shall be based upon objective and measurable standards with appropriate consumer protections.
				Reg. Ins. 1401.08	Auto	Unsubstantiated information developed by credit or character investigations shall not be relied on in making decisions on whether to write or renew coverage.
				Reg. Ins. 3301.01 to 3310.02	Auto and homeowners	If use credit scoring, must establish written standards to prevent discrimination and submit scoring model to the insurance department for review.

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
NJ	§§ 17:29B-4, 17:29B-9	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 56:11-31	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting.
NM	§§ 59A-16-11, 59A-16-17	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Bulletin 2002-001 *SB 325, HB 598 pending (2003)* **DIED**	All lines *Auto*	All insurers that use credit scoring in underwriting or rate making must submit all portions of the programs that include the use of credit scoring. *May not use credit history to raise the premium for a new or existing policy or to cancel an existing policy.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
NY	Ins. Law §§ 2301 to 2302	All lines	Rates shall not be excessive or discriminatory.	General Business *§ 380-i*	*All lines*	Requires users of consumer reports to advise the consumer of adverse action taken in reliance on the report.
				OGC Opinion No. 96-1	Homeowners	Must give specific reasons for cancellation.
				AB 2661 pending (2003)	*Homeowners*	*May not use credit history information to decide whether to issue or renew a policy.*
				AB 4730 pending (2003)	*All lines*	*It is an unfair trade practice to consider credit information in setting premiums.*
				AB 4754, SB 2728 pending (2003)	*All lines*	*May not use credit history in underwriting.*
				AB 6281, SB 3186 pending (2003)	*Auto*	*May not use credit history in deciding whether to issue or renew coverage. May not request a credit report.*
				AB 7419 pending (2003)	*Consumer reporting agencies*	*Consumer may request a consumer reporting agency not to release any information about him.*
				SB 356 pending (2003)	*Consumer reporting agencies*	*Most data can only be disclosed for 3 years instead of the current 7 years.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
NC	§ 58-63-15	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	*HB 596 pending (2003) (would be eff. 1/1/04)* *SB 771 pending (2003)*	*Private passenger auto* *Private passenger auto*	*May not base rates on credit reports.* *May not use credit reports as sole rating factor. Must notify consumer if will be used. File scoring models with insurance department.*
ND	§ 26.1-04-03	Life, health	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	*HB 1290 pending (2003)***DIED** HB 1260 (2003) (Eff. 8/1/03)	*Property and casualty* Personal lines	*May not use credit scoring as the sole basis to decline or refuse to renew a policy or to increase or decrease a premium more than 15%. If use credit report, provide free copy to insured.* May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. (NCOIL model)

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
OH	§ 3901.21	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Bulletin 26	*Auto substandard risks*	If a substandard risk classification relies on a credit report, that report should be attached to the dailies of the policies issued. The Ohio Dept. will periodically inspect.
				Bulletin 2002-2	*Property and casualty*	Insurers must establish that credit history and credit scores are valid risk characteristics. May not use for discriminatory purposes.
				SB 48 pending (2003)	*Homeowners*	*Using a credit score in connection with homeowner's insurance is an unfair trade practice.*
				Regulation pending (2003)	Personal lines	*Prohibits insurers from using credit information as the sole basis for underwriting and rating decisions. Disclosure to consumers required.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
OK	tit. 36 § 1204	All lines	There shall not be discrimination in favor of particular persons having substantially like insuring risk and exposure factors or expense elements in the terms or conditions of any insurance contract or in the rate or amount of premium charged.	Guidelines adopted by Oklahoma State Board for Property and casualty Rates 9/27/01	*Property and casualty insurance*	Insurers that use credit history or credit scores must provide the board with underlying information to show they are using the information in accordance with OK law. Notify the insured of any adverse action taken as a result of the credit history or credit score.
				SB 539 (2003)	Personal lines	May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. (NCOIL model)
				HB 1659 pending (2003)	Property and casualty	*May not use credit history.*
				SB 684 pending (2003)	*Credit, homeowners, life, auto*	*May not use insurance score that includes the address or ZIP code as a factor.*
				HB 1629 pending (2003)	*Auto*	*May not use credit history.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
OR	§ 746.015	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 746.635	All lines	Insurer, agent or insurance support organization may not prepare or request an investigative consumer report about a person involving an insurance transaction unless the insurer or agent informs the person that he may request to be interviewed in connection with the preparation of the report and that the person may request a copy of the report.
				Reg. §§ 836-080-0425 to 836-080-0440 (Eff. 7/1/03)	Personal lines P/C	Must disclose to consumer that credit history will be used. Notice if adverse action based on credit score; explain how to dispute finding.
				SB 260, SB 314 pending (2003)	*Personal lines*	*May not use credit history in underwriting.*
				SB 280, SB 484 pending (2003)	*Personal lines*	*May not use credit history to cancel or nonrenewal personal insurance. May use to decline coverage only in combination with other factors. Includes a list of factors insurers may not consider.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
PA	§ 40-29-105	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	*SB 198 pending (2003)*	*Personal lines*	*May not use credit history to deny, cancel or refuse to renew coverage. May adjust rates based on credit history in combination with other factors. Authority to adopt regulations.*
				SB 331 pending (2003)	*Personal lines P/C*	*May not use credit scoring to underwrite coverage.*
				SB 336 pending (2003)	*Auto*	*May not use credit scoring*
				SB 337 pending (2003)	*All lines*	*May not use credit score in underwriting.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
RI	§ 27-29-4	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 6-13.1-21	All lines	May not request a credit report without first notifying the insurance applicant. If deny coverage or charge more, must notify consumers that is due to credit report.
				§§ 27-6-53, 27-9-56	Homeowners and personal auto	May use credit scoring for rating and underwriting only if the insurer demonstrates the predictive nature of the score to the insurance department. If requested by customer, must do new credit score every 2 years and lower rates if score is better. May not use revised score to raise rates except as noted.
				SB 137, HB 5362 pending (2003)	*Homeowners and auto*	*Amends above statute to state that rates may only be changed at time of renewal. List of factors that may not be considered. Reporting agency may not sell data or lists that include information about credit report.*
				HB 5709 pending (2003)	*All lines*	*May not request credit report in connection with a consumer's application for insurance.*
				Bulletin 2002-16		Explains 2002 law.

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
SC	§ 38-57-120	Life, health	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 38-73-740	Auto	Credit report used as basis for rate classification must be kept on file by the insurer for 3 years, and be available to the applicant.
				Bulletin 2002-04	Private passenger auto	May not refuse to insure, cancel or non-renew based solely on credit history or credit score. A filing including credit scoring must include justification. Disclose to consumer that insurer may gather and consider credit information.
				SB 49 pending (2003)	All lines	*May not consider credit reports or credit rating.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
SD	§§ 58-33-12, 58-33-13, 58-33-38	Life, health specifically mentioned; commissioner may pursue undefined unfair practices.	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Bulletin 2002-3	Personal lines property and casualty	May not use credit information as the sole rating factor.
TN	§ 56-8-104	Life, health, fire	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Department Policy *SB 122, HB 284 pending (2003)* *HB 711, SB 638 pending (2003)* *HB 22, SB 1616 pending (2003)* *HB 1445, SB 1713 pending (2003)*	All lines *Homeowners* *All lines* *Personal lines* *Credit reporting agencies*	Justification for use of credit scoring must be provided in the filing. Credit scoring cannot be the sole basis for determining rates. *May not base rates on credit information.* *May not charge higher rate based primarily on credit score.* *May not charge higher rate based primarily on credit score.* *Must give a free copy of credit report to consumer yearly under certain circumstances.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
TX	I.C. art. 21-21	Life	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Business and Commerce § 20.02	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting.
				Business and Commerce § 20.05	Life	May not use credit report in underwriting life insurance expected to have a value of $150,000 or more.
				SB 310 (2003)	Residential property	File information on credit scoring along with other rating information. Information is confidential.
				HB 45, HB 81, HB 870, HB 115, HB 331, HB 600, HB 800, SB 91, SB 99, SB 400, HB 696 pending (2003) **DIED**	*Auto, homeowners, farm/ranch*	*May not use credit score.*
				HB 259 pending (2003)	*Auto, homeowners, farm/ranch residential fire*	*File credit scoring model with dept. for approval prior to use. Filing becomes public information.*

Texas (cont.)

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
TX (cont.)				*HB 265, SB 130 pending (2003)*	*Auto, homeowners, farm/ranch residential fire*	*If use credit reports, must provide disclosures to customers. May not use credit information as sole rating factor; may not consider medical information. May not consider absence of credit history.*
				HB 920 pending (2003)	*Auto, homeowners, farm/ranch, non-commercial watercraft*	*May not deny or cancel based solely on credit report. May not consider medical information. May not consider absence of credit history.* (some of NCOIL model)
				HB 2467 pending (2003)	*Auto, homeowners, farm/ranch, non-commercial watercraft, snowmobile, RVs*	*May not use credit history to unfairly discriminate: list of factors may not consider. Disclosures required.*
				SB 400 pending (2003)	*Auto, homeowners*	*May not use underwriting guideline based in whole or in part on credit score.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
UT	No provision			§ 31A-22-1307	Homeowners liability	Insurer that uses credit reports in underwriting must comply with federal Consumer Credit Reporting Act.
				§ 31A-22-320	Auto	May only use credit information to reduce rates or in conjunction with other factors.
				Reg. R590-219-1 to 590-219-8 pending (2003)	*Private passenger auto*	*Inform consumer of factors used in adverse underwriting decision. May not use credit information to cancel or nonrenew coverage that has been in place 60 days or more or as the primary reason to refuse to issue a new policy.*
VT	tit. 8 § 4724	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	*HB 186 pending (2003)*	*Personal lines*	*May not take an adverse action based on information in a credit report unless can demonstrate the criterion increases the risk of loss. Disclosure rules.*
				SB 77 pending (2003)	*Credit reporting agencies*	*Must explain credit scores and key factors that make up the score.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
VA	§ 38.2-508	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§§ 38.2-2114, 38.2-2212	Auto, fire	Insurers shall not refuse to renew an insurance policy solely based on credit information contained in a consumer report, bearing on an individual's creditworthiness, credit standing or credit capacity unless the insurer includes a statement informing the insured of the reasons for nonrenewal.
				Administrative Letter 2002-6	All lines	Any insurer intending to use credit score must file the model prior to their use.
				SB 1284 (2003)	Homeowners, renters, auto	May not include income, gender, race, religion, marital status, ZIP code, nationality, etc. as factors. May not base rates solely on credit score or consider absence of a credit history. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. (NCOIL model)

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
WA	No provision			§ 19.182.020	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting.
				§ 19.182.040	Life	May not use credit report in underwriting life insurance expected to amount to $50,000 or more.
				HB 2544 (2002) (Eff. 7/5/03)	All lines of personal insurance	Credit history shall not be used to determine insurance rates unless the credit scoring models are filed with the commissioner. May not consider the absence of credit history or the number of inquiries.
				Reg. 284-24A-001 to 284-24A-065	All lines of personal insurance	Regulation describes standards that apply to insurers that use credit history.

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
WV	§ 33-11-4	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	§ 91-8-3	Auto	Dept. of Motor Vehicles may furnish credit information from its files where an insurer intends to use it for underwriting.
				Informational Letter No. 142 (July 2002)	Personal auto, homeowners, accident and sickness	Guidelines for filings containing credit scoring. Data may not be used in unfairly discriminatory manner. May not be sole basis for deciding whether to write coverage. If used for rating, must recheck scores of policyholders yearly.
				§ 33-6B-3	Auto	May not decline a policy based on adverse credit report.
				§ 33-17A-6	Property	May not decline a policy based on adverse credit report.
				SB 376 pending (2003) **DIED**	*All lines*	*Insurers must provide free consultation on how to improve a credit score.*

© 2003 National Association of Insurance Commissioners

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/03

STATE	INDIRECT REGULATION OF CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS	SPECIFIC REFERENCE TO CREDIT REPORTS	LINE OF BUSINESS	SUMMARY OF PROVISIONS
WI	§ 628.34, Reg. § INS 6.67, 6.68	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	Bulletin dated 6/16/97 *AB 102, SB 39 pending (2003)* *AB 278 pending (2003)*	Personal auto and homeowners *Credit reporting agencies* *Renters and homeowners*	Can use credit reports but not as the sole reason to refuse, cancel or nonrenew a policy. *Provide written disclosure to consumers as listed.* *May not use information in a credit report as a rating factor.*
WY	§§ 26-13-109, 26-13-112, 26-13-116	All lines	Sections define practices that are unfairly discriminatory. The use of credit reports is not specifically discussed, but if the use of the credit report is not justified, it might be considered unfairly discriminatory.	SF 81 (2003)	Personal lines, auto, homeowners	Authority to adopt regulation to provide that credit history may not be sole factor and to require disclosures. Protect consumers against unfair discrimination.

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Every effort has been made to provide correct and accurate summaries to assist the reader in targeting useful information. For further details, the statutes and regulations cited should be consulted.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

UNDERWRITING ISSUES: Insurers use credit history to determine eligibility for personal lines insurance coverage.

Options:

(1) BAN UNDERWRITING BASED SOLEY ON CREDIT HISTORY - Insurers may not cancel, deny or non-renew insurance coverage unless they consider underwriting factors independent of credit information.

Pros:

1. Insurers may not use credit history as the only factor in underwriting to the exclusion of other relevant underwriting factors.
2. Current policyholders would be evaluated based on traditional underwriting factors – which they may already understand.
3. Companies retain flexibility in structuring rating plans.
4. Resolves concerns about availability.

Cons:

1. "Sole basis" restrictions are ineffective if insurers use credit history as 99% of the reason for underwriting actions.
2. Insurers may interpret "sole basis" restrictions to mean a consumer is not eligible for insurance if they do not have a minimum insurance score.
3. Restrictions add an additional layer of regulation on underwriting practices and reflect a movement away from a free market approach.
4. Insurers can use pre-screening to solicit business with a "hit" or a "score" (which may benefit direct writers to the detriment of independent agents).

Other Issues:

1. Phraseology is critical to avoid confusion and provide meaningful consumer protections.

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

(2) BAN CANCELLATION OR NON-RENEWAL BASED SOLEY ON CREDIT HISTORY - Insurers may not cancel or non-renew coverage based on credit history unless they consider underwriting factors independent of credit information.

Pros:

1. Insurers may not use credit history as the only factor in underwriting to the exclusion of other relevant underwriting factors.
2. Current policyholders would be evaluated based on traditional underwriting factors – which they may already understand.
3. Companies retain flexibility in structuring rating plans.
4. Resolves concerns about availability.
5. Insurers have historic experience data on a consumer to supplement the renewal underwriting picture.

Cons:

1. “Sole basis” restrictions are ineffective if insurers use credit history as 99% of the reason for underwriting actions.
2. Insurers may interpret “sole basis” restrictions to mean a consumer is not eligible for insurance if they do not have a minimum insurance score.
3. Restrictions add an additional layer of regulation on underwriting practices and reflect a movement away from a free market approach.

Other Issues:

1. Phraseology is critical to avoid confusion and provide meaningful consumer protections.

(3) BAN NEW BUSINESS UNDERWRITING BASED SOLEY ON CREDIT HISTORY - Insurers may not deny coverage based on credit history unless they consider underwriting factors independent of credit information.

Pros:

1. Insurers may not use credit history as the only factor in new business underwriting to the exclusion of other relevant underwriting factors.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

2. Insurers maintain flexibility in new business underwriting (where the insurer has less information about the customer).
3. Companies retain flexibility in structuring rating plans.
4. Resolves concerns about availability.

Cons:

1. "Sole basis" restrictions are ineffective if insurers use credit history as 99% of the reason for underwriting actions.
2. Insurers may interpret "sole basis" restrictions to mean a consumer is not eligible for insurance if they do not have a minimum insurance score.
3. Restrictions add an additional layer of regulation on underwriting practices and reflect a movement away from a free market approach.
4. Insurers can use pre-screening to solicit business with a "hit" or a "score" (which may benefit direct writers to the detriment of independent agents).

Other Issues:

1. Phraseology is critical to avoid confusion and provide meaningful consumer protections.

(4) BAN CANCELLATION OR NON-RENEWAL BASED ON CREDIT HISTORY - Insurers may not cancel or non-renew existing policyholders based on credit history.

Pros:

1. Current policyholders would be evaluated based on traditional underwriting factors – which they may better understand.
2. Agents would find it easier to explain underwriting actions to customers.
3. Insurers would not be able to use credit history as 99% of the reason for an underwriting action (as a "sole basis" restriction permits).
4. Simplifies market conduct review of underwriting practices.

Cons:

1. Restrictions add an additional layer of regulation and reflect a movement away from a free market approach.
2. Legislatively, this may be the most difficult underwriting option to enact.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

Other Issues:

1. Many existing laws already address cancellation and non-renewal.
2. Restrictions must conform to federal Fair Credit Reporting Act.
3. More sweeping step than "sole basis" restrictions.
4. Some insurers, such as Progressive, have publicly stated support for this type of prohibition.

(5) PLACEMENT WITH AN AFFILIATED INSURER - Offer to place applicant with "affiliated" insurer is not considered denial, cancellation or non-renewal of coverage.

Pros:

1. Recognizes that availability issues do not occur where coverage is offered.
2. Puts multi-company groups on a level playing field with insurers that use rating tiers to determine premiums.

Cons:

Other Issues:

1. Should be combined with restrictions on cancellation, denial and non-renewal.

(6) EXTRAORDINARY CIRCUMSTANCES – Require insurers to offer reasonable underwriting exceptions if an extraordinary personal circumstances adversely impacts a consumer's credit history.

Pros:

1. People who are "down-on-their-luck" will not have to deal with the added concern of insurance availability.
2. Underwriters will have discretion to treat customers as individuals.
3. Agents may have more influence on situations involving extraordinary personal circumstances.

Cons:

1. Many states permit underwriting discretion, so companies can already take a second look at a risk upon request.
2. Insurers want to determine their own business practices.

Other Issues:

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

1. “Extraordinary personal circumstances” must be defined. Options include a serious illness, involuntary unemployment, or divorce. Repeated events do not constitute an extraordinary circumstance.
2. Must comply with laws in some states that require similar risks to be treated consistently (laws often prohibit “unfair discrimination”).
3. Insurers may have to establish an underwriting review team and develop procedures.
4. Documentation of the “extraordinary circumstance” is needed to ensure consistent treatment. Insurers may require that documentation be written and independently verifiable.

(7) BAN PAYMENT PLAN RESTRICTIONS - Prohibit insurers from offering less favorable payment plans based on credit history.

Pros:

1. Insurers would not be able to use payment plans to circumvent restrictions on cancellation, denial or non-renewal.
2. A policyholder’s track record paying insurance premiums would determine their payment plan (if a policyholder’s premium payment history is exempted from such a ban).
3. Payment plans are important to low income people.

Cons:

1. Holds insurers to a higher standard than other industries with respect to the purchase of products and services.
2. Lapsed policies cost money.
3. Credit history may be relevant to whether an insurer should extend credit.
4. Restrictions must comply with the federal Fair Credit Reporting Act.

Other Issues:

1. Should new and renewal business be treated the same?
2. Can a policyholder earn favorable payment plans?
3. Restrictions should be consistent with other laws dealing with premium payment plans.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

(8) BAN USE OF "NO HIT" OR "NO SCORE" IN UNDERWRITING – Insurers may not deny, cancel or non-renew if a consumer has "no hit" or "no score".

Pros:

1. Addresses concerns about whether certain portions of the population, like the elderly and certain ethnic groups, use less credit.
2. Insurers have other underwriting factors available for risk selection.

Cons:

1. Some insurers may be able to show that certain groups of consumers with "no hit" or "no score" have poor claims history.
2. Insurers can use pre-screening to solicit business with a "hit" or a "score" (which may benefit direct writers to the detriment of independent agents).
3. Restrictions add an additional layer of regulation on underwriting practices and reflect a movement away from a free market approach.

Other Issues:

1. This restriction should be evaluated in the context of other restrictions adopted by a state, such as limits on cancellation, denial or non-renewal of insurance based on credit history.
2. "No score" is not the same as a "thin file." A "thin file" for certain groups, such as the elderly, often places the consumer in a favorable score range.
3. Some consumers may have "no hit" because they provide incorrect information. Consumers must be required to cooperate and provide accurate information.
4. Some consumers may have "no score" because past credit history is poor and they have been unable to obtain credit.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

(9) RESTRICT USE OF "NO HIT" OR "NO SCORE" IN UNDERWRITING – Insurers may not deny, cancel or non-renew if a consumer has "no hit" or "no score" unless they consider underwriting factors independent of the consumer's lack of credit history.

Pros:

1. Addresses concerns about whether certain portions of the population, like the elderly and certain ethnic groups, use less credit.
2. Insurers must underwrite people with no credit history based on traditional underwriting factors – which they may already understand.
3. Insurers may not use credit history as the only factor in renewal underwriting to the exclusion of other relevant underwriting factors.

Cons:

1. Insurers can use pre-screening to solicit business with a "hit" or a "score" (which may benefit direct writers to the detriment of independent agents).
2. Some insurers may be able to show that certain groups of consumers with "no hit" or "no score" have poor claims history.
3. Restrictions add an additional layer of regulation on underwriting practices and reflect a movement away from a free market approach.

Other Issues

1. This restriction should be evaluated in the context of other restrictions adopted by a state, such as limits on cancellation, denial or non-renewal of insurance based on credit history.
2. "No score" is not the same as a "thin file." A "thin file" for certain groups, such as the elderly, often places the consumer in a favorable score range.
3. Some consumers may have "no hit" because they provide incorrect information. Consumers must be required to cooperate with the insurer and provide accurate information.
4. Some consumers may have "no score" because past credit history is poor and they cannot obtain credit.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

(10) NO ACTION – UNDERWRITING.

Pros:

1. Regulators have tools now, such as unfair trade practices laws, market conduct and insurance department consumer assistance programs.
2. Consistent with a free market approach.

Cons:

1. Current protections have not yet alleviated the concerns of consumers.
2. Many current insurance laws were developed before credit history was used in underwriting.

Other Issues:

1. Insurers have other tools that they can use to underwrite insurance.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

RATING ISSUES: Insurers use credit history to determine pricing for personal lines insurance coverage.

Options:

(1) BAN USE OF CREDIT HISTORY FOR RATING - Insurers may not use credit history to determine premiums.

Pros:

1. Consumers will be evaluated based on traditional rating factors independent of credit – which they may better understand.
2. Agents would find it easier to explain how rates are developed.
3. Insurers have other rating factors available to price insurance products.
4. Most comprehensive option to deal with allegations that the use of credit history is a form of red-lining.

Cons:

1. Most insurers are now using credit history for rating purposes. Turning back the clock may result in significant premium changes for some consumers.
2. Legislatively, this will be the most difficult rating option to enact.
3. Prohibits insurers from using any correlation between credit history and loss history to make rates.
4. Insurers can use pre-screening to solicit business with a "hit" or a "score" (which may benefit direct writers to the detriment of independent agents).
5. Consumers who now pay less premium due to their credit history will pay more for insurance.

Other Issues:

1. Will require the re-filing of rating plans for many personal lines products.
2. Restrictions must conform to federal Fair Credit Reporting Act.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

(2) PROHIBIT PREMIUM INCREASE AT RENEWAL - Insurers may not increase premiums for existing customers based on credit history.

Pros:

1. Existing customers will not have premiums increased due to credit history. Insurers may increase rates only as a result of traditional rating factors.
2. Consumers may be able to lower their premium if their credit history improved.
3. Would eliminate consumer complaints that premium went up at renewal based solely on credit history alone.

Cons:

1. A one-way approach which allows only premium decreases on renewal may be unfairly discriminatory.
2. Limits insurers' ability to use a correlation between credit history and loss history to make rates.
3. This approach may not have a uniform impact on insurers, since the scores represented by their overall book of business may be different.

Other Issues:

1. This approach will likely force rate re-filings.
2. Rating restrictions should be reviewed in the context of other limitations being put into place that are designed to lessen the effect of credit history.
3. Consider existing laws against rates that are excessive, inadequate or unfairly discriminatory.

(3) PREMIUM CAP - Cap the amount of premium surcharge or discount that results due to credit history.

Pros:

1. Credit history would not be the primary reason premiums change (a return to traditional rating factors).
2. Some consumers will pay less for insurance.

Cons:

1. Premium caps are difficult to implement (from a rating and systems standpoint).
2. Premium caps may lessen the diversity product offerings and prices.
3. This approach will require re-filing of rating plans.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

4. This approach will produce rate subsidies where there is a conclusive correlation between credit history and loss history, and some consumers will pay more as a result.
5. Legislatively, this will be a difficult restriction to enact.
6. This approach may not have a uniform impact on insurers, since the scores represented by their overall book of business may be different.
7. Annual premium caps may result in companies treating similar risks differently; both may deserve the same rate on renewal but the caps may not allow insurers to charge them both the same rate.

Other Issues:

1. Rating restrictions should be reviewed in the context of other limitations that lessen the effect of credit history has in premium development.
2. These kinds of restrictions are difficult to implement. Premium is the total charge for coverage and produced using a variety of rating factors. It is difficult to cap one premium developed from one aspect of a rating plan when other rating factors are involved.

(4) ACTUARIAL SUPPORT - Require insurers to actuarially support rating differentials based on credit history.

Pros:

1. Consumers should be charged premiums based on credit history or any other factor only if they are actuarially justified.
2. Actuarial review may alleviate some concerns over fairness.
3. Regulators will be able to review actuarial justification and insurer compliance with state rating laws.

Cons:

1. May require new insurance department resources or reallocation of existing resources.

Other Issues:

1. Requirements should address the adequacy of confidentiality protection and the scope of materials and documentation to be provided.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

(5) MULTIVARIATE ANALYSIS - Require insurers to perform a multivariate analysis that evaluates other rating factors if they use credit history in rating.

Pros:

1. May quell the call for premium caps and other rating restrictions if regulators and consumer groups are convinced that credit-based rating plans do not "double count" for other rating factors.
2. Multivariate analysis is a commonly used analysis in other counties (such as the UK) to develop rating plans.
3. Multivariate analysis will improve the accuracy of other rating factors.

Cons:

1. Credit history will be held to a higher standard than traditional factors.
2. Smaller insurers may object to cost and staff time required.
3. May require new insurance department resources or reallocation of existing resources.

Other Issues:

1. The scope of multivariate analysis should be carefully considered.
2. Process for new entrants to the marketplace should be considered.
3. A lack of uniformity among states may increase costs and slow the time to market.
4. States may have authority to require this analysis under current rating laws.
5. A number of insurers already perform multivariate analysis.

(6) NEUTRAL RATING FOR "NO HIT" OR "NO SCORE" – Insurers must treat no hits or no scores in a limited or "neutral" fashion for rating purposes.

Pros:

1. Addresses concerns about whether certain portions of the population, like the elderly and certain ethnic groups, use less credit.
2. Insurers will have to rate people with no credit history based on underwriting factors independent of credit history.
3. Insurers have other rating factors available to price insurance products.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

Cons:

1. Insurers can use pre-screening to solicit business with a “hit” or a “score” (which may benefit direct writers to the detriment of independent agents).
2. Restrictions reflect a movement away from a free market approach.
3. People can try to hide their credit history by providing incorrect information.
4. Limits ability to use correlation between credit history and loss history to make rates.

Other Issues:

1. Must define what “neutral” means.
2. “No score” is not the same as “thin file.” Some consumers with thin files, such as the elderly, may deserve better than a “neutral” rating.
3. Consumers should cooperate in providing correct information.

(9) RESTRICT RATING BASED ON “NO HIT” OR “NO SCORE” – Insurers may not rate based on “no hit” or “no score” unless they consider rating factors independent of the consumer’s lack of credit history.

Pros:

1. Addresses concerns about whether certain portions of the population, like the elderly and certain ethnic groups, use less credit.
2. Insurers must underwrite people with no credit history based on traditional underwriting factors – which they may already understand.

Cons:

1. Insurers can use pre-screening to solicit business with a “hit” or a “score.”
2. Some insurers may be able to show that certain groups of consumers with “no hit” or “no score” have poor claims history.
3. Restrictions add an additional layer of regulation on underwriting practices and reflect a movement away from a free market approach.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

Other Issues:

1. This restriction should be evaluated in the context of other restrictions adopted by a state, such as limits on cancellation, denial or non-renewal of insurance based on credit history.
2. “No score” is not the same as a “thin file.” A “thin file” for certain groups, such as the elderly, often places the consumer in a favorable score range.
3. Some consumers may have “no hit” because they provide incorrect information. Consumers must be required to cooperate with the insurer and provide accurate information.
4. Some consumers may have “no score” because past credit history is poor and they cannot obtain credit.

(8) PERIODIC REVIEW OF INSURANCE SCORE – If requested by an insured, require an insurer to re-calculate an insurance score at renewal if the insurer has previously taken an adverse action.

Pros:

1. Some attributes of credit history are a snapshot in time. A consumer would not be stuck with high premiums indefinitely based on one scoring period.
2. Consumers can benefit if they are pro-active in improving their credit history.
3. Insurers may achieve better retention if an insured does not have to “shop around” to lower their premium.

Cons:

1. Cost of calculating a new score at renewal.
2. An insurance score may go up or down if it is re-calculated. Some consumers may get premium increases. This may impact retention as well.

Other Issues:

1. The consumer may already be getting the best rate/premium.

(9) NO ACTION - RATING

Pros:

1. Some regulators currently have authority to review credit scoring rating plans.
2. Consistent with a free market approach.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

Cons:

1. Current protections have not yet alleviated the concerns of consumers.
2. Current insurance laws were not designed to address the use of credit history in rating. This is a relatively new practice.

Other Issues:

1. Some consumer protections are currently in place, including the FCRA, state rating laws in some jurisdictions, unfair trade practices laws, market conduct activities and consumer assistance programs. States should analyze existing authority before proposing new reforms.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

INSURANCE SCORING MODELS ISSUES: Insurers use credit-based scoring models to determine premiums and eligibility for personal lines insurance coverage.

Options:

(1) CREDIT HISTORY IN DISPUTE - Prohibit insurers from using credit history in dispute to determine premiums or eligibility for coverage.

Pros:

1. Vendors can exclude disputed items from data used by insurance scoring models.
2. Consumers would be able to use the process in the FCRA to correct their records.
3. Consumers would be empowered to solve issues related to incorrect credit history.

Cons:

1. Some consumers may file frivolous disputes to avoid premium increases. However, insurers could treat this as they would any other undisclosed piece of relevant rating information.

Other Issues:

1. Consumers would have to notify an insurer after they go through a dispute process.
2. The federal FCRA anticipates that most disputes will be resolved within 30 days.
3. Insurers would have to re-score a consumer who successfully disputes items in their credit history
4. A state would have to specify a reasonable time period for adjustment of premium, perhaps the shorter of the policy period or 12 months.
5. Effectiveness depends on the consumer going through the dispute process.

(2) DATA ELEMENTS - Restrict the credit attributes used in insurance scoring models.

Pros:

1. Models would have more uniformity and be more transparent to consumers.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

2. Some attributes used in models are hard to explain or justify to consumers. For example, if the rationale for using insurance scoring relates to the “financial stability” of the consumer, what does the type of credit card they have or the number of time they have shopped for a loan have to do with stability?
3. Some attributes used in credit scoring models, such as medical collections, may hurt people who have unusual and unforeseen expenses due to a serious illness or the inability to buy medical insurance.

Cons:
1. Less variety in the models may result in less consumer choice in the marketplace.
2. Restricting data elements may limit the predictive value of some insurance scoring models.

Other Issues:
1. Some elements are extremely difficult if not impossible to remove from consideration.
2. With fewer elements in the model, more weight may be placed on the remaining factors. The remaining factors may or may not be more closely tied to the consumer’s performance in handling debt.

(3) PROHIBITED INFORMATION - Prohibit insurers from using attributes such as income, gender, race, nationality or religion in insurance scoring models.

Pros:
1. The public expects that these factors will not be used in insurance rating and underwriting.

Cons:
1. May duplicate existing state law.

Other Issues:
1. This can likely be addressed by a rule in most states.

(4) FILING - Require insurance scoring models to be filed.

Pros:
1. Regulators have the opportunity to review and understand the scoring models.

Cons:

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

1. Staff resources to review models.

Other Issues:
1. Confidentiality will remain an important issue to the insurance industry and some vendors, as they consider this information is proprietary in nature.
2. Vendors of models should be permitted to file models with regulators on behalf of or for use by insurers to reduce administrative paperwork.

(5) CONFIDENTIALITY - Exempt insurance scoring models from public disclosure, except in the context of an enforcement action.

Pros:
1. If an insurer makes an investment to develop a model, it should have the opportunity to profit from that investment.
2. Exposing proprietary information may lead to competitive harm for insurers.
3. Consumers want to know how their credit history affects their insurance premiums.

Cons:
1. If a competitor has access to these data, that insurer obtains information at no or little cost.   This may benefit that competitor in the marketplace.
2. Difficult for regulators and agents to explain beyond a general description how credit history affects pricing if the models are confidential.

Other Issues:
1. Where confidentially is proposed, the insurance scoring models themselves, as well as the guidelines or rules relating to them, should be considered proprietary.
2. Consumers have an interest in understanding how these models work. Perhaps this could be addressed by insurers through improved customer education.

(6) NO ACTION - MODELS

Pros:
1. Regulators may be able to require models to be filed under current rating laws.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

2. Consistent with a free market approach.

Cons:

1. Current protections have not yet alleviated the concerns of consumers.
2. Current insurance laws were not designed to address the use of credit scoring models. This is a relatively new practice.

Other Issues:

1. Numerous consumer protections currently in place, include the FCRA, state rating laws, unfair trade practices laws, insurance department assistance and the market conduct process.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

DISCLOSURE: Insurers' practices differ with respect to disclosing the use of credit history to determine premiums and eligibility for personal lines insurance coverage.

Options:

(1) DEFINE "ADVERSE ACTION" - Define "adverse action" to be consistent with the definition in the federal Fair Credit Reporting Act.

Pros:

1. Insurers must provide notice consistent with legal standards provided by the federal FCRA.
2. The Federal FCRA defines "adverse action" as follows:

   . . .a denial of cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms or coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of insurance; . . ..

   This definition may be interpreted broadly, and insurers risk of violating § 615(a) of the Federal FCRA if they do not provide notice.
3. Consistent definition will make disclosure requirements more uniform.
4. Consistent with the advisory opinion letter written by FTC staff on March 1, 2000 in response to questions of one insurer through its counsel.
5. Allows consumers the right of legal action at the state level.

Cons:

1. Any state differences may complicate compliance.
2. Any lack of consistency with the federal law may present problems, since the credit bureaus' trigger is also "adverse action."

Other Issues:

1. Obligations of credit reporting agencies should be reviewed.
2. Some vendors want insurers to disclose both positive and negative attributes of credit history.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

3. The Federal Trade Commission has stated it will publish information about the definition of "adverse action" and commence enforcement actions against insurers.
4. Insurers need lead time to implement notice procedures.

(2) "ADVERSE ACTION" NOTICE - Require notice if an insurer takes an adverse action based on credit history.

Pros:

1. This follows the approach taken in the FCRA.
2. States may be able to adopt disclosure rules without additional legislation.
3. Raise awareness of consumers.

Cons:

Other Issues:

1. A uniform definition of adverse action would be the most cost effective way to implement this requirement.
2. Some vendors want insurers to disclose both positive and negative attributes of credit history.
3. Already required by federal FCRA.

(3) PRE-DISCLOSURE NOTICE THAT CREDIT HISTORY WILL BE USED IN UNDERWRITING OR RATING - Require advance notice if an insurer will obtain credit history for insurance underwriting or rating.

Pros:

1. This will raise the awareness of consumers.
2. May reduce frustration upon receipt of a post-notification.
3. Consumers can decide whether they really want an insurance quote if the insurer is going to check their credit history.

Cons:

1. This is a new layer of regulation, extending beyond the requirements of the federal law.
2. Adds to the cost of insurance.

Other Issues:

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

1. Pre-disclosure must not be confused with consent.
2. The disclosure should be allowed either in writing or in the same medium as the application.
3. Notice should not be required prior to each renewal.

(4) NOTICE OF FACTORS THAT CAUSE ADVERSE ACTION- Require insurers to disclose the specific attributes of credit history that result in an adverse action.

Pros:

1. Consumers will better understand what aspects of their credit history cause their premiums to increase.
2. Consumers will be able to take steps to improve their credit history and lower their premiums.
3. Credit scoring vendors can work with insurers to provide this information.
4. States may be able to adopt disclosure rules without additional legislation.

Cons:

1. May require system changes.
2. If very specific and detailed information is required to be disclosed, the cost will by high.

Other Issues:

1. Some vendors want insurers to disclose both positive and negative attributes of credit history.
2. Credit scoring vendors provide reason codes that indicate significant issues with a credit score. It is possible to provide consumers with explanations corresponding to some of these reason codes. A uniform approach in disclosing credit history attributes is crucial if costs are to be controlled.
3. Individual states must decide whether companies are permitted to either to provide this information as a matter of course or to provide it upon the request of the consumer.
4. The degree of detail that must be disclosed should be carefully reviewed. Insurers and agents are not credit counselors.

(5) NOTICE OF PREMIUM INCREASE - Require insurer to disclose to their insured any amount of premium increase due to credit history.

Pros:

1. Consumers will understand the impact of credit history on their insurance premiums.

© 2003 National Association of Insurance Commissioners

Credit-Based Insurance Scoring: Regulatory Options

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003

This document contains a list of regulatory options states state may choose to reference when establishing state public policy, laws and regulations addressing the use of credit scores.

Cons:
1. May not be mathematically possible under many existing rating plans. This may require the re-filing of all rating plans.
2. May result in less diversity between competitors in their product pricing.
3. Does not contemplate the inclusion of savings (however, insurers are free to voluntarily disclose savings).
4. Creates a unique requirement for credit history that is not imposed for other rating factors.

Other Issues:
1. Re-filing of entire plans may be required.
2. This is a major undertaking for insurance departments as well as for insurers trying to figure out how to comply.
3. Credit is only one factor for many companies.
4. States may be able to adopt disclosure rules without additional legislation.

(6) NO ACTION - NOTICE

Pros:
1. Avoids additional regulation.
2. FCRA already requires notice of an adverse action.

Cons:
1. Current insurance laws and regulations were developed before credit history was used extensively in insurance underwriting and rating.
2. Disclosure by insurer has been inconsistent and often not useful to consumers.
3. Consumers need information in order to make informed decisions that affect their insurance costs.
4. The use of credit history in insurance underwriting and rating needs to be more transparent to consumers.
5. If consumers have more information about their credit history, they may made different decisions the will improve both their insurance score and credit score. Perhaps this could be addressed by insurers through improved customer education.

© 2003 National Association of Insurance Commissioners

ADOPTED BY THE CREDIT SCORING (D) WORKING GROUP: JANUARY 17, 2003
This brochure is a guide that states may choose to modify to ensure consistency with state public policy, laws and regulations addressing the use of credit scores.

CONSUMER BROCHURE

UNDERSTANDING HOW INSURERS USE CREDIT INFORMATION

Many personal auto and homeowners insurance companies look at consumer credit information to decide:

- Whether to issue or renew an insurance policy
- How much premium to charge for insurance

This brochure will help you understand how insurance companies use your credit information and how this business practice affects how much you pay for insurance.

1. Can an insurance company look at my credit information without my permission?

Yes. Both the federal and state Fair Credit Reporting Acts (FCRA), say that insurance companies may look at your credit information without your permission for underwriting practices. The federal law may be found at http://www.ftc.gov/. The state law is ___________, and may be found at ____________. *(Note: We recommend individual states amend to include relevant state-specific laws, in addition to the federal FCRA citation).*

2. Why do insurance companies use credit information?

Some insurance companies have shown that information in a credit report can predict which consumers are likely to file insurance claims. They believe that consumers who are more likely to file claims should pay more for their insurance.

3. How do I know if an insurance company is using my credit information?

Ask your insurance agent or company if they use credit information for underwriting or rating. If credit history is used for underwriting, ask them how it affects your eligibility for coverage. If credit history is used for rating, ask them how it affects your insurance premium. Finally, you should also ask if they will check the credit history of other people insured on your policy, such as family members, and how they will affect your policy.

4. If I don't have a credit history, will it affect my insurance purchase?

Possibly. Not all insurance companies handle this situation the same way. Some companies will charge you more. Other companies will use other information, such as driving record or claims history, to decide whether to insure you or how much premium to charge.

There is something you can do. Sometimes an insurer will not be able to find a meaningful credit history for you. If you think you have a credit history but the insurer cannot find it, make sure your agent or insurance company has your correct name, address, social security number, and birth date.

© 2003 National Association of Insurance Commissioners

5. How do insurance companies use credit history?

Insurers can use your credit history to **underwrite** your insurance policy or to **rate** your insurance policy.

- **Underwriting.** Underwriting is a process where an insurance company gathers information and decides whether or not they will insure you. *(Note: We recommend individual states provide a brief summary of relevant state-specific laws that affect an insurer's ability to use credit history for underwriting.)*
- **Rating.** Rating is a process that determines how much you pay for insurance. Many insurers charge higher premiums based on various attributes of an individual's credit history, some of which are described in question 7. *(Note: We recommend individual states provide a brief summary of relevant state-specific laws that affect an insurer's ability to use credit history for rating.)*

6. What kind of credit information do insurance companies use?

Most companies that use credit information use an "insurance credit score." An insurance credit score is calculated using information about your credit history. Many insurance credit scores are weighted using recent credit history more heavily than old credit history. The factors used in many scoring models are:

- **Public records** (such as bankruptcy, collections, foreclosures, liens, and charge-offs). Public records generally have a negative effect on your insurance credit score.
- **Past payment history** (the number and frequency of late payments and the days between due date and late payment date). Late payments tend to have a negative effect on your insurance credit score.
- **Length of credit history** (the amount of time you've been in the credit system). A longer credit history tends to improve your insurance credit score.
- **Inquiries for credit** (the number of times you've recently applied for new credit, including mortgage loans, utility accounts, and credit card accounts). Shopping for new credit tends to have a negative effect on your insurance credit score.
- **Number of open lines of credit** (including the number of major credit cards, department store credit cards). Having too much credit tends to have a negative effect on your insurance credit score. However, it generally is not a good idea to cancel a credit account that you have had for a long time. A long credit history may help your score.
- **Type of credit in use** (such as major credit cards, store credit cards, finance company loans, etc). Major credit cards may be treated more favorably than other types of consumer credit, such as store credit card or loans from finance company.
- **Outstanding debt** (how much you owe compared to your available credit). Too much outstanding debt tends to have a negative effect on your insurance credit score.

Insurance credit scores are not uniform among insurance companies. Insurance companies have different views on which factors are more important based on their experience and business practices. For example, one company might feel that public records are more important than past payment history. Another company might take the opposite view. How much weight a company gives each of the factors determines, to a large extent, your insurance credit score with that company.

© 2003 National Association of Insurance Commissioners

7. What is a good insurance credit score?

There is no single answer to this question. Generally, a good insurance credit score will translate to lower premiums. However, insurance companies use different scoring calculations, so different insurers will likely give you a different score. That is why it pays to shop around on a regular basis to make sure your premiums are competitive.

8. Is my premium based entirely on my insurance credit score?

No. Both auto and homeowners premium are based on factors other than credit history. Your auto insurance premium is based on factors such as your driving record, the type of car you drive, and where you live. Your homeowners premium is based on factors such as where you live and the cost to replace your home. Credit history is only one of a number of factors insurers use to rate your policy.

9. Must an agent or company tell me what my insurance credit score is?

No. In fact, the agent or company underwriter might not even know your score. Instead, all your agent or underwriter may know is that your score qualifies you for a particular rate or company within the group.

Even if you know your insurance credit score, it may not be useful to you. Your insurance credit score is a “snapshot in time,” and a significant change in your credit activity or a creditor's report can change your score.

10. If I don't know my score, and my score varies from company to company, how will I know if my credit history affects my insurance purchases?

Ask your insurance agent or insurance company. The FCRA requires an insurance company to tell you if they take an "adverse action" because of your credit information. FCRA defines “adverse action” to include denying or canceling coverage, increasing premiums, or changing the terms, coverage, or amount of coverage in a way that harms the consumer. Examples of an “adverse action” include:

- Canceling, denying or non-renewing coverage.
- Giving the consumer a limited coverage form.
- Limiting benefits, such as eligibility for dividends.
- Issuing coverage other than that applied for.
- Not giving the consumer the best rate.
- Not giving the consumer the best discount.
- Adding a premium surcharge.

If your insurer takes an adverse action due to your credit history, it must also tell you the name of the national credit bureau that supplied the information. You are also entitled to a free copy of your credit report from the credit bureau that supplied the credit information.

Federal law says you have a right to a free copy of your credit report if you’ve been denied credit or insurance, if you are on welfare, unemployed, or if you are a victim of identity theft. Otherwise, you may have to pay a small fee (the current fee is $9 for each report). Most

© 2003 National Association of Insurance Commissioners

consumer groups suggest you get a copy of your credit report once a year and review it for errors.

11. What can I do if there is incorrect information in my credit report?

Tell the credit bureau. If you report an error, the credit bureau must investigate the error and get back to you within 30 days. The credit bureau will contact whoever reported the information. Credit information is often reported by banks, credit card companies, collection agencies, or a court clerk. If the investigation shows the information is wrong or if there is no proof it is true, the credit bureau must correct your credit record.

You can ask the credit bureau to send a notice of the correction to any creditor or insurer that has checked your file in the past six months. Once the errors are corrected, it is a good idea to get a new copy of your credit report several months later to make sure the wrong information has not been reported again. You should also get a copy of your credit report from the other national credit bureaus, which are listed below. If you correct an error on one report, it will not “fix” incorrect information on the other reports.

If the information in your credit report is correct, the credit bureau will not change it. However, the FCRA lets you file a 100-word statement explaining your side of the story, and the credit bureau must include your statement with your credit information each time they send it out. Make sure your insurance company has a copy of your statement, and ask if it will take your statement into account.

The three national credit bureaus are:

- Equifax (www.credit.equifax.com or 800-685-1111);
- Experian (www.experian.com or 888-397-3742); and
- Trans Union (www.transunion.com or 800-888-4213).

Tell your insurance company. Don't wait until the credit bureau investigates the errors to contact your insurer. Tell your insurance company right away and ask if the errors will make a difference in your insurance.

If the errors are big, tell your insurer that you are disputing the information and ask if they will wait to use your credit information until the errors are corrected. Small errors may not have much effect on your credit score. If the errors are big, it can make a significant difference in your premium.

12. How can I improve my insurance credit score if I have been adversely affected?

You must find out what attributes of your credit history were used to calculate your insurance credit score. An “attribute” is a piece of your credit history, such as filing bankruptcy or paying bills late. Companies that develop insurance credit scores, such as Fair Isaac and Choice Point, provide insurance companies with up to four attributes that have had a negative impact on your insurance credit score. The agent or company should be able to tell you which attributes of your credit history had the most impact on your score.

© 2003 National Association of Insurance Commissioners

Potential ways improve your credit score:

- Don't try to "quick fix"' your credit overnight. You could end up hurting your score. For example, your score may go down if you cancel a credit card that you have had for a long time.
- Don’t pay someone to “fix” your credit history. Some credit repair firms promise, for a fee, to get accurate information taken out of your credit report. Accurate information cannot be deleted from your credit report. Some credit repair firms promise to “fix” your credit report by challenging information in it. They charge you a fee to do that. This is something you can do for yourself without paying the fee.
- Create a plan to improve your credit over time. Pay your bills on time. Pay at least the minimum balance due, on time, every month. If you cannot make a payment, talk to your creditor. Work to reduce the amount you owe, especially on revolving debt like credit cards.
- Limit the number of new credit accounts you apply for. Several applications for credit in a short time will usually lower your credit score.
- Keep at it. Your credit history will improve over time if you make changes now and continue to improve. If you manage your credit better, your credit score will improve over time.

13. Where can I go for help with credit problems?

If you cannot resolve your credit problems alone, a non-profit credit counseling organization may be able to help you. Non-profit counseling programs are often operated by churches, universities, military bases, credit unions, and housing authorities. You can also check with a local bank or consumer protection office to see if they have a list of reputable, low-cost financial counseling services.

14. Will my credit history haunt me forever?

Probably not. Credit history is just that – history. Once you find out what attributes of your credit history is affecting your insurance credit score, you can work to improve your record. If your premiums are high because of your credit history and you take steps to improve your record, you should:

- Ask your insurance company to re-evaluate your insurance credit score at renewal.
- Shop for new insurance at renewal to see if better prices are available.

15. Does using credit information penalize minorities or low-income consumers?

We do not know. Statistical studies have not conclusively determined whether insurance credit scoring disproportionately affect minorities or the poor. Insurance regulators nationwide are currently examining this issue.

Consumer groups worry that insurance credit scores will be lower for low income and minority groups. Consumer groups also point to the fact that most insurers and insurance credit scoring model vendors will not make their insurance scoring models public so consumers can see how they use credit data to calculate a score.

© 2003 National Association of Insurance Commissioners

16. Where can I get more information?

- Ask your insurance agent or company if they have educational material that explains how they use credit.
- Contact the Department of Insurance by calling our Consumer Assistance Hotline toll free at ……………… or visiting our website at …………………
- Contact the Federal Trade Commission for information about the FCRA or their consumer brochures on credit. Call 877-382-4357 toll free or visiting their website at www.ftc.gov.
- Choice Point offers a service which allows consumers to see their insurance credit scores. The service costs $12.95 and is available at www.choicetrust.com.
- Search the Internet, but be sure the information you find explains how insurers (not lenders) use of credit information.
- Contact your local Cooperative Extension Service for information about improving your credit history.

17. Final Points to Remember

- There is a good chance your current or prospective insurer is looking at your credit.
- Ask your insurance agent or company if they use credit information, how they use it, and whether it affects your rate.
- Get a copy of your credit report from each of the three national credit bureaus and correct any errors. Tell your insurance agent and company about any errors and tell them your side of the story.
- Improve your credit history if you have had past credit problems. Ask your agent or company for the top reasons (factors) that your insurance credit score is low, and work to improve those pieces of your credit history. If you are paying higher premiums because of your credit history, ask your insurer to re-evaluate you when you improve your credit. If your insurer will not agree to re-evaluate you, it is probably time to "shop around."
- Shop around for insurance. Insurance companies use credit information in different ways, so your rates can vary dramatically from company to company.

W:Mar03\Cmte\D\Wg\CrScore\bchradpt.doc

© 2003 National Association of Insurance Commissioners