

Testimony of
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Before the
Subcommittee on Financial Institutions and Consumer Credit
Of the
House Committee on Financial Services

Regarding:
“Use of Credit Information Beyond Lending:
Issues and Reform Proposals”

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Chairman Gutierrez, Ranking Member Hensarling, and members of the Subcommittee, thank you for the opportunity to testify on the use of credit-based insurance scores in the provision of personal lines of insurance.

My name is Michael McRaith, and I am the Director of Insurance for the State of Illinois. I am also the chair of the Property & Casualty Insurance Committee of the National Association of Insurance Commissioners (NAIC), and I am representing that organization today. Today I will address the use of credit-based insurance scores and the NAIC's continuing effort to provide reliable information to policymakers on this topic.

INTRODUCTION

Consumer protection has been, is, and will remain the first priority for state insurance regulators. In that capacity, we enforce the laws enacted and regulations promulgated within our respective states.

In my testimony, I will describe the role of credit-based insurance scores in the State of Illinois today. I also will report on actions undertaken by the NAIC to collect data and further elucidate the role of credit-based insurance scores and the impact on personal lines insurance.

The Use of Credit-Based Insurance Scores in Personal Insurance Lines

The use of credit-based insurance scoring forces an examination of the fundamental purpose of insurance, and the acceptability of factors used to underwrite, or assess, an individual risk and to classify and price, or rate, an individual risk. Proponents argue that credit-based insurance scores are predictive of an insured's future claims experience, and are a necessary tool for underwriting and/or rating. Substantial evidence supports this claim. Opponents argue that the use of a credit-based insurance score discriminates against lower income individuals and those within protected classes.

A significant number of studies support both sides of the debate. For example, in 2004-2005, the Texas Department of Insurance ("TDI") studied the use of credit in underwriting. The TDI study indicated that credit scores are widely used by insurers but only in connection with other criteria such as driving record. The study also noted that the impact of a credit score on the ultimate price of insurance varied significantly among insurers, and even among products offered by an individual insurer. The TDI study also reported that certain segments of the population are disproportionately represented in the lower tiers of credit scores and, therefore, are disproportionately and negatively impacted by the use of credit in underwriting.

Alaska, Florida and Hawaii, among others, as well as the Federal Trade Commission, have also reviewed the impact of credit scores upon personal lines consumers.

Proponents of credit scores emphasize that insurers' use of credit-based insurance scores streamlines the underwriting process for a significant number of consumers and benefits a majority of consumers. In short, the arguments remain unsettled: (1) use of credit-based insurance scores adversely impact people in protected classes, or (2) use of credit-based insurance scores allows for more accurate pricing, thus allowing more consumers to receive reasonable offers.

The public policy questions involved with credit-based insurance scores raise broader implications that extend beyond the insurance sector, and beyond the scope of this hearing. If, in fact, both proponents and opponents are correct, then policymakers must evaluate all relevant factors and provide appropriate guidance to regulators.

For years, insurance regulators have heard arguments and rhetoric, if not diatribe, on both sides of this public policy question. Distinct from the public policy debate, regulators are presently investigating the components of an insurance score, the extent to which any one rating factor affects a consumer, whether consumers have an appropriate understanding of the credit factors that affect a particular insurance policy, and whether insurance score vendors should be subject to enhanced transparency or supervision.

Forty-eight states have taken some form of legislative or regulatory action to address the use of credit scores for insurance. Exhibit A, attached hereto, is a Table identifying state laws relative to credit-based insurance scores. Typically states will not allow credit-based insurance scores to be used as the sole basis for increasing rates or denying, cancelling or non-renewing policies. Other states prohibit credit-based insurance scores being used as the sole basis in underwriting or rating decisions. Some states require insurers to notify applicants or insureds that adverse credit-related decisions have been taken regarding pending applications or existing coverage based on the consumer's credit score. Four states effectively have banned the use of credit information in classification and price-setting processes.

A number of credit characteristics are utilized in developing a credit-based insurance score. Sophisticated mathematical models incorporate different weights in using these credit characteristics to come up with a numerical score. According to some, there are approximately 450 variables obtainable from a credit file and perhaps 10 to 50 are used in developing credit-based insurance scores models. Among the credit-related variables used in credit-based insurance scores are data such as: payment history, bankruptcies, amount of credit utilized, numbers and types of accounts, length of credit history, outstanding debt amounts, debt ratios, age of accounts, new applications for credit, and types of credit in use. Insurance regulators understand that credit score providers utilize a number of these variables, but the formula appears to differ between companies and even between products within a company.

An additional question is whether consumers have a way of registering complaints or problems with the use of credit information for insurance purposes. Consumers report issues or complaints about the use of credit based insurance scores both directly to state insurance regulators, or through the NAIC's Consumer Information Source (CIS). CIS allows a consumer to file a complaint through the NAIC, and research the complaint history of any insurance company. In 2008, consumers reported 86 complaints with credit scoring through CIS, and in 2009 that rose to 157 complaints.

Illinois Law -- One State's Approach

Illinois law allows insurers to use credit information to underwrite and rate an insurance policy. Exhibit B, 215 ILCS 157/1, *et seq.* Illinois law does not restrict the extent to which credit information can impact a premium. Insurers may consider typical credit-related items, including bankruptcy, number and frequency of late payments, home ownership, and how much is owed compared to how much credit is available.

In Illinois, an insurer is required to inform the consumer at the time of application that credit information may be considered by the insurer. If the credit information causes an insurer to take an "adverse action" against the consumer, then the insurer must notify the consumer. An "adverse action" can include not offering the "best rate," not providing a discount, demanding a higher rate, or denying, canceling or non-renewing the policy. In other words, insurers have broad discretion about the use and impact of credit information.

While Illinois law prohibits an insurer from taking an adverse action due to a consumer not having a credit history, the law does not require that consumer to be treated favorably. Illinois law requires only that the treatment of that individual be "actuarially justified." Nothing defines or outlines the definition of a "good" credit score, and Illinois has recently experienced insurers raising the credit score threshold for favorable treatment, thereby increasing premiums for many insureds.

Illinois law nominally recognizes that an insured may experience an "extraordinary life event." 215 ILCS 157/22. However, insurers are only obligated to "review and consider" whether the event justifies an exception to a premium increase.

NAIC Public Hearing on Insurance Companies' Use of Credit Scoring, April 30, 2009

As aforementioned, the scope and use of credit based insurance scores has been addressed by 48 states. Since the complexity of insurance underwriting and pricing has

evolved, insurance regulators work to understand and better illuminate the multiple factors that affect an insurance credit score other than the credit component. The NAIC held a public hearing on April 30, 2009 to explore insurance companies' use of credit scoring. Testimony was received on the following issues: (1) how credit scores are developed and used; (2) data quality in credit reports and actuarial standards; (3) how insurers develop and use credit-based insurance scores; and (4) the consumer perspectives on the use of credit-based insurance scores. The hearing included various opinions that largely repeated the rhetoric and talking points of the various interested parties. We heard from consumer representatives, credit scoring agencies, actuaries and industry representatives. We also developed an expansive written record through the hearing which, along with an audio record, is available on the NAIC web site at NAIC.org.

The findings from the NAIC's public hearing highlighted the need for enhanced understanding both of the underwriting and pricing factors considered by an insurer and the weight attributed to each factor. While regulators know that several factors may determine one's eligibility and coverage costs, state regulators work to keep pace with the insurance industry regarding the weight attributed to each insurance score component. In addition to credit score, regulators know and monitor the relative weight of other factors, including: occupation, education, marital status, income, loss history, lapse in coverage, gender, age and territory, among others.

In addition, insurance regulators have also determined that the insurance score vendors should fall within the insurance regulatory penumbra. While some dispute exists as to whether those vendors are currently subject to insurance regulatory oversight, regulators recognize the important role these vendors play in the business of personal lines insurance.

Insurance score vendors offer a product that impacts a consumer's eligibility and the price a consumer may pay. These vendors avoid transparency and may be unregulated with regard to the information provided by the vendors and relied upon by insurers.

Concerns also exist because a substantial percentage of credit reports contain erroneous information, and credit scores may be adversely impacted by factors totally beyond the consumer's control. For example, the recent banking crisis may have resulted in the reduction of available credit for a consumer, even though the consumer has an excellent payment history. This, of course, increases the credit ratio and reduces that consumer's credit score.

Credit-based insurance scores were first introduced into the insurance industry in 1993, but many consumers remain unaware of the impact of those scores. Some regulators share concern about whether consumers comprehend the use of credit scores and the potential impact of a credit score on an insurance premium. Consumer understanding of coverage eligibility is often limited, just as an understanding of classification and pricing can be limited.

Even credit-related notices received from an insurer pursuant to state law can be confusing. For example, Illinois law requires written notice of any "adverse action" taken against a consumer due to a credit score. This notice, although meaningful to some, merely inspires more questions in many. Consumers often are surprised to learn that auto or home insurance rates may increase due to a credit score.

Throughout 2009, the NAIC collected written and oral testimony from interested parties on the topic of credit-based insurance scores. The rhetoric became predictable and uninformative. Since the question is ultimately a public policy question, insurance regulators, acting in coordinated manner through the NAIC, have undertaken a comprehensive review of all factors involved with personal lines underwriting and rating.

With the explosion of digitized information and electronic communication, insurance scores have become even more sophisticated and dependent upon more discrete pieces of information. We must be vigilant to assure consumers are not rated and priced into increasingly small silos that reduce both the insurance function and consumer benefit.

Consumers will benefit if policymakers and consumers better understand the factors that determine rates and coverage, including the weight given a credit score by a personal lines insurer,. For that reason, we applaud this distinguished Committee's inquiry into this subject matter.

NAIC's State-based Data Call

The NAIC is developing a voluntary data call for states to issue to personal lines auto carriers operating within the borders of that state. The data call will allow regulators to obtain information from insurance companies regarding the development of an insurance score and the range of premium differences among consumers based on the insurance scores. Also, for the first time, the data call will allow states to compare the impact of one state's law regarding insurance scores versus another state's law, and allow policymakers to move forward in a fully-informed manner.

The South Carolina Department of Insurance recently conducted a less formal survey in order to gain insight on how insurers used the insurance scores for pricing of auto and home insurance policies. South Carolina Director Scott Richardson reported that discounts for home insurance ranged from 7.6 percent to 51 percent, and that surcharges ranged from 1 percent to 86 percent. For auto insurance, the discounts were as high as 36 percent, and the surcharges ranged from 12 percent to 99 percent. In Illinois, the same range appears likely.

To protect consumers, regulators continue to monitor, if not approve, the technology and formula used for the development of rates, the variables involved with the determination of an insurance score, and the weight assigned to each variable. The results of the NAIC's broader multi-state data call will be compiled, evaluated and published to inform policymakers about actual consumer impacts.

Need for Legislative Authority – State Involvement

Insurance companies claim that the factors considered when determining an insurance score are proprietary and therefore can't be disclosed to regulators. This is false. Consumer protection requires an intimate familiarity with company underwriting, classification and pricing practices -- information which allows regulators to monitor for anti-competitive or discriminatory activity. For states like Illinois, with little rate approval authority, this is especially true. As insurance regulators, we receive and preserve confidential, proprietary information of consumers and companies hundreds of times a day -- personal lines underwriting and pricing information is not different.

The NAIC's multi-state data call, to be issued within the next 75 days and completed, aggregated and reported by the end of 2010, will afford policymakers in Congress and the states the opportunity to compare state laws and consumer impact. The NAIC is committed to providing the data and expertise in support of this Committee's important work.

Insurance score vendors should also be regulated. While the issue of whether these vendors are currently regulated may be debated, it is indisputable that insurance score vendors must fall within state insurance regulator oversight. For that reason, the NAIC intends to develop a model law prior to the end of 2010.

CONCLUSION

Insurers' use of credit scoring for underwriting and rating generates significant rhetoric. Consumer protection requires that legislators and regulators fully comprehend the use by insurers of insurance scores when determining personal lines eligibility and rates. The ongoing, fast-paced evolution of the calculation and reliance upon insurance scores warrants insurance regulator attention. State insurance regulators, through the NAIC, are developing data to support and inform the discussions within Congress and state legislatures.

Thank you for holding this hearing, for inviting me here today to participate, and for your continued interest and leadership on this critically important consumer protection issue.

I look forward to answering your questions.

EXHIBIT A

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

The date following each state indicates the last time information for the state was reviewed/changed.

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
AL (5/08)	Reg. 482-1-127-.01 to 482-1-127-.11	Personal lines	Make procedures used to obtain credit reports and insurance scores available to commissioner. If use credit scoring, file the scoring model with the commissioner. May not calculate score based on lack of credit history. May not use credit score as sole reason to deny coverage or refuse to renew.
AK (5/08)	§§ 21.36.460; 21.39.035 Bulletin B04-11	Personal lines	If use credit information in underwriting or rating, disclose that fact at the time the application is taken. Must consider in combination with other factors. May not consider absence of credit history or medical accounts. File credit scoring model with commissioner. Use departments' consumer brochures to inform the public about credit scoring.
AZ (5/08)	§ 44-1692 §§ 20-2102; 20-2109 to 20-2110 § 20-1652 § 20-2113.01 § 20-2110	All lines Property and casualty Property and casualty All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting. Must provide specific reasons for adverse decision based on credit history or credit score. Must get credit information promptly; cannot cancel or decline coverage more than 30 days after date of application based on credit report. A consumer reporting agency shall not sell data that includes information about an insurance score. 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.
AR (5/08)	§§ 23-67-401 to 23-67-415 Bulletin No. 14-2004	Personal lines property and casualty 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) Form for report on number of policies with increase/decrease in premium due to credit scoring.

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

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STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
CA (5/08)	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.
	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; Civ. §§ 1785.20,;1786.40	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.
CO (5/08)	§ 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 use credit report in underwriting life insurance expected to amount to \$150,000 or more.
	§ 10-4-116	Personal lines property and casualty insurance	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)
	§ 10-4-616	Personal lines property and casualty insurance	Must notify consumers that new or updated credit information will be used in insurance underwriting or rating.
	§ 10-4-110.7	Homeowners	An insurer is required to provide notice to an applicant if the insurer uses credit scoring, claims history of the property, or claims history of the applicant in determining whether to insure the applicant's property.

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STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
CT (5/08)	Guidelines for the Examination of Financial History Measurement Programs for Personal Risk Insurance Underwriting and Rating Plans	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.
DE (5/08)	18-900-906 Del. Code Reg §§ 1.0 to 12.0	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. May consider insufficient credit history or no available credit history in setting a premium or rate, or underwriting an insurance policy, to the extent such is actuarially justified and consistent with the rate filing. Models filed with the commissioner shall be considered as confidential proprietary information.
DC (5/08)	No provision		
FL (5/08)	Rule 69O-125.004 § 626.9741	All lines Personal lines Auto and homeowners	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. 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)

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STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
GA (5/08)	§§ 33-24-90 to 33-24-98	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)
	Reg. 120-2-15-.01 to 120-2-15-.06	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-.01 to 120-2-65-.07	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.
HI (5/08)	§ 431:10C-207	Auto	Insurer shall not base standard or rating plan upon a person's credit bureau rating.
ID (5/08)	Bulletin 91-9	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting.
	§ 41-1843	Property or casualty	May not charge a higher rate or cancel coverage based primarily on a credit rating or credit history.
	Ins. Reg. 18.01.19	Personal lines property and casualty	Aggregate weight given to noncredit factors must be at least as great as the aggregate weight given to credit factors. Items identified as trade secrets are not subject to public disclosure. Insurers must retain documentation for 5 years.
IL (5/08)	215 ILCS 157/1 to 157/55	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) A certification that the treatment is actuarially justified is required.
	215 ILCS 157/22	All lines	Shall review and consider an exception to the risk score based on extraordinary life events, such as a catastrophic illness, divorce, death of a spouse, child or parent, involuntary loss of employment for three months or more, or identity theft.

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
IN (5/08)	<p>Bulletin 111 (July 1, 2002); Bulletin 130 (May 26, 2005)</p> <p>§§ 27-2-21-1 to 27-2-21-23</p>	<p>Personal lines property and casualty</p> <p>Personal lines property and casualty</p>	<p>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 10/1/02 unless the information is filed with the department.</p> <p>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).</p>
IA (5/08)	§ 515.103	<p>Personal lines Property and casualty</p>	<p>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).</p>
KS (5/08)	<p>§§ 40-5101 to 40-5114</p> <p>Bulletin 2004-10 and 2005-1</p> <p>Reg. 40-1-50</p>	<p>Personal lines property and casualty</p> <p>Personal lines, property and casualty</p>	<p>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).</p> <p>Answer questions about above legislation.</p> <p>Document factors considered in addition to credit score. Maintain evidence to support adverse action. Provide an explanation to an insured adversely affected.</p>
KY (5/08)	§ 304.20-040	Auto	<p>May not refuse to issue or renew a policy solely because of credit history, or lack of credit history of the applicant.</p>

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
LA (5/08)	§ 22:1214	Auto liability	Prohibits an insurer from terminating, refusing to renew or refusing to issue insurance because the insured has declared bankruptcy.
	§§ 22:1481 to 22:1494	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)
	Directive No. 181 (2004)	Personal lines property and casualty	Directive addresses issues that have arisen in above statute.
	Directive No. 196 (2006)	Personal lines	Right of an insured to be exempt from the use of adverse credit information directly or indirectly caused by Hurricane Katrina and/or Hurricane Rita. All insurers writing personal lines are advised and directed to ignore all unfavorable entries entered into an individual's credit record beginning with entries posted on August 26, 2005, and all entries posted thereafter related to Hurricane Katrina and/or Hurricane Rita.
ME (5/08)	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."
	tit. 24-A § 2169-B	Personal lines auto, 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.
	tit. 10 § 1315	Credit reporting agencies	Disclose procedures to consumers to correct inaccurate credit reports.
	Bulletin 329 (2004)	Personal lines	Guidance on issues that have arisen.

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
MD (5/08)	Ins. § 27-501 Commercial § 14-1202 COMAR 31.15.11.01 to 31.15.11.11 Ins. § 27-501 Ins. § 11-317 Bulletin 02-14; 02-16	Private auto and Homeowners All lines Personal lines property and casualty and private auto Personal lines property and casualty Private auto Personal lines property and casualty	May not refuse to underwrite based solely on credit history. Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting. 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. 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. Must provide a policyholder statement on rating factors. If use credit scoring, explain how it may cause an increase in premiums. Address questions in implementation.
MA (5/08)	93 § 51 93 § 62	All lines Personal lines	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 (5/08)	Bulletin 2003-01-INS Bulletin 2003-02-INS Reg. 500.2151 to 500.2155	Personal lines Personal lines Personal lines	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. Beginning 7/1/05, insurers may not use credit scores as a rating factor.

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

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STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
MN (5/08)	§ 72A.20 subd. 36	Private passenger 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.
	§ 72A.501 subd. 2	Property and casualty	Code sections limiting collection of information do not apply to credit scoring, as long as the agent informs the policyholder.
MS (5/08)	Reg. 2003-1.1 to 2003-1.13	Personal lines	Disclose to consumer that insurer may gather and consider credit information. File scoring models with department. Must inform applicant if credit score or report adversely affected him.
MO (5/08)	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	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.
MT (5/08)	§ 31-3-111	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting.
	§§ 33-18-601 TO 33-18-611	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)
	Advisory Memorandum Dated 9/7/01	Property and casualty	Montana law requires notification to consumers when their credit history adversely affects their ability to obtain or renew insurance.

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/08

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
NE (5/08)	§ 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.
	§§ 44-7701 to 44-7712	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 solely the 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)
NV 5/08)	§§ 686A.600 to 686A.730	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. (NCOIL model)
	NAC 686A § 3		At renewal of a policy, the consumer credit report or insurance score used on the policy with the earliest effective date may be used, provided that the credit information is not more than 36 months old.
NH (5/08)	§ 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 use credit report in underwriting life insurance expected to amount to \$50,000 or more.
	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. Update credit score at least every 3 years. Submit to commissioner information on the factors considered and the statistical validation.
NJ (5/08)	§ 56:11-31	All lines	Consumer reporting agency may furnish credit report where the insurer intends to use it for underwriting.
	Bulletin No. 04-05	Property and casualty	Insurance scoring is permitted, provided that consumer protections are maintained. Submit model to department for review; credit score may be considered as only one of factors in determining rates; provide specific information if the insurer takes an adverse action.

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
NM (5/08)	Bulletin 2002-001	All lines	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 to the Insurance Division.
	§ 59A-17A-1 to 59A-17A-9	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)
	Reg. 13.8.6.1 to 13.8.6.9	Personal lines	Standards for the notification required in statute.
NY (5/08)	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.
	Ins. Law §§ 2801 to 2809	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)
	Reg. tit. 11 §§ 221.0 to 221.10 (Reg. 182)	Personal lines	May not take an adverse action based on a list of situations and events. Filings of scoring models must include listed information.

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

5/08

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
NC (5/08)	§ 58-36-90 Bulletin 03-B-3	Private passenger auto	May not use credit reports as sole rating factor. Must notify consumer if will be used. File scoring models with insurance department. Requirements for insurers who have trade secret pages in their credit scoring models
ND (5/08)	§§ 26.1-25.1-01 to 26.1-25.1-11	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. May not consider absence of a credit history unless insurer treats the consumer as otherwise approved by the Insurance Commissioner if insurer presents information that such absence relates to the risk for insurer, if consumer is treated as through the credit information is neutral, or if credit information is excluded as a factor. Must recalculate credit score after 3 years. May not consider medical history codes. File scoring models with department. (NCOIL model)
OH (5/08)	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.
OK (5/08)	Guidelines adopted by Oklahoma State Board for Property and casualty Rates 6/15/2000 Bulletin No. PC 2001-07 tit. 36 §§ 950 to 959	Property and casualty Personal lines	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. Revised credit scoring guidelines. 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)

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
OR (5/08)	§ 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	Personal lines property and casualty	Prior to use, must notify consumer that credit history will be used. Must notify consumers during the application process that consumer may request information about the use of credit histories or insurance scores. Notice may be either in writing or in the same medium as the medium in which the application is made. The statement must address the following items: (a) Why the insurer uses credit history or insurance scores, (b) How the insurer uses credit histories or insurance scores, (c) What kinds of credit information are used by the insurer, (d) Whether a consumer's lack of credit history will affect the insurer's consideration of an application, (e) Where the consumer may go with questions. An insurer that uses credit history or insurance score in connection with a renewal shall notify consumer of that use when renewal offer is made. Notice shall address the items above. In addition, insurer shall inform consumer that consumer has a right annually to request the insurer use current credit information in the renewal process and that insurer will update the credit information used upon receiving such a request.
	§§ 746.600 to 746.686	Personal lines	If adverse underwriting decision, provide consumer with specific reasons. If based on credit score, include specifics of no more than 4 reasons for score. Provide information on how to dispute. May use credit history only in combination with other factors to decline coverage. May not consider absence of history, number of inquiries, total available credit, etc. Consumer may request yearly re-rating. File scoring models with dept. Prohibits an insurer from rerating the policy or consumer when the consumer's marital status changes because of death or divorce. Allows an insurer to consider the last five years of claim history when rating a policy, however a insurer can use a longer claim history for the purpose of providing a discount. Allows insurer to consider the second or any subsequent claims in the last 5 years to determine whether to issue or renew a policy.

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
PA (5/08)	Department Policy 40 P.S. § 1184; 40 P.S. § 1224; 75 Pa.C.S.A. § 1793; Tit. 31 Ch. 67.33	Personal Lines	<p>The use of credit-based insurance scores is limited to new business underwriting eligibility and underwriting tier placement with the following requirements: 1) underwriting tier placement must be based upon mutually exclusive underwriting criteria that are kept on file at the company; and (2) underwriting tier placement must not be used at renewal, except where that use will result in placement into a lower rated tier.</p> <p><i>Note: Companies using credit information as part of their new business pricing or tier criteria are expected to comply with the disclosure and adverse notice provisions of the federal Fair Credit Reporting Act.</i></p>
RI (5/08)	<p>§ 6-13.1-21</p> <p>§§ 27-6-53; 27-9-56; R27-25-011; R26-16-007</p> <p>Bulletin 2002-16</p>	<p>All lines</p> <p>Homeowners and personal auto</p> <p>Homeowners and personal auto</p>	<p>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.</p> <p>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. 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.</p> <p>May not decline insurance for a new consumer based solely on the credit score. If use in rating, must demonstrate the statistically predictive nature of the score in the rate filing.</p>
SC (5/08)	<p>§ 38-73-740</p> <p>§ 38-73-425</p> <p>Bulletin 2002-04</p> <p>Bulletin 2004-09</p> <p>Bulletin 2004-12</p>	<p>Auto</p> <p>Property and casualty Private passenger auto</p> <p>Property and casualty</p> <p>Property and casualty</p>	<p>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.</p> <p>An insurer may use absence of credit as a criterion for underwriting if the insurer presents information satisfactory to the director.</p> <p>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.</p> <p>If insurers use lack of a credit score as an underwriting criteria, must provide the department with support.</p> <p>Must get approval from department before using lack of a credit score as a criterion for underwriting.</p>

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
SD (5/08)	Bulletin 2002-3	Personal lines property and casualty	May not use credit information as the sole rating factor.
TN (5/08)	Department Policy	All lines	Justification for use of credit scoring must be provided in the filing. Credit scoring cannot be the sole basis for determining rates.
	§§ 56-5-401 to 56-5-407	Personal lines property and casualty	May not include ZIP code as a factor. 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)
	Bulletin Dated 12/13/04	Personal lines	Sets procedures for filing of credit scoring models.
TX (5/08)	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 Reg. 28 TAC §§ 5.9340 to 5.9342	Life Personal lines	May use credit report in underwriting life insurance expected to have a value of \$150,000 or more. Filing requirements for credit scoring models.
	Reg. 28 TAC §§ 5.9940 to 5.9941	Personal lines	Disclosure statement for consumers on how score is calculated, right to appeal, requirement for actuarial justification. Rate differences due solely to use of credit scoring must be supported by actuarial analysis
	Ins. §§ 559.002 to 559.151	Personal lines	Insurer may not use credit scoring that is computed using factors that constitute unfair discrimination. Shall not refuse to renew an insurance policy solely based on credit information. If credit information is used in underwriting or rating, disclose that fact at the time the application is taken. May not consider medical history codes. File scoring models with department.

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
UT (5/08)	§ 31A-22-1307 § 31A-22-320 Reg. R590-219-1 to R590-219-8	Homeowners liability Auto Private passenger auto	Insurer that uses credit reports in underwriting must comply with federal Consumer Credit Reporting Act. May only use credit information to reduce rates or in conjunction with other factors. 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 (5/08)	No provision		
VI (5/08)	No provision.		
VA (5/08)	§§ 38.2-2114; 38.2-2212 Administrative Letter 2002-6 §§ 38.2-2126; 38.2-2234	Auto, fire All lines Homeowners, renters, auto	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. If credit information is used in part, it shall be based on a consumer report procured within 120 days from effective date of nonrenewal. Any insurer intending to use credit score must file the model prior to their use. 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. (NCOIL model)

USE OF CREDIT REPORTS/SCORING IN UNDERWRITING

STATE	REFERENCE	LINE OF BUSINESS	SUMMARY OF PROVISIONS
WA (5/08)	§ 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 use credit report in underwriting life insurance expected to amount to \$50,000 or more.
	§ 48.18.545	Personal lines	Credit history may not be used to cancel or non-renew insurance. May only be used to deny coverage if combined with other substantive underwriting factors.
	§ 48.19.035	Personal lines	Credit history shall not be used to determine insurance rates unless the credit scoring models are filed with the commissioner. May not use certain attributes of credit history in credit scoring model.
	Reg. 284-24A-001 to 284-24A-065	Personal lines	Regulation describes standards that apply to insurers that use credit history.
WV (5/08)	§ 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. 142A (August 2003)	Personal lines	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 after 3 years.
	§ 33-6B-3	Auto	May not decline a policy based solely on adverse credit report.
	§ 33-17A-6	Property	May not decline a policy based solely on adverse credit report.
WI (5/08)	Bulletin dated 6/16/97	Personal auto and homeowners	Can use credit reports but not as the sole reason to refuse, cancel or nonrenew a policy.
WY (5/08)	§ 26-2-134	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. The NAIC attempts to provide current information; however, readers should consult state law for additional adoptions.

EXHIBIT B

INSURANCE
(215 ILCS 157/) Use of Credit Information in Personal Insurance Act.

(215 ILCS 157/1)

Sec. 1. Short title. This Act may be cited as the Use of Credit Information in Personal Insurance Act.

(215 ILCS 157/5)

Sec. 5. Purpose. The purpose of this Act is to regulate the use of credit information for personal insurance so that consumers are afforded certain protections with respect to the use of that information.

(215 ILCS 157/10)

Sec. 10. Scope. This Act applies to personal insurance and not to commercial insurance. For purposes of this Act, "personal insurance" means private passenger automobile, homeowners, motorcycle, mobile-homeowners and non-commercial dwelling fire insurance policies, and boat, personal watercraft, snowmobile, and recreational vehicle policies. Such policies must be individually underwritten for personal, family, or household use. No other type of insurance shall be included as personal insurance for the purpose of this Act.

(215 ILCS 157/15)

Sec. 15. Definitions. For the purposes of this Act, these defined words have the following meanings:

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

"Affiliate" means any company that controls, is controlled by, or is under common control with another company.

"Applicant" means an individual who has applied to be covered by a personal insurance policy with an insurer.

"Consumer" means an insured or an applicant for a personal insurance policy whose credit information is used or whose insurance score is calculated in the underwriting or rating of a personal insurance policy.

"Consumer reporting agency" means any person that, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

"Credit information" means any credit-related information derived from a credit report, found on a credit report itself, or provided on an application for personal insurance. Information that is not credit-related shall not be considered "credit information," regardless of whether it is contained in a credit report or in an application or is used to calculate an insurance score.

"Credit report" means any written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, or credit capacity, that is used or expected to be used or collected in whole or in part for the purpose of serving as a factor to determine personal insurance premiums, eligibility for coverage, or tier placement.

"Department" means the Department of Insurance.

"Insurance score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit information for the purposes of predicting the future insurance loss exposure of an individual applicant or insured.

(215 ILCS 157/20)

Sec. 20. Use of credit information.

(a) An insurer authorized to do business in this State that uses credit information to underwrite or rate risks shall not:

(1) Use an insurance score that is calculated using income, gender, address, ethnic group, religion, marital status, or nationality of the consumer as a factor.

(2) Deny, cancel, or nonrenew a policy of personal insurance solely on the basis of credit information, without consideration of any other applicable underwriting factor independent of credit information and not expressly prohibited by item (1). An insurer shall not be considered to have denied, cancelled, or nonrenewed a policy if coverage is available through an affiliate. If an insurer denies, cancels, or does not renew a policy of personal insurance based on credit information, it must provide the affected party with a notice as described in Section 35 of this Act and an opportunity for the affected party to explain its credit information under the procedures outlined in Section 22 of this Act.

(3) Base an insured's renewal rates for personal insurance solely upon credit information, without consideration of any other applicable factor independent of credit information. An insurer shall not be considered to have based rates solely on credit information if coverage is available in a different tier of the same insurer.

(4) Take an adverse action against a consumer solely because he or she does not have a credit card account, without consideration of any other applicable factor independent of credit information.

(5) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating personal insurance, unless the insurer does one of the following:

(A) Treats the consumer as otherwise filed with the Department, if the insurer presents information that such an absence or inability relates to the risk for the insurer and submits a filing certification form signed by an officer for the insurer certifying that such treatment is actuarially justified.

(B) Treats the consumer as if the applicant or insured had neutral credit information, as defined by the insurer.

(C) Excludes the use of credit information as a factor and uses only other underwriting criteria.

(6) Take an adverse action against a consumer based on credit information, unless an insurer obtains and uses a credit report issued or an insurance score calculated within 90 days from the date the policy is first written or renewal is issued.

(7) (Blank).

(8) Use the following as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy of personal insurance:

(A) Credit inquiries not initiated by the consumer or inquiries requested by the consumer for his or her own credit information.

(B) Inquiries relating to insurance coverage, if so identified on a consumer's credit report.

(C) Collection accounts with a medical industry code, if so identified on the consumer's credit report.

(D) Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry and made within 30 days of one another, unless only one inquiry is considered.

(E) Multiple lender inquiries, if coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry and made within 30 days of one another, unless only one inquiry is considered.

(b) An insurer authorized to do business in this State that uses credit information to underwrite or rate risks shall, at annual renewal upon the request of an insured or an insured's agent, re-underwrite and re-rate the insured's personal insurance policy based on a current credit report or insurance score unless one of the following applies:

(1) The insurer's treatment of the consumer is otherwise approved by the Department.

(2) The insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers.

(3) Credit information was not used for underwriting or rating the insured when the personal insurance policy was initially written.

(4) The insurer reevaluates the insured at least every 36 months after a personal insurance policy is issued based on underwriting or rating factors other than credit information.

(5) The insurer has recalculated an insurance score or obtained an updated credit report of a consumer in the previous 12-month period.

An insurer that uses credit information to underwrite or rate risks may obtain current credit information upon the renewal of a personal insurance policy when renewal occurs more frequently than every 36 months if consistent with the insurer's underwriting guidelines.

(215 ILCS 157/22)

Sec. 22. Extraordinary life events.

(a) An insurer authorized to do business in this State that uses credit information to underwrite or rate risks shall review and consider an exception to the risk score based upon extraordinary life events after receiving a written and signed notification from the applicant or insured explaining how the applicant or insured believes the extraordinary life event adversely impacts the applicant's or insured's insurance risk score.

(b) For the purposes of this Section, "extraordinary life event" means the following:

- (1) a catastrophic illness or injury to an applicant or insured or an immediate family member of an applicant or insured;
- (2) the death of a spouse, child, or parent of an applicant or insured;
- (3) involuntary loss of employment for a period of 3 months or more by an applicant or insured;
- (4) identity theft of an applicant or insured; or
- (5) dissolution of marriage of an applicant or insured.

(215 ILCS 157/25)

Sec. 25. Dispute resolution and error correction. If it is determined through the dispute resolution process set forth in the federal Fair Credit Reporting Act, 15 U.S.C. 1681i(a)(5), that the credit information of a current insured was incorrect or incomplete and if the insurer receives notice of that determination from either the consumer reporting agency or from the insured, the insurer shall re-underwrite and re-rate the consumer within 30 days after receiving the notice. After re-underwriting or re-rating the insured, the insurer shall make any adjustments necessary, consistent with its underwriting and rating guidelines. If an insurer determines that the insured has overpaid premium, the insurer shall refund to the insured the amount of overpayment calculated back to the shorter of either the last 12 months of coverage or the actual policy period.

(215 ILCS 157/30)

Sec. 30. Initial notification.

(a) If an insurer writing personal insurance uses credit information in underwriting or rating a consumer, the insurer or its agent shall disclose, either on the insurance application or at the time the insurance application is taken, that it may obtain credit information in connection with the application. The disclosure shall be either written or provided to an applicant in the same medium as the application for insurance. The insurer need not provide the disclosure statement required under this Section to any insured on a renewal policy, if the consumer has previously been provided a disclosure statement.

(b) Use of the following example disclosure statement constitutes compliance with this Section: "In connection with this application for insurance, we may review your credit report or obtain or use a credit-based insurance score based on the information contained in that credit report. We may use a third party in connection with the development of your insurance score."

(215 ILCS 157/35)

Sec. 35. Adverse action notification. If an insurer takes an adverse action based upon credit information, the insurer must meet all of the notice requirements of this Section. The insurer shall:

(1) Provide notification to the consumer that an adverse action has been taken, in accordance with the requirements of the federal Fair Credit Reporting Act, 15 U.S.C. 1681m(a).

(2) Provide notification to the consumer explaining the reason for the adverse action. The reasons must be provided in sufficiently clear and specific language so that a person can identify the basis for the insurer's decision to take an adverse action. The notification shall include a description of up to 4 factors that were the primary influences

of the adverse action. The use of generalized terms such as "poor credit history", "poor credit rating", or "poor insurance score" does not meet the explanation requirements of this Section. Standardized credit explanations provided by consumer reporting agencies or other third party vendors are deemed to comply with this Section.

(215 ILCS 157/40)

Sec. 40. Filing.

(a) Insurers that use insurance scores to underwrite and rate risks must file their scoring models (or other scoring processes) with the Department. A third party may file scoring models on behalf of insurers. A filing that includes insurance scoring may include loss experience justifying the use of credit information.

(b) Any filing relating to credit information is considered to be a trade secret under the Illinois Trade Secrets Act.

(215 ILCS 157/45)

Sec. 45. Enforcement; rates not regulated.

(a) The Department shall enforce the provisions of this Act pursuant to the enforcement powers granted to it under the Illinois Insurance Code. The Department may promulgate rules necessary to enforce and administer this Act.

(b) Nothing contained in this Act shall be construed to empower the Department to regulate or set the rates of any insurer pursuant to this Act.

(215 ILCS 157/50)

Sec. 50. Sale of policy term information by consumer reporting agency.

(a) No consumer reporting agency shall provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. Such information includes, but is not limited to, the expiration dates of an insurance policy or any other information that may identify time periods during which a consumer's insurance may expire and the terms and conditions of the consumer's insurance coverage.

(b) The restrictions provided in subsection (a) of this Section do not apply to data or lists the consumer reporting agency supplies to the insurance agent or producer from whom information was received, the insurer on whose behalf the agent or producer acted, or the insurer's affiliates or holding companies.

(c) Nothing in this Section shall be construed to restrict any insurer from being able to obtain a claims history report or a motor vehicle report.

(215 ILCS 157/55)

Sec. 55. Severability. If any Section, paragraph, sentence, clause, phrase, or part of this Act is declared invalid due to an interpretation of or a future change in the federal Fair Credit Reporting Act, the remaining Sections, paragraphs, sentences, clauses, phrases, or parts thereof shall be in no manner affected thereby but shall remain in full force and effect.

(215 ILCS 157/95)

Sec. 95. The Illinois Insurance Code is amended by repealing Section 155.38.

(215 ILCS 157/99)

Sec. 99. Effective date. This Act takes effect on October 1, 2003.