LOUISIANA DEPARTMENT OF INSURANCE

Report on Insurers' Practice of Credit Scoring:
Summary of available research and studies
Submitted in response to HCR 46 (2011 Regular Session)

March 9, 2012

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Overview of Insurance Scoring
House Concurrent Resolution No. 46, Regular Session, 2011

House Concurrent Resolution 46 (HCR 46) "… requests the Department of Insurance to study the practice of credit scoring and to report its findings to the House Committee on Insurance and to the Senate Committee on Insurance prior to the convening of the 2012 Regular Session of the Legislature of Louisiana."

Credit scoring is a factor used by insurers in the underwriting and rating of its applicants and its insureds. There have been several studies and white papers on the subject from 2002, soon after the process became popular to the most recent research and commentary by The Heartland Institute in August 2011. Evidence based studies support the use of credit scores in prediction of risk; however, there are also several papers written by opponents of the use of credit scoring who allege that its use is unfair.

Louisiana law contains provisions that regulate insurers' use of credit information for personal insurance so that consumers are afforded certain protections with the use of such information. "Use of Credit Information" law, La. R.S. 22:1501-1514, which tracks the model adopted by the National Conference of Insurance Legislators in 2002 was originally enacted in Louisiana in 2003. Generally, Louisiana law permits insurers to use credit information in the underwriting and rating of risk with certain limitations. Insurers that use credit information to underwrite or rate risks are prohibited from practices enumerated in La. R.S. 22:1504.

To fulfill the request of HCR 46, the LDI offers a compendium of the available research, along with hyperlinks to the primary source documents.

Issues with statements in HCR 46

- The statement "WHEREAS, the insurance commissioner of Washington State conducted a study and reported that age was the most significant factor in those subjects negatively affected by the practice of credit scoring" is incorrect and misleading. The Washington state study did find that age was a significant factor **but that credit scores got better (i.e., higher) as one ages**. The study found "Age is the most significant factor. In almost every analysis, older drivers have, on average, higher credit scores, lower credit-based rate assignments, and less likelihood of lacking a valid credit score."

- The statement "WHEREAS, forty-eight states, including Louisiana, have joined Washington state in its stance against credit scoring by enacting some level of regulation over this practice." **This is an erroneous interpretation of fact.** Forty-eight states may have enacted some form of credit score legislation (the LDI has not confirmed this fact) but the form of legislation in the majority of those states clearly allows the use of insurance scores in rating and underwriting. Law or regulation in 28 states[1] track the NCOIL model legislation which explicitly allows the use of credit based insurance scores while protecting the consumer from catastrophic events (e.g., medical situation), gives the consumer specific rights to appeal to the insurer when special circumstances exist, incorrect credit information resides in the credit report, and restricts the use of insurance credit scores in a manner consistent with federal law.

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[1] National Conference of Insurance Legislators reports that 28 states have adopted in some form the NCOIL Model Act Regarding Use of Credit Information in Personal Insurance, first adopted in November 2002. These states are: Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Rhode Island, Tennessee, Texas, Virginia, West Virginia.

Primary conclusions of studies and discussion of credit scoring, 2002-2011

Studies and Discussion in Support of Insurers' Practice of Credit Scoring

"A Statistical Analysis of the Relationship Between Credit History and Insurance Losses," prepared by the Bureau of Research, McCombs School of Business, The University of Texas at Austin, March 2003.

> "Using logistic and multiple regression analyses, the research team tested whether the credit score for the named insured on a policy was significantly related to incurred losses for that policy. It was determined that there was a significant relationship. In general, lower credit scores were associated with larger incurred losses. Next, logistic and multiple regression analyses examined whether the revealed relationship between credit score and incurred losses was explainable by existing underwriting variables, or whether the credit score added new information about losses not contained in the existing underwriting variables. It was determined the credit score did yield new information not contained in the existing underwriting variables."

> "What the study does not attempt to explain is why credit scoring adds significantly to the insurer's ability to predict insurance losses. In other words, causality was not investigated. In addition, the research team did not examine such variables such as race, ethnicity, and income in the study, and therefore this report does not speculate about the possible effects that credit scoring may have in raising or lowering premiums for specific groups of people. Such an assessment would require a different study and different data."

"Biological and Psychobehavioral Correlates of Credit Scores and Automobile Insurance Losses: Toward an Explication of Why Credit Scoring Works," prepared by Patrick L. Brockett and Linda L. Golden, University of Texas at Austin, and published in The Journal of Risk and Insurance, 2007, Vol. 74, No. 1,23-63.

> "The most important new development in the past two decades in the personal lines of insurance may well be the use of an individual's credit history as a classification and rating variable to predict losses. However, in spite of its obvious success as an underwriting tool, and the clear actuarial substantiation of a strong association between credit score and insured losses over multiple methods and multiple studies, the use of credit scoring is under attack because there is not an understanding of *why* there is an association. Through a detailed literature review concerning the biological, psychological, and behavioral attributes of risky automobile drivers and insured losses, and a similar review of the biological, psychological, and behavioral attributes of financial risk takers, we delineate that basic chemical and psychobehavioral characteristics (e.g., a sensation-seeking personality type) are common to individuals exhibiting both higher insured automobile loss costs and poorer credit scores, and thus provide a connection which can be used to understand why credit scoring works. Credit scoring can give information distinct from standard actuarial variables concerning an individual's biological makeup, which then yields useful underwriting information about how they will react in creating risk of insured automobile losses."

"The research in this article suggests that the discussed individualized biological and psychobehavioral correlates provide a connection between credit scores and automobile insurance losses. Credit scores, like good student discounts and marital status, tap a dimension of responsibility and stability for the individual that can permeate multiple areas of behavior."

"Credit Scoring Survives in Texas," by Mark E. Ruquet, published in Property Casualty 360, May 31, 2011.

"On Friday, the court (Texas Supreme Court) ruled in an 8-0 decision in the case *Ojo v. Farmers Group et al* (No. 10=0245) that the state's law "does not prohibit an insurer from using race-neutral factors in credit-scoring to price insurance, even if doing so creates a racially disparate impact.""

"In the case, Patrick Ojo, an African-American resident of Texas, received a renewal on his homeowner's insurance with a 9 percent increase despite the fact he never had a claim. He sued the company, claiming that the increase was the result "of unfavorable credit information acquired through its automated credit-scoring system.""

"The court responded that the state's insurance code "is void of any language" that creates "a cause of action for a racially disparate impact." It also noted that the state's legislature has been very clear about creating "a cause of action" for disparate impact, but declined to do so here."

"Credit-Based Insurance Scores: Impacts on Consumers of Automobile Insurance," prepared by Federal Trade Commission, and reported to Congress, July 2007.

"Section 215 of the FACT Act (FACTA) requires the Federal Trade Commission (FTC or the Commission) and the Federal Reserve Board (FRB), in consultation with the Department of Housing and Urban Development, to study whether credit scores and credit-based insurance scores affect the availability and affordability of consumer credit, as well as automobile and homeowners insurance. FACTA also directs the agencies to assess and report on how these scores are calculated and used; their effects on consumers, specifically their impact on certain groups of consumers, such as low-income consumers, racial and ethnic minority consumers, etc.; and whether alternative scoring models could be developed that would predict risk in a manner comparable to current models but have smaller differences in scores between different groups of consumers. The Commission issues this report to address credit-based insurance scores primarily in the context of automobile insurance."

The FTC reached the following findings and conclusions:

- "Insurance companies increasingly are using credit-based insurance scores in deciding whether and at what price to offer coverage to consumers."
- "Credit-based insurance scores are effective predictors of risk under automobile policies. They are predictive of the number of claims consumers file and the total cost of those claims. The use of scores is therefore likely to make the price of insurance better match the risk of loss posed by the consumer. Thus, on average, higher-risk consumers will pay higher premiums and lower-risk consumers will pay lower premiums."

- "Use of credit-base insurance scores may result in benefits for consumers. For example, scores permit insurance companies to evaluate risk with greater accuracy, which may make them more willing to offer insurance to higher-risk consumers for whom they would otherwise not be able to determine an appropriate premium. Scores also may make the process of granting and pricing insurance quicker and cheaper, cost savings that may be passed on to consumers in the form of lower premiums. However, little hard data was submitted or available to quantify the magnitude of these benefits to consumers."
- "Credit-based insurance scores are distributed differently among racial and ethnic groups, and this difference is likely to have an effect on the insurance premiums that these groups pay, on average."
  - "Non-Hispanic whites and Asians are distributed relatively evenly over the range of scores, while African Americans and Hispanics are substantially overrepresented among consumers with the lowest scores (the scores associated with the highest predicted risk) and substantially underrepresented among those with the highest scores."
  - "With the use of scores for consumers whose information was included in the FTC's database, the average predicted risk (as measured by the total cost of claims filed) for African Americans and Hispanics increased by 10% and 4.2% respectively, while the average predicted risk for non-Hispanic whites and Asians decreased by 1.6% and 4.9% respectively."
- "Credit-based insurance scores appear to have little effect as a "proxy" for membership in racial and ethnic groups in decisions related to insurance."
  - "The relationship between scores and claims risk remains strong when controls for race, ethnicity, and neighborhood income are included in statistical modes of risk."
  - "Tests also showed that scores predict insurance risk within racial and ethnic minority groups (e.g., Hispanics with lower scores have higher estimated risk than Hispanics with higher scores). This within-group effect of scores is inconsistent with the theory that scores are solely a proxy for race and ethnicity.
  - When the FTC controlled for race or ethnicity, the FTC measured only a small proxy effect associated with credit-based insurance scores.
  - Other variables, e.g., the time period that a consumer has been a customer for a particular firm, also measured a small proxy effect associated with credit-based insurance scores.
- "After trying a variety of approaches, the FTC was not able to develop an alternative credit-based insurance scoring model that would continue to predict risk effectively, yet decrease the differences in scores on average among racial and ethnic groups. This does not mean that a model could not be constructed that meets both of these objectives. It does strongly suggest, however, that there is no readily available scoring model that would do so."

"Insurance Bureau Scores vs. Loss Ratio Relativities," prepared by Wayne D. Holdredge, ACAS, MAAA, Tillinghast-Towers Perrin (now Towers-Watson), 1996.

Tillinghast-Towers Perrin was retained by Fair, Isaac and Company to analyze certain data to be provided to Tillinghast by numerous property/casualty insurance companies. From each set of data provided, Tillinghast calculated P-Value and the slope parameter from the regression analysis of Insurance Bureau Scores based on consumer credit information, and loss ratio relativities. P-Value measures the confidence or statistical

significance of the relationship between the Insurance Bureau Scores and loss ratio relativities.

"The data for all companies included in this study except Company 2 indicates at least a 99% probability that a relationship exists. The data for Company 2 indicates a 92% probability that there is a relationship. A layman's interpretation of this result could be that it is very likely there is a correlation between insurance bureau scores and loss ratio relativities."

"Predictiveness of Credit History for Insurance Loss Ratio Relativities," prepared by Fair, Isaac and Company, October 1999.

"The discussion in this paper was developed with the goal of sharing (fundamental) concepts with a wider audience and providing a better foundation for further discussions. No in-depth analysis is included in this discussion."

"The Relationship of Credit-Based Insurance Scores to Private Passenger Automobile Insurance Loss Propensity," prepared by Michael J. Miller FCAS, MAAA and Richard A. Smith FCAS, MAAA, EPIC Actuaries, LLC, June 2003.

The study addresses the following three questions as they relate to private passenger automobile insurance:

- Are credit-based insurance scores related to the propensity of loss?
- Do credit-based insurance scores measure risk that is already being measured by other risk factors?
- What is the relative importance to accurate risk assessment of using credit-based insurance scores?

Findings:

- "Using multivariate analysis techniques to adjust the data for interrelationships between risk factors, insurance scores were found to be correlated with the propensity for loss. This correlation is primarily due to a correlation between insurance scores and claim frequency, rather than a correlation between insurance scores and average claim severities."
- "Insurance scores do overlap to some degree with other risk characteristics, but after fully accounting for all interrelationships, insurance scores significantly increase the accuracy of the risk assessment process."
- "Insurance scores are among the three most important risk factors for each of the six automobile coverages studied."
- "An analysis of property damage (PD Liability) claim frequencies by insurance score groups for each of the fifty states indicates that the study results apply generally to all states and regions."

"Research & Commentary: Credit Scoring Debate in Massachusetts," Matthew Glans, August 17, 2011, Heartland Institute.

- "Although the two sides will never agree, the research shows on balance the use of credit scores appears to produce lower, fairer rates for most consumers. States that have barred the practice have not realized lower rates for consumers, and most comprehensive studies have found nothing unfair about the practice."

"U.S. Consumer Credit Reports: Measuring Accuracy and Dispute Impacts", prepared by the Policy & Economic Research Council (PERC), Michael A. Turner, Ph.D., Robin Varghese, Ph.D., Patrick D. Walker, M.A., May 2011.

This report enabled consumers to review their credit reports and credit scores from one or more of the three CRAs, to identify potential inaccuracies, and to file disputes as necessary through the consumer dispute resolution process governed by the FCRA, and to report on their satisfaction with the process.

This report reviews the accuracy of data in consumer credit reports from the three major nationwide consumer reporting agencies (CRAs: Equifax, Experian, and TransUnion). It also measures the credit market impact upon consumers with modifications to their credit reports.

As studied in this research, a credit report's impact on Vantage-Scores used in lending was studied and not insurance scores. The CRAs created the Vantage-Score in 2006 to compete with Fair Isaac's FICO Score to help banks and lenders further drill down into the "subprime" categories. Unlike FICO's traditional 300 to 850 scale, the Vantage-Score goes from 501 to 990, as reported by TransUnion.

Key findings from this research include:

- Impact of Modifications on Credit Scores:
  - 0.93% of examined credit reports had one or more disputes that resulted in a credit score increase of 25 points or greater;
  - 1.16% of examined credit reports had one or more disputes that resulted in a credit score increase of 20 points or greater; and
  - 1.78% of examined credit reports had one or more disputes that resulted in a credit score increase of 10 points or greater.
- Material Impact of Credit Report Modifications:
  - Less than one percent of all credit reports examined by participants prompted a dispute that resulted in a credit score adjustment and an increase of a credit score of 25 points or greater. More significantly, one-half of a percent of all credit reports examined by participants had credit scores that moved to a higher "credit risk tier" as a result of a modification. This metric is the best gauge of the materiality of credit report modifications, and suggests that consequential inaccuracies are rare. Credit report modifications that result in material impacts are exclusively modifications of trade lines, that is, of credit, collection and public record account data.
- Disputants Satisfied with Process:

- 95% of disputing participants were satisfied with the outcomes of their disputes, suggesting widespread satisfaction among participants with the FCRA (Federal Credit Reporting Act) dispute resolution process.
- Trade line Dispute Rate:
  - Of the 81,238 credit, collections, and public record trade lines examined, 435, or less than 1%, contained information that was disputed.

"Use and Impact of Credit in Personal Lines Insurance Premiums Pursuant to ARK. Code Ann. §23-67-415," a report from the State of Arkansas, State Insurance Department, to the legislative council and the senate and house committees on insurance and commerce of the Arkansas general assemble, prepared by William R. Lacy, July 8, 2010.

"Act 1452 required each insurance company using credit as a component in determining an insured's premium to report to the Commissioner. A compilation of these reports indicate a little more than half of the insurers writing personal lines insurance utilize consumer credit. The data also indicates that **88%** of consumers whose premium involved a credit component either received a lower premium or their premium was unaffected. Overall **39%** of consumers received some decrease in their premium as opposed to only **12%** who received some increase in their premium."

"The companies using credit wrote **96.71%** of the personal lines premium volume in Arkansas during 2009."

"Use of Credit Scores by the Insurance Industry: Iowa Consumers' Perspective," prepared by Randy L. Richard, Thomas J. Quinlan, Jr., and Patrick F. O'Leary, St. Ambrose University, December 2009.

"In May of 2009, the Iowa Insurance Commissioner's Office contracted with the report authors through St. Ambrose University to conduct a survey of 1,200 Iowa consumers regarding their attitudes, knowledge and beliefs about the use of insurance based credit scoring. The Insurance Commissioner's Office was interested in gathering more data and information on consumers and the practice of insurance based credit scoring."

Conclusions and Recommendations:

- "As the Iowa Insurance Commissioner's Office and elected representatives consider how to respond to the controversies surrounding the use of insurance credit scoring, we believe they will find it valuable to understand the various opinions Iowans hold. Most Iowans believe that the use of credit scores to set rates is unfair. These opinions seem to be based on widely-held, but incorrect perceptions that credit scores are not predictive of risky behavior that might lead to a tendency to file claims. There does not appear to be a factual basis for these opinions."
- "Our examination shows that (Insurance Credit Based Scoring does not accurately predict personal lines losses) is clearly and demonstrably false."
- "We saw there is plausible behavioral theory and research to connect risk behaviors and management across multiple dimension of a person's life."
- "Experts in managing financial risk generally agree (items used by the rating agencies and insurance companies) are relevant factors."

- The belief that "the outcomes of the process do not produce results that mimic random distributions then the process is *ipso facto* unfair … is highly debatable."
- "For something to be thought of as fair it is not necessary that there be no examples of unfairness. Rather that the process is impartial and produces largely and for the most part fair individual outcomes."

Discussion in Opposition to Insurers' Practice of Credit Scoring

"Credit Score Accuracy and Implications for Consumers," prepared by Consumer Federation of America and the National Credit Reporting Association, December 17, 2002

"Consumer access to credit, housing, insurance, basic utility services, and even employment is increasingly determined by centralized records of credit history and automated interpretations of those records."

"A major focus of the study was for those applicants closest to the boundary between the lower priced prime mortgage lending market and the higher priced subprime mortgage lending market, which, in addition to higher costs overall, exposes borrowers to greater risks of predatory lending."

Conclusions and Implications of the Findings for Consumers:

- Credit scores and the information in credit reports vary significantly among repositories;
- Many consumers are unharmed by these variations, and some probably benefit from them;
- However, tens of millions of consumers are at risk of being penalized for incorrect information in their credit report, in the form of increased costs or decreased access to credit and vital services;
- Almost one in ten consumers run the risk of being excluded from the credit marketplace altogether because of incomplete records, duplicate reports, and mixed files.
- The use of information from all three repositories in mortgage lending protects consumers and creditors from being negatively affected by errors of omission, but it may increase the negative impact on consumers of errors of commission;
- Consumers are not given useful and timely information about their credit;
- Private companies without significant oversight are setting, or at the very least heavily influencing, the rules of the marketplace for essential consumer services that base decisions on credit scores; and
- Certain information in credit reports has the potential to cause breaches of consumers' medical privacy.

"A Report to the Legislature: Effect of Credit Scoring on Auto Insurance Underwriting and Pricing," presented by State of Washington, Office of Insurance Commissioner, Mike Kreidler, Insurance Commissioner, and prepared by Washington State University's Social & Economic Sciences Research Center, January 2003.

"The purpose of the study was to find out whether credit scoring has unequal impacts on specific demographic groups – not to determine whether low credit scores correlate with higher loss ratios, or whether the use of credit scoring is inherently fair or unfair to individual consumers, or how accurate credit history information is."

"This study indicates that there is a need for examination of more companies and larger samples of consumers. Unequal effects are too common to be random events, but too varied across different insurers' situations for a clear pattern to emerge. Results vary too much from firm to firm to support a clear estimate for the overall size or pattern of unequal impacts on people of color, but the limited data studied do suggest that such impacts may exist. Data also indicate that low income people are more likely than higher income people to have their premiums raised as a result of credit scores."

"The Impact of Credit-Based Insurance Scoring on the Availability and Affordability of Insurance," prepared testimony of J. Robert Hunter, Director of Insurance, Consumer Federation of America before the Subcommittee on Oversight and Investigations of the Committee on Financial Services of the United States House of Representatives, May 21, 2008.

This testimony concludes that "credit scoring is harmful to consumers, particularly low income and minority consumers. Millions of consumers are threatened with foreclosures and a variety of financial stresses resulting from the sub-prime lending crisis, the resulting credit crunch, and the loss of jobs in the current weak economy. It is clearly unfair for millions of consumers to experience higher auto and homeowners insurance rates because of reckless and abusive practices by lenders or because of conflicts between lenders and bondholders, which are preventing foreclosure assistance. As part of the package of assistance to consumers in financial distress, a ban, or, in the short term, a moratorium on insurance scoring should be enacted."

Key findings of this testimony state these serious flaws with insurance scoring:

- "Undermines core functions of the insurance system by decreasing insurance availability and affordability, and undermining the critical role of insurance in encouraging loss prevention;"
- "Has an adverse, disparate impact on low income and minority consumers and is discriminatory;"
- "Is based on credit reports that often have erroneous or incomplete information;"
- Is inherently unfair and penalizes consumers who are the victims of economic, medical or natural catastrophes;" and
- "Penalizes consumers because of the business decisions of lenders."

"Testimony of Commissioner J.P. Schmidt, Hawaii Insurance Division, On Credit-Based Insurance Services," prepared by the State of Hawaii presented to the Subcommittee on Oversight and Investigations, U.S. House of Representatives Committee on Financial Services, October 2, 2007.

- In 1987, the Hawaii Legislature amended the Hawaii Revised Statutes to prohibit discriminatory practices in the pricing of automobile insurance premiums. The law bars, among many criteria, the use of credit bureau ratings.

- Commissioner Schmidt stated: "In summary, twenty years of experience has provided no evidence that Hawaii's statutory exclusion related to the use of credit bureau ratings in the pricing or underwriting of insurance has diminished the efficacy of the Hawaii insurance market."

Objectively Informative Discussion of Insurers' Practice of Credit Scoring

"Consumer Alert: Credit Scoring: How Does it Affect You?" National Association of Insurance Commissioners, no date.

Information discussed includes:

- What is Credit Scoring?
- How is Credit Scoring Used?
- What Affects a Credit Score?
- Know Your Credit History
- Take Charge of Your Credit History

"Credit Scoring," Insurance Information Institute, July 2011.

This is an overview of insurance credit scores with a summary of federal and state initiatives. The following is the introduction to the article:

"The goal of every insurance company is to correlate rates for insurance policies as closely as possible with the actual cost of claims. If insurers set rates too high they will lose market share to competitors who have more accurately matched rates to expected costs. If they set rates too low they will lose money. This continuous search for accuracy is good for consumers as well as insurance companies. The majority of consumers benefit because they are not subsidizing people who are worse insurance risks—people who are more likely to file claims than they are."

"An insurance score is a numerical ranking based on a person's credit history. Actuarial studies show that how a person manages his or her financial affairs, which is what an insurance score indicates, is a good predictor of insurance claims. Insurance scores are used to help insurers differentiate between lower and higher insurance risks and thus charge a premium equal to the risk they are assuming. Statistically, people who have a poor insurance score are more likely to file a claim."

"Insurance scores do not include data on race or income because insurers do not collect this information from applicants for insurance."

"**A few states have very restrictive rules**. A law passed in Washington State in March 2002 prohibits cancellations after 60 days and nonrenewal based in whole or in part on credit history. Maryland, which had previously allowed the use of information from credit histories, bans the use of credit in homeowner policies and in auto insurance

underwriting decisions on existing business. And while credit-related information may be used in rating decisions about new insurance policies, the law imposes a cap on discounts and surcharges related to credit of 40 percent."

"**Only one state, Hawaii, has a law on the books that bans the use of credit reports** for auto insurance underwriting and rating. In California, the use of credit is not permitted under Proposition 103 for rating auto insurance policies unless specifically allowed by the regulator and in Massachusetts, although not banned, regulators will not approve rate filings for auto or homeowners insurance that include the use of credit scoring. According to the Property Casualty Insurers Association of America, 26 states have adopted laws on credit or regulations based largely on the National Conference of Insurance Legislators' model law."

Additional Resources

Equal Credit Opportunity Act.

While the Equal Opportunity Act (ECOA) has no application to the insurance industry, ECOA guidelines define discriminatory characteristics to include data elements of age, gender, income, location, marital status, nationality, net worth, race, and religion.

Fair Housing Act.

The Fair Housing Act (FHA) applies to residential real estate-related transactions, including homeowners insurance. FHA provides guidelines that it is discriminatory to consider a person's race, color, religion, sex, handicap, familial status, or national origin.

"Model Act Regarding Use of Credit Information in Personal Insurance," prepared by the National Conference of Insurance Legislators, November 22, 2002.

The following twenty-eight states rely on the NCOIL Model Act Regarding Use of Credit Information in Personal Insurance, first adopted in November 2002:

Alabama (regulation only)	Missouri
Arkansas	Montana
Colorado	Nebraska
Connecticut	Nevada
Delaware (regulation only)	New Mexico
Florida	New York
Georgia	North Carolina
Illinois	North Dakota
Indiana	Oklahoma
Iowa	Rhode Island (applies some provisions)
Kansas	Tennessee
Louisiana	Texas
Maine	Virginia
Mississippi (regulation only)	West Virginia (informational letter only)

"Report to the Congress on Credit Scoring and its Effects on the Availability and Affordability of Credit," prepared by the Board of Governors of the Federal Reserve System, and submitted to the Congress pursuant to section 215 of the Fair and Accurate Credit Transactions Act of 2003, August 2007.

"Section 215 of the Fair and Accurate Credit Transactions Act 0f 2003 (Fact Act) directs the Federal Reserve board and the Federal Trade Commission (FTC) to study how credit scoring has affected the availability and affordability of credit and insurance, to determine the relationship between credit scores and actual credit losses and insurance claims, and to determine how these relationships vary for the populations groups protected under the Equal Credit Opportunity Act (ECOA). In addition, section 215 directs the Board and the FTC to study the extent to which the consideration of certain factors included in credit-scoring and insurance-scoring models could have a negative or differential effect on populations protected under ECOA and the extent to which alternative factors could be used in credit scoring to achieve comparable results with less negative effect on protected populations."

"In preparing the study, the Federal Reserve took the lead in assessing the effects of credit scoring on credit markets, the subject of the present document; **the FTC took the lead in the area of insurance and has issued a separate report on that topic**."

Bibliography, with hyperlinks
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House Concurrent Resolution (HCR) No. 46, by Representative Harrison & Senators Broome, Long & Morrell, Regular Session, 2011

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"A Statistical Analysis of the Relationship Between Credit History and Insurance Losses," Bureau of Business Research, March 2003

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"Equal Credit Opportunity: Understand Your Rights Under the Law," Federal Trade Commission Facts for Consumers Focus on Credit, May 2009

"Fair Housing," Wikipedia

"The Impact of Credit Based Insurance Scoring on the Availability and Affordability of Insurance," Consumer Federation of America, May 21, 2008

"Insurance Bureau Scores vs Loss Ratio Relativities," Tillinghast-Towers Perrin & Fair Isaac, December 10, 1996 (See Appendix.)

"Model Act Regarding Use of Credit Information in Personal Insurance," National Conference of Insurance Legislators (NCOIL), 2006 (See Appendix.)

"Predictiveness of Credit History for Insurance Loss Ratio Relativities," Fair Isaac, October 1999

"The Relationship of Credit-Based Insurance Scores to Private Passenger Automobile Insurance Loss Propensity," An Actuarial Study by EPIC Actuaries, LLC, June 2003

"Report to Congress on Credit Scoring and its Effects on the Availability and Affordability of Credit," Board of Governors of the Federal Reserve System, August 2007

"Research & Commentary: Credit Scoring Debate in Massachusetts," The Heartland Institute, August 17, 2011

"Testimony of Commissioner J.P. Schmidt, Hawaii Insurance Division On Credit-Based Insurance Services," State of Hawaii, October 2, 2007

"U.S. Consumer Credit Reports: Measuring Accuracy and Dispute Impacts," Policy & Economic Research Council (PERC) Results and Solutions, May 2011

"Use and Impact of Credit in Personal Lines Insurance Premiums," A Report to the Legislative Council and the Senate and House Committees on Insurance and Commerce of the Arkansas General Assembly, July 8, 2010

"Use of Credit Scores by the Insurance Industry: Iowa Consumers' Perspective," St. Ambrose University, December 2009

Appendix

"Insurance Bureau Scores vs Loss Ratio Relativities," Tillinghast-Towers Perrin & Fair Isaac, December 10, 1996

"Model Act Regarding Use of Credit Information in Personal Insurance," National Conference of Insurance Legislators (NCOIL), 2006

Fair ✕ Isaac®

Insurance Bureau Scores
vs
Loss Ratio Relativities

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Tillinghast-Towers Perrin

December 10, 1996

Mr. Lamont D. Boyd, CPCU, AIM
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Dear Mr. Boyd:

Attached is our analysis of the data provided to calculate the P-Value of the slope parameter from the regression analysis of Insurance Bureau Scores and loss ratio relativities. We hope this study is useful in your discussions with the insurance industry regulators.

Thank you for the opportunity to work with you and your staff on this project. We will be happy to answer any questions that may arise.

Sincerely,

TILLINGHAST-TOWERS PERRIN
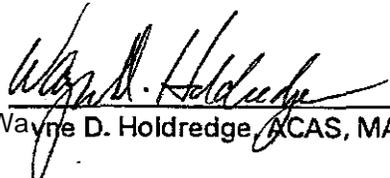
By: _Wayne D. Holdredge_
Wayne D. Holdredge, ACAS, MAAA

WDH:jfb

Attachment

Table of Contents

EXHIBITS

Purpose

Tillinghast-Towers Perrin (Tillinghast) was retained by Fair, Isaac; and Co., Inc. (Fair, Isaac) to analyze certain data to be provided to Tillinghast by numerous property/casualty insurance companies. Specifically, based on each set of data provided, we were asked to calculate and report on the P-Value of the slope parameter from the regression analysis of Insurance Bureau Scores based on consumer credit information, and loss ratio relativities.

The purpose of calculating P-Values is to measure the confidence or statistical significance of the relationship between the Insurance Bureau Scores and loss ratio relativities. P-Values are defined on pages 8 to 9.

Distribution and Use

The results of our analysis are being provided to Fair, Isaac for its use in discussions with the National Association of Insurance Commissioners (NAIC) about the use of Insurance Bureau Scores in underwriting personal insurance. A copy of this report in its entirety may be provided to the NAIC during the course of these discussions. Further, Fair, Isaac may release copies of this report to state insurance regulators and legislators, Fair, Isaac insurance company prospects and clients and to the press provided that:

1. The entire report is provided;
2. Fair,Isaac maintains a list of the names of the parties to whom copies of the report are given and provides that list to Tillinghast;and

3. Fair,Isaac advises each party to whom a copy of such report is given that such party may contact Tillinghast to discuss the report. Tillinghast will notify Fair,Isaac when it is contacted by a recipient of the report.

Any other use or further distribution of the report is not authorized without Tillinghast prior written consent.

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Reliances and Limitations

Data, as identified later in this report, was provided by individual insurance companies to Fair,Isaac who in turn sent the data to Tillinghast. We confirmed with the person responsible for providing the data at each insurance company that the data we relied on is correct and is from that company's book of business.

We understand that different groupings of the same data could produce different P-Values. However, the way the data was subtotaled when it was provided to us appears reasonable to us.

We were requested to determine and give a report on a particular statistic from the regression of certain Insurance Bureau Scores and loss ratio relativity information provided by insurance companies. No analysis of or opinion on any other aspects of the use of Insurance Bureau Scores in underwriting personal insurance is offered by Tillinghast or implied from the conclusions of this report.

Throughout this report, the word "relationship" is used interchangeably with the word "correlation."

Conclusions

Fair, Isaac requested data from a number of insurance companies, several of which, as shown below, have already responded to the request for data. The following P-Values of the slope parameters were calculated from all of the data provided to us up to this point.

Company	Line of Business	P-Value	Probability (1- P-Value)
1	Auto	.0009	.9991
2	Homeowners	.0833	.9167
3*	Homeowners	.0002	.9998
4	Auto	.0038	.9962
5	Personal Property	.0001	.9999
6	Homeowners	.0068	.9932
7	Homeowners	.0061	.9939
8*	Auto	.0000	1.0000
9	Homeowners	.0038	.9962
* Companies 3 and 8 are the same company. Its homeowners and auto submissions are designated as separate companies.			

From the data and P-Values, we conclude that the indication of a relationship between Insurance Bureau Scores and loss ratio relativities is highly statistically significant. In a more technical sense, the conclusion is that it is very unlikely that Insurance Bureau Scores and loss ratio relativities are not correlated based on this data.

The data for all companies included in this study except Company 2 indicates at least a 99% probability that a relationship exists. The data for Company 2 indicate a 92% probability that there is a relationship. A layman's interpretation of this result could be that it is very likely there is a correlation between Insurance Bureau Scores and loss ratio relativities.

Data

The data we received for each company is included as we received it in Exhibit I. In each case there are four columns of numbers:

- ➢ Score Interval
- ➢ Midpoint
- ➢ Earned Premium
- ➢ Loss Ratio Relativity

We are assured by Fair, Isaac and the individual companies that this data is representative of each company's entire block of business. The time frames from which the data is taken are not the same for all companies, although our understanding is that it represents relatively recent experience. Also note that the Insurance Bureau Scores were determined prior to the experience underlying the loss ratios.

The score intervals in the first column were selected to produce 10 groups with approximately equal volume. In three instances, Company 6, Company 7 and Company 9, the score intervals were established to create fewer groups with similar volume. The data could have been grouped numerous other ways, and perhaps different groupings would have produced different results. The groupings of the data as presented to us seemed reasonable and appropriate for this analysis.

In the second column is the midpoint of each of the intervals shown in the first column. For the first and last intervals, the midpoint is the mean of the scores in that interval.

The third column shows the percentage of the total premium from the risks with the corresponding Insurance Bureau Scores in the first column. As stated above, the intervals were selected so that approximately 10% of the total premium (except for Company 6,7 and 9) was included in each interval.

The loss ratio relativities in the last column are <u>not</u> loss ratios. They are the relativities of the loss ratios for each interval to the total loss ratio. For example, a loss ratio relativity of 1.20 for a given interval means that the loss ratio for the group of insureds with Insurance Bureau Scores in that interval was 20% greater than the loss ratio for all the company's insureds in this study. From this information we are not able to conclude anything about the absolute level of the loss ratios, only the loss ratio relativities.

P-Value

Detailed explanations of the P-Value as we have calculated it are contained in most statistical text books. For a rigorous definition of this statistic, the reader is encouraged to reference one of those texts. In the following paragraphs we explain the P-Value in general terms only.

For purposes of this analysis, we tested the hypothesis that there was no correlation between Insurance Bureau Scores and loss ratio relativities. If this hypothesis is true, the loss ratio relativities as shown in Exhibit II will be randomly distributed about the line representing the loss ratio relativity of 1.00. If the hypothesis is false, the loss ratio relativities will be randomly distributed about some other reasonably identifiable line.

The P-Value is a test statistic to test this hypothesis. If the hypothesis is true and the loss ratio relativities are randomly distributed above and below the loss ratio relativity = 1.00 line on the graphs in Exhibit II, the P-Value will be high. If the hypothesis is false and the loss ratio relativities do not appear to be randomly above and below the loss ratio relativity line= 1.00, the P-Value will be low. A low P-Value means it is unlikely that the differences between the actual results and the initial hypothesis are due to random variation. This means it is unlikely the initial hypothesis is correct.

While no statistical test will allow us to reject the initial hypothesis absolutely, this test indicates that it is very unlikely the initial hypothesis is valid. That is, there is very strong evidence of correlation between Insurance Bureau Scores and loss ratio relativities, (i.e., we should reject the hypothesis that there is no correlation between Insurance Bureau Scores and loss ratio relativities).

This test does not identify what that correlation is or how strong the correlation is but only whether the conclusion of the existence of a correlation is significant or not. From simply viewing the graphs in Exhibit II, it seems clear that higher loss ratio relativities are associated with lower Insurance Bureau Scores.

Exhibit I
Sheet 1

COMPANY1

Score & Loss Ratio Relativity Summary

Score Interval	Midpoint	Earned Premium	Loss Ratio Relativity
813 or More	850.0	10.2%	0.657
768-812	790.0	9.9%	0.584
732-767	749.5	11.0%	0.692
701-731	716.0	10.9%	0.683
675-700	687.5	10.4%	1.184
651-674	662.5	9.8%	0.793
626-650	638.0	9.9%	1.332
601-625	613.0	10.0%	1.280
560-600	580.0	9.4%	1.214
559 or Less	525.0	8.6%	1.752
Total		100.0%	1.000

13

Exhibit I
Sheet 2

COMPANY2

Score Interval	Midpoint	Earned Premium	Loss Ratio Relativity
840 or More	854.0	10.0%	0.607
823·839	831.0	10.0%	0.813
806·822	814.0	10.0%	0.626
789-805	797.0	10.0%	1.342
771-788	779.5	10.0%	1.059
748-770	759.0	10.0%	1.019
721-747	734.0	10.0%	1.322
686-720	703.0	10.0%	0.810
635·685	660.0	10.0%	0.986
635 or Less	592.0	9.9%	1.417
Total		100.0%	1.000

Exhibit I
Sheet3

COMPANY 3

Score & Loss Ratio Relativity Summary

Score Interval	Midpoint	Earned Premium	Loss Ratio Relativity
826 or More	845.0	10.0%	0.723
803-826	814.5	10.0%	0.903
782,-803	792.5	10.0%	0.895
759-782	770.5	10.0%	0.795
737-759	748.0	10.0%	1.073
710-737	723.5	10.0%	0.941
680-710	695.0	10.0%	0.912
640-680	660.0	10.0%	1.115
583-640	611.5	10.0%	1.221
583 or Less	535.0	10.0%	1.421
Total		100.0%	1.000

Exhibit I
Sheet 4

COMPANY4

Score & Loss Ratio Relativity Summary

Score Interval	Midpoint	Earned Premium	Loss Ratio Relativity
832 or More	859.0	10.0%	0.672
803-832	817.5	10.0%	1.027
767-803	785.0	10.0%	0.823
739-767	753.0	10.0%	1.036
720-739	729.5	10.0%	0.775
691-720	705.5	10.0%	1.000
668-691	679.5	10.0%	1.041
637-668	652.5	10.0o/o	1.023
602-637	619.5	10.0%	1.251
602 or Less	571.0	10.0%	1.351
Total		100.0%	1.000

Exhibit I
Sheet 5

COMPANY 5

Score & Loss Ratio Relativity Summary

Score Interval	Midpoint	Earned Premium	Loss Ratio Relativity
845 or More	857.0	10.0%	0.800
830-845	837.5	10.0%	0.919
814-830	822.0	10.0%	0.740
798-814	806.0	10.0%	0.733
779-798	788.5	10.0%	0.855
757-779	768.0	10.0%	0.889
730-757	743.5	10.0%	0.993
695-730	712.5	10.0%	1.143
643-695	669.0	10.0%	1.300
643 or Less	600.0	10.0%	1.628
Total		100.0%	1.000

Exhibit I
Sheet 6

COMPANY 6

Score & Loss Ratio Relativity Summary

Score Interval	Midpoint	Earned Premium	Loss Ratio Relativity
810 and up	837.5	19.7%	0.656
765-809	777.0	20.1%	0.795
715-764	739.5	20.8%	0.911
645-714	679.5	20.2%	1.066
Below 645	600.0	19.2%	1.593
Total		100.0%	1.000

Exhibit I
Sheet 7

COMPANY 7

Score & Loss Ratio Relativity Summary

Score Interval	Midpoint	Earned Premium	Loss Ratio Relativity
750 and up	795.0	21.3%	0.783
685-749	717.0	25.8%	0.900
630-684	657.0	19.6%	1.083
560-629	594.5	19.3%	1.150
Below 560	520.0	13.9%	1.200
Total		100.0%	1.000

Exhibit I
Sheet 8

COMPANY 8

Score & Loss Ratio Relativity Summary

Score Interval	Midpoint	Earned Premium	Loss Ratio Relativity
755 or More	775.0	8.9%	0.767
732-754	743.0	9.3%	0.798
714-731	722.5	9.6%	0.859
698-713	705.5	9.9%	0.969
682-697	689.5	10.3%	0.922
666-681	673.5	9.7%	0.978
647-665	656.0	10.5%	1.070
625-646	635.5	10.2%	1.107
592-624	608.0	10.7%	1.122
591 or Less	562.0	10.8%	1.324
Total		100.0%	1.000

Exhibit I
Sheet 9

COMPANY 9

Score &. Loss **Ratio Relativity Summary**

Score Interval	Midpoint	Earned Premium	Loss Ratio Relativity
780 and up	815.0	16.8%	0.637
745-779	762.0	13.7%	0.715
710-744	727.0	13.9%	0.734
670-709	689.5	15.0%	0.807
635-669	652.0	12.1%	0.909
590-634	612.0	11.2%	1.241
530-589	559.5	9.8%	1.357
Below 530	495.0	7.5%	2.533
Total		100.0%	1.000

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Exhibit II
Sheet 1

Company 1

Figure: Scatter plot of Loss Ratio Relativity (y-axis, 0.40 to 2.00) versus Score Interval Midpoint (x-axis, 500 to 900) for Company 1.

Exhibit II
Sheet 2

Company 2

Exhibit II
Sheet 3

Company 3

Loss Ratio Relativity vs. Score Interval Midpoint

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Exhibit II
Sheet 4

Company 4

Exhibit II
Sheet 5

Company 5

Exhibit II
Sheet 6

Company 6

Exhibit II
Sheet 7

Company 7

Exhibit II
Sheet 8

Company 8

Exhibit II
Sheet 9
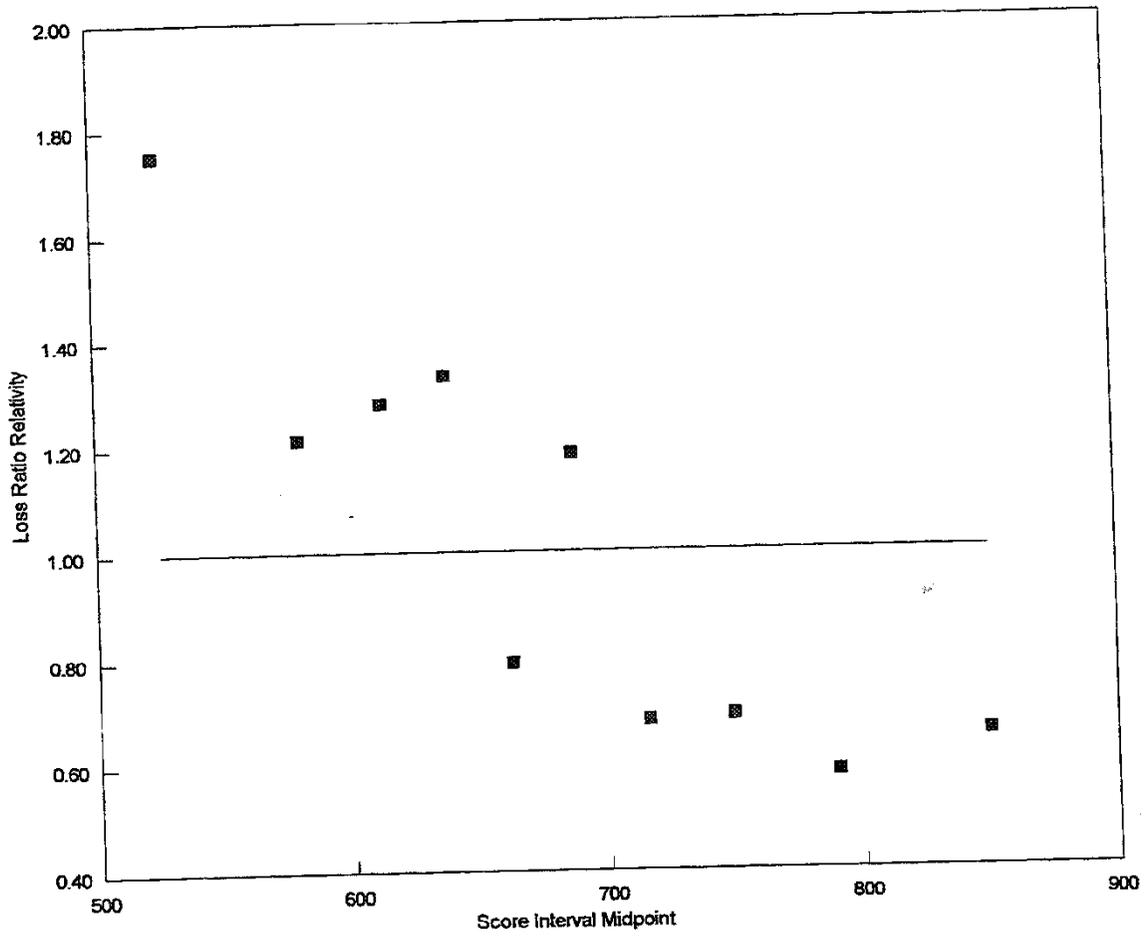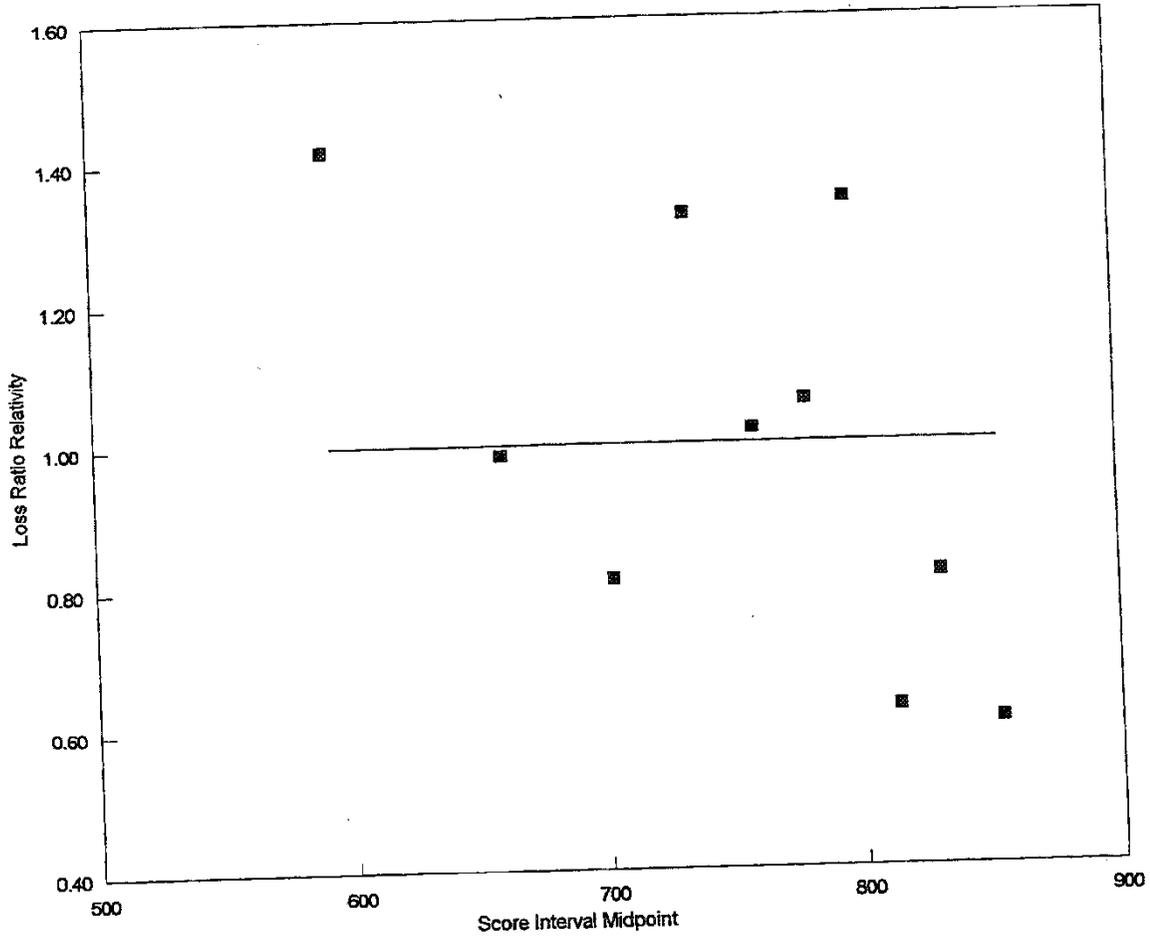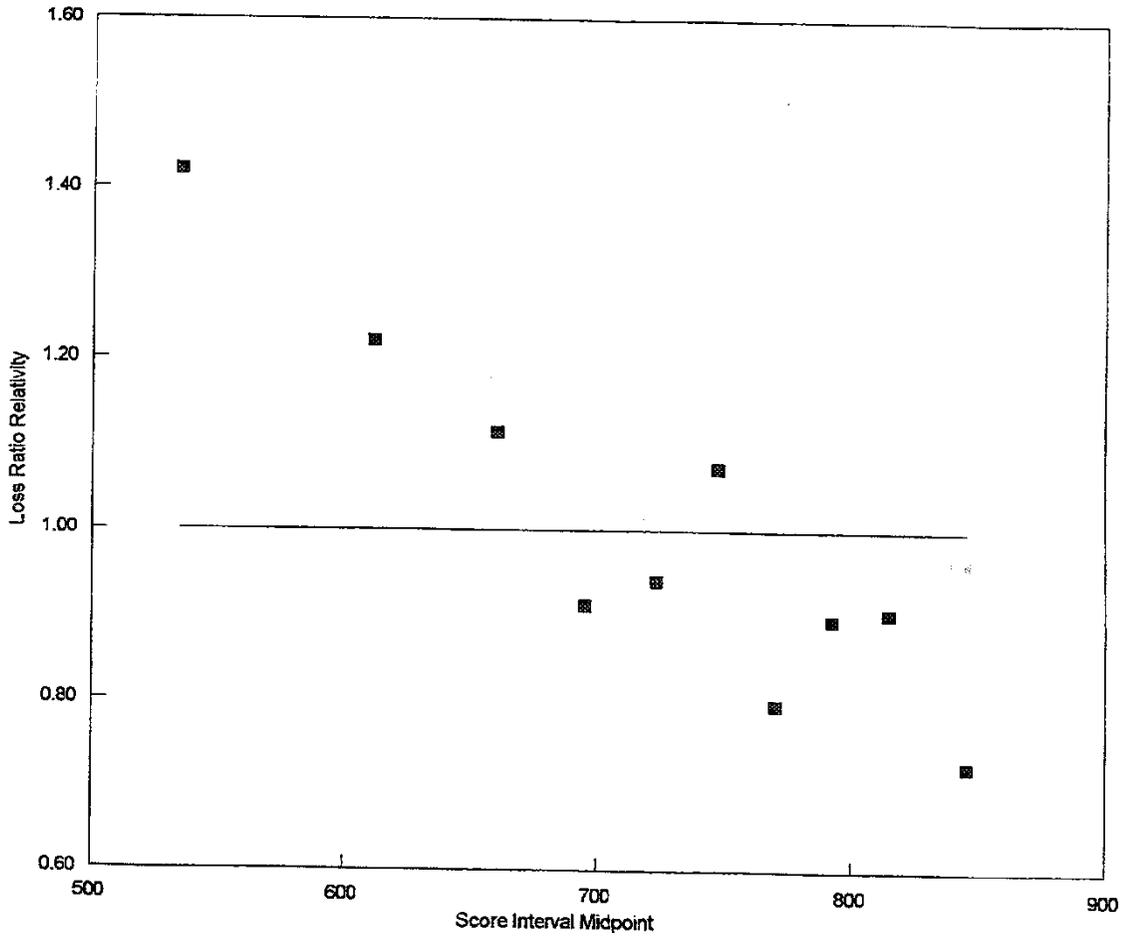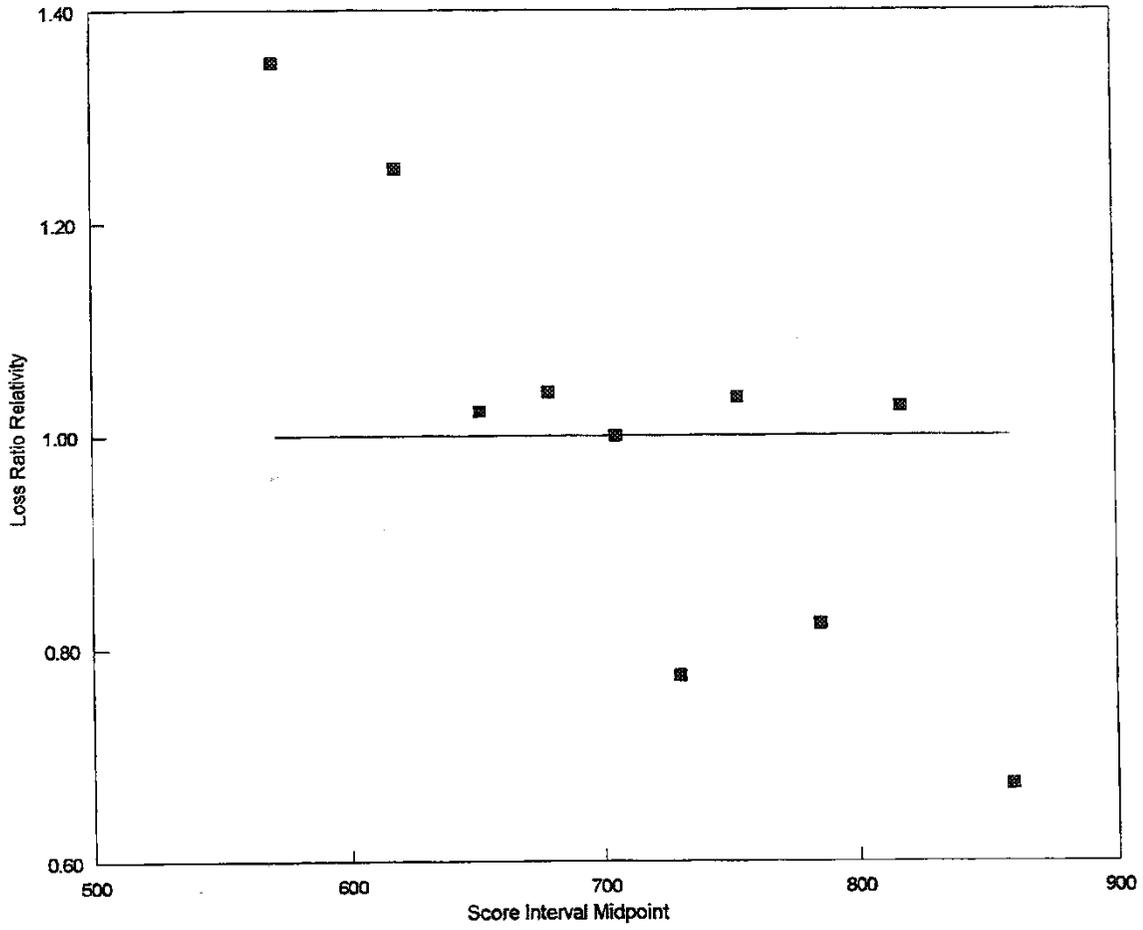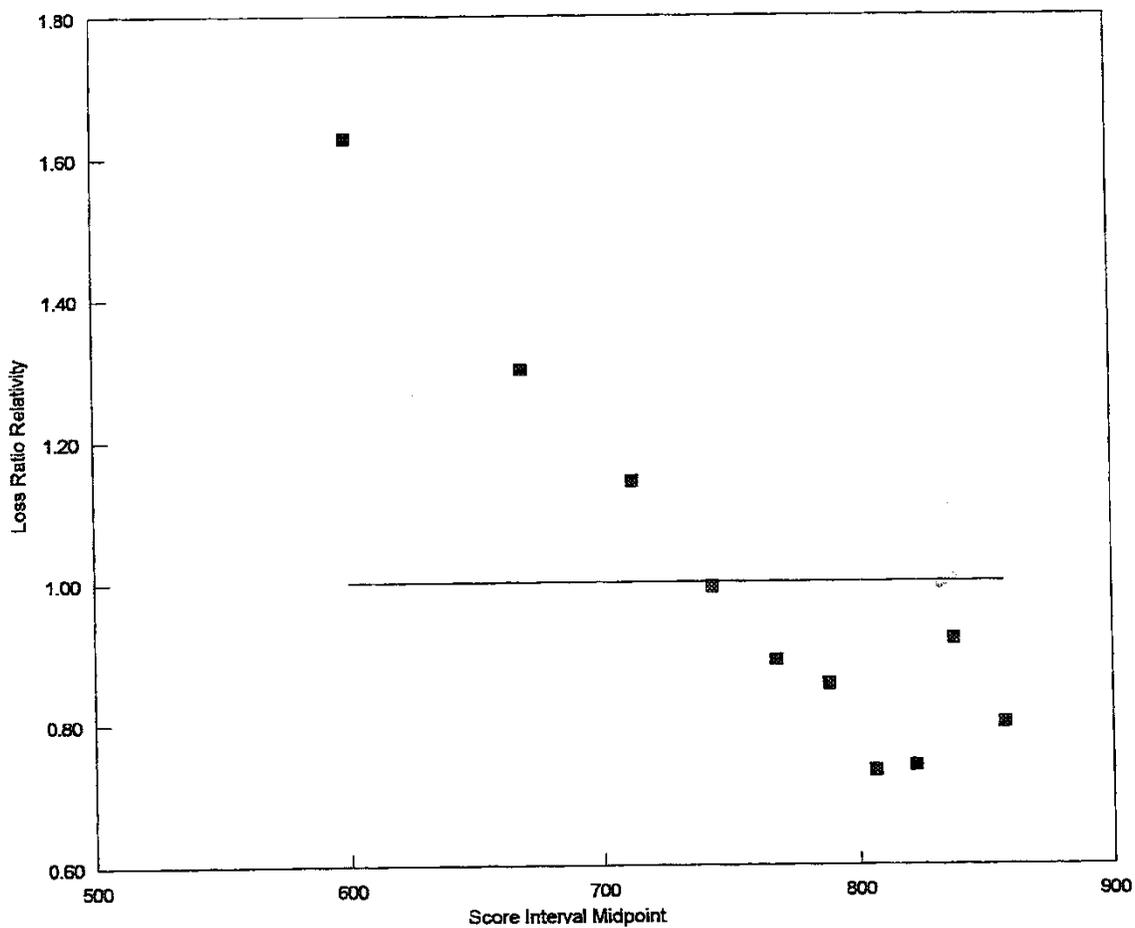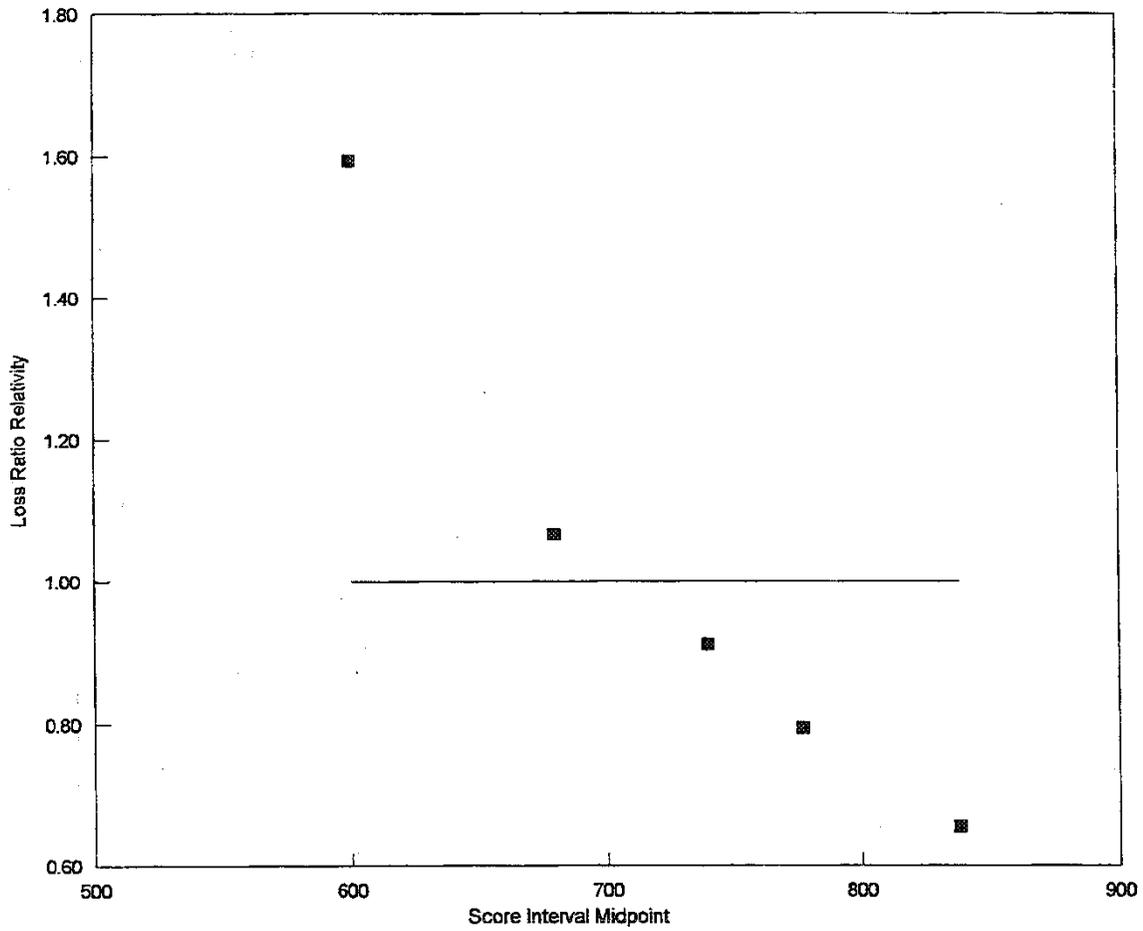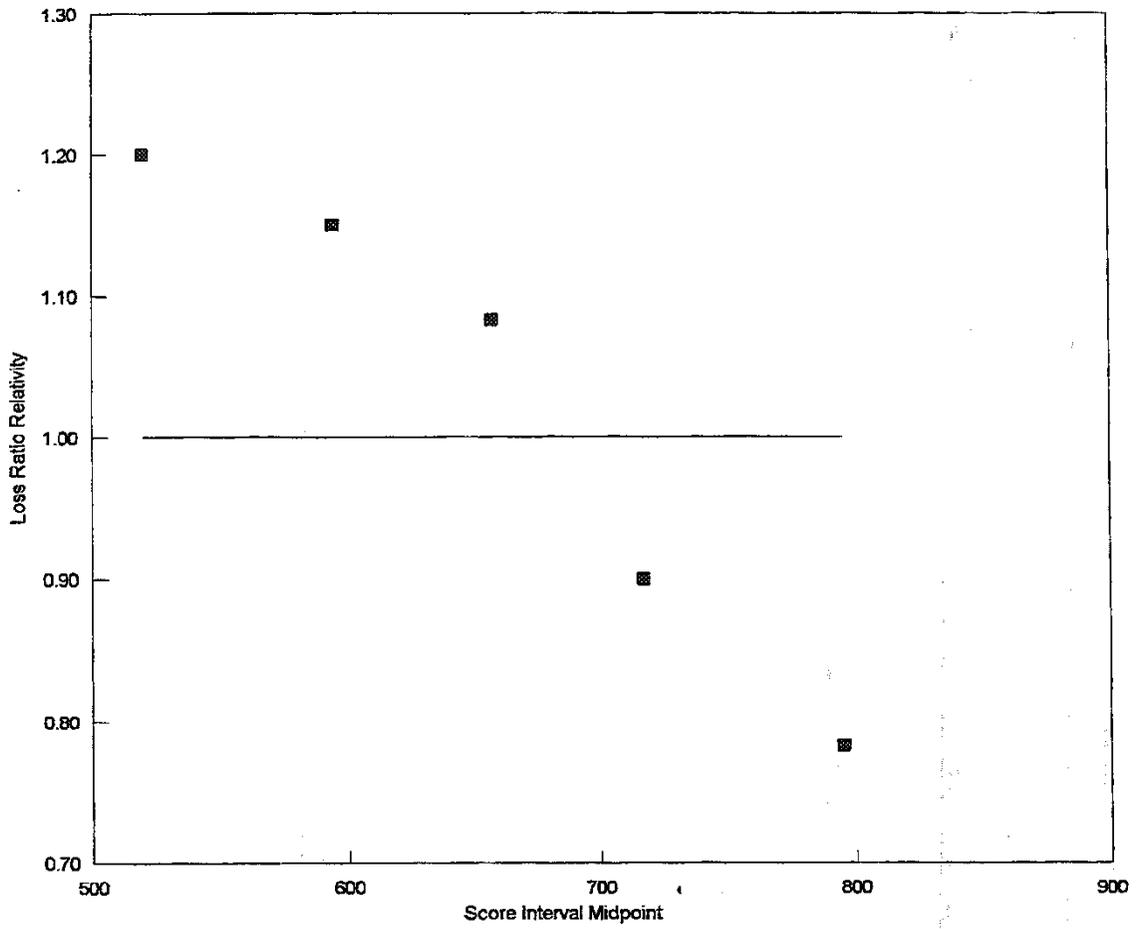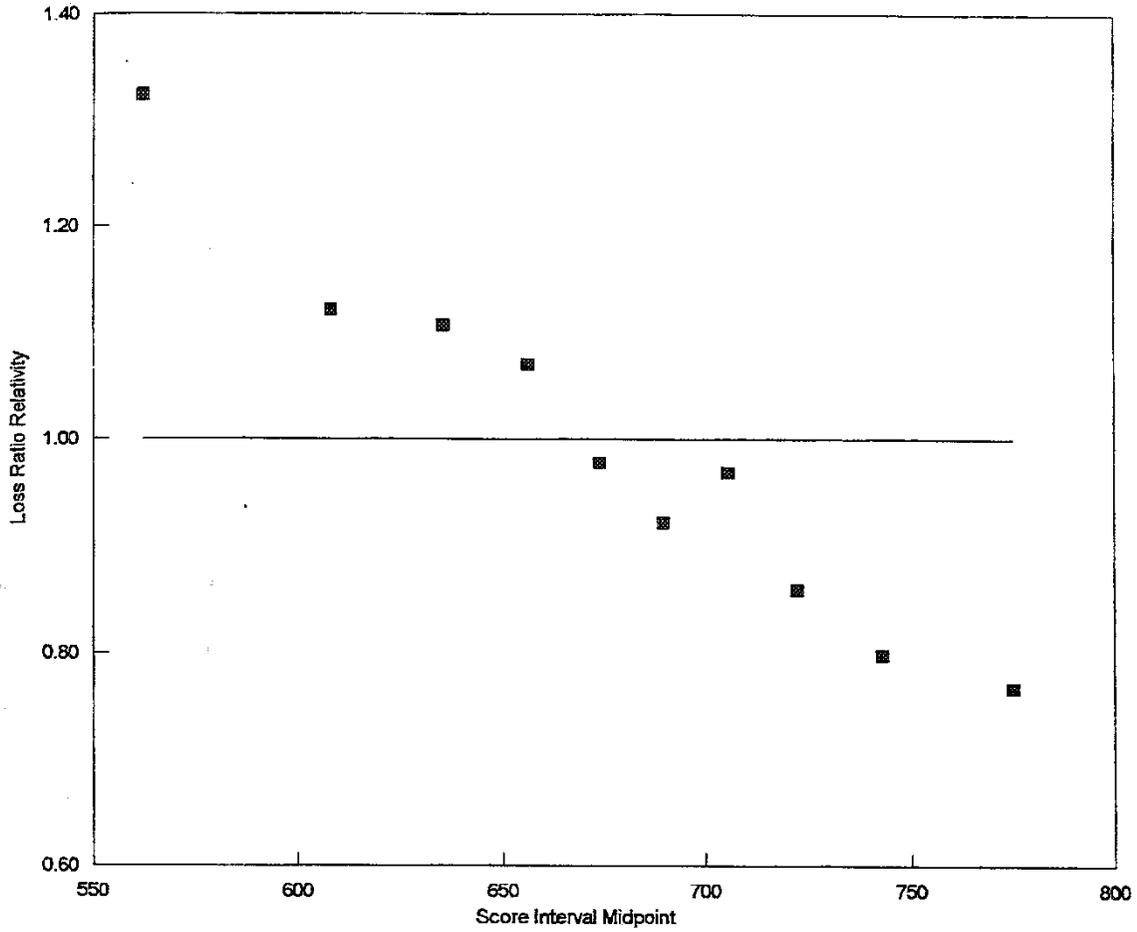
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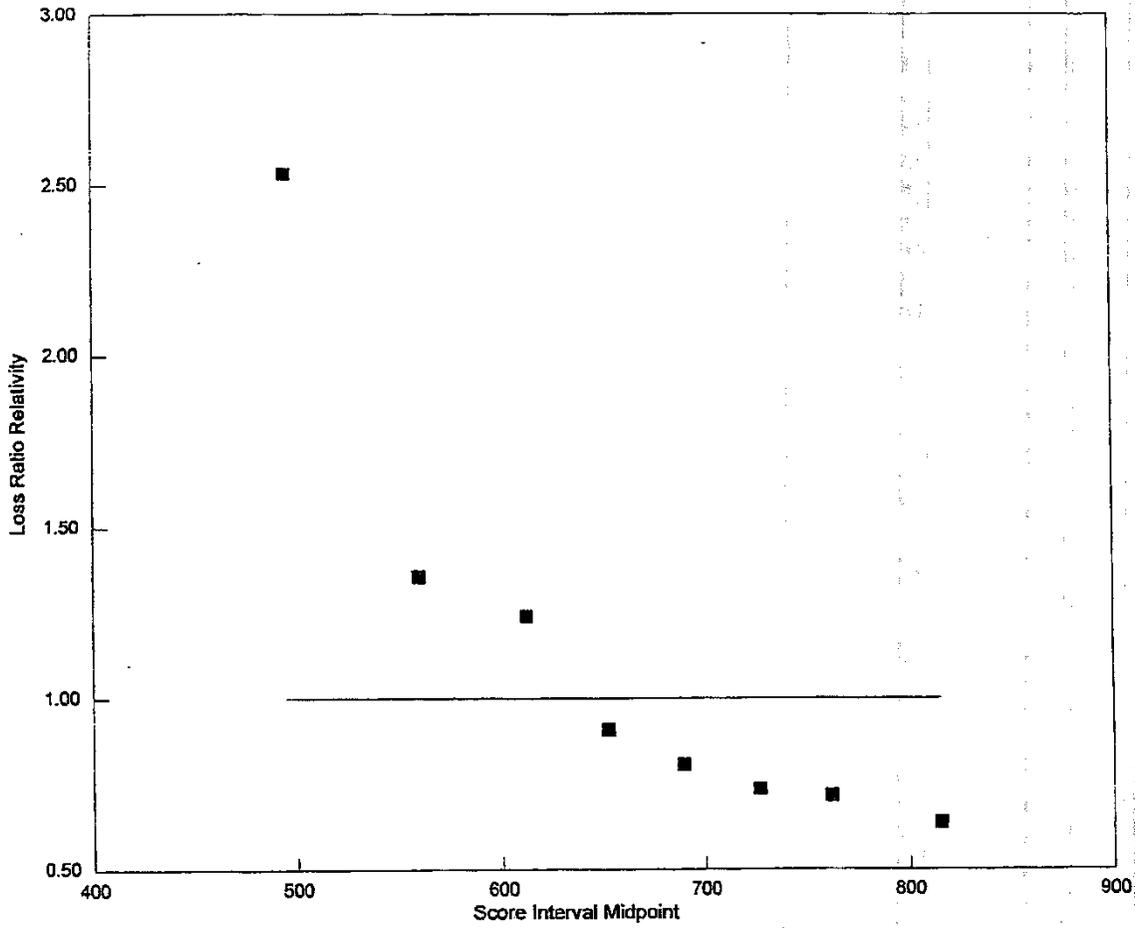
NCOIL
National Conference of Insurance Legislators

...for the states

MODEL ACT REGARDING USE OF CREDIT INFORMATION IN PERSONAL INSURANCE

Adopted by the Property-Casualty Insurance and Executive Committees on November 22, 2002.
Readopted by the Property-Casualty Insurance Committee on November 17, 2005, and Executive Committee on November 19, 2005.
Amended on July 12, 2009, to expand on extraordinary life circumstances provisions.

Table of Contents

Section 1. Short Title

This Act may be called the *Model Act Regarding Use of Credit Information in Personal Insurance.*

Section 2. 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 such information.

Section 3. 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 polices]. 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.

Section 4. Definitions

For the purposes of this Act, these defined words have the following meaning:

A. Adverse Action-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.

B. Affiliate-Any company that controls, is controlled by, or is under common control with another company.

C. Applicant-An individual who has applied to be covered by a personal insurance policy with an insurer.

D. Consumer-An insured whose credit information is used or whose insurance score is calculated in the underwriting or rating of a personal insurance policy or an applicant for such a policy.

E. Consumer Reporting Agency-Any person which, for monetary fees, 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.

F. Credit Information-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.

G. Credit Report-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 which 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.

H. Insurance Score--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.

Section 5. Use of Credit Information

An insurer authorized to do business in *[insert State]* that uses credit information to underwrite or rate risks, shall not:

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

B. Deny, cancel or non-renew 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 Section S(A).

   Drafting Note: This subsection prohibits an insurer from refusing to insure an applicant, insured, or other individual seeking insurance coverage because the person's insurance score fails to meet or exceed a minimum numeric threshold, unless one or more other applicable underwriting factors independent of credit information are considered

C. Base an insured's renewal rates for personal insurance solely upon credit information, without consideration of any other applicable factor independent of credit information.

D. 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.

E. 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:

   1. Treats the consumer as otherwise approved by the Insurance Commissioner/ Supervisor/Director, if the insurer presents information that such an absence or inability relates to the risk for the insurer.

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

   3. Excludes the use of credit information as a factor and use only other underwriting criteria.

F. 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.

G. Use credit information unless not later than every 36 months following the last time that the insurer obtained current credit information for the insured, the insurer recalculates the insurance score or obtains an updated credit report. Regardless of the requirements of this subsection:

   1. At annual renewal, upon the request of a consumer or the consumer's agent, the insurer shall re-underwrite and re-rate the policy based upon a current credit report or insurance score. An insurer need not recalculate the insurance score or obtain the updated credit report of a consumer more frequently than once in a twelve-month period.

   2. The insurer shall have the discretion to obtain current credit information upon any renewal before the 36 months, if consistent with its underwriting guidelines.

   3. No insurer need obtain current credit information for an insured, despite the requirements of subsection (G)(1), if one of the following applies:

      (a) The insurer is treating the consumer as otherwise approved by the Commissioner.

      (b) The insured is in the most favorably-priced tier of the insurer, within a group of affiliated insurers. However, the insurer shall have the discretion to order such report, if consistent with its underwriting guidelines.

      (c) Credit was not used for underwriting or rating such insured when the policy was initially written. However, the insurer shall have the discretion to use credit for underwriting or rating such insured upon renewal, if consistent with its underwriting guidelines.

      (d) The insurer re-evaluates the insured beginning no later than 36 months after inception and thereafter based upon other underwriting or rating factors, excluding credit information.

H. 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:

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

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

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

4. 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.

5. 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.

Section 6. Extraordinary Life Circumstances

A. Notwithstanding any other law or regulation, an insurer that uses credit information shall, on written request from an applicant for insurance coverage or an insured, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced and whose credit information has been directly influenced by any of the following events:

1. Catastrophic event, as declared by the federal or state government

2. Serious illness or injury, or serious illness or injury to an immediate family member

3. Death of a spouse, child, or parent

4. Divorce or involuntary interruption of legally-owed alimony or support payments

5. Identity theft

6. Temporary loss of employment for a period of 3 months or more, if it results from involuntary termination

7. Military deployment overseas

8. Other events, as determined by the insurer

B. If an applicant or insured submits a request for an exception as set forth in Section 6(A), an insurer may, in its sole discretion, but is not mandated to:

1. Require the consumer to provide reasonable written and independently verifiable documentation of the event.

2. Require the consumer to demonstrate that the event had direct and meaningful impact on the consumer's credit information.

3. Require such request be made no more than 60 days from the date of the application for insurance or the policy renewal.

4. Grant an exception despite the consumer not providing the initial request for an exception in writing.

5. Grant an exception where the consumer asks for consideration of repeated events or the insurer has considered this event previously.

C. An insurer is not out of compliance with any law or rule relating to underwriting, rating, or rate filing as a result of granting an exception under this section. Nothing in this section shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this section.

D. The insurer shall provide notice to consumers that reasonable exceptions are available and information about how the consumer may inquire further..

E. Within 30 days of the insurer's receipt of sufficient documentation of an event described in Section 6(A), the insurer shall inform the consumer of the outcome of their request for a reasonable exception. Such communication shall be in writing or provided to an applicant in the same medium as the request.

Section 7. Dispute Resolution and Error Correction

If it is determined through the dispute resolution process set forth in the federal Fair Credit Reporting Act, 15 USC 1681i(a)(5), that the credit information of a current insured was incorrect or incomplete and if the insurer receives notice of such determination from either the consumer reporting agency or from the insured, the insurer shall re-underwrite and re-rate the consumer within 30 days of 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.

Section 8. 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 such application. Such 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 such 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."

Section 9. Adverse Action Notification

If an insurer takes an adverse action based upon credit information, the insurer must meet the notice requirements of both (A) and (B) of this subsection. Such insurer shall:

A. 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 USC 1681m(a).

B. 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. Such notification shall include a description of up to four 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" do not meet the explanation requirements of this subsection. Standardized credit explanations provided by consumer reporting agencies or other third party vendors are deemed to comply with this section.

Section 10. Filing

A. Insurers that use insurance scores to underwrite and rate risks must file their scoring models (or other scoring processes) with the Department of Insurance. 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 trade secret under *[cite to the appropriate state law].*

Section 11. Indemnification

An insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of [an agent *I* a producer] who obtains or uses credit information and/or insurance scores for an insurer, provided the [agent *I* producer] follows the instructions of or procedures established by the insurer and complies with any applicable law or regulation. Nothing in this section shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this section.

Section 12. 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 *I* producer] from whom information was received, the insurer on whose behalf such [agent/ producer] acted, or such 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.

Section 13. Severability

If any section, paragraph, sentence, clause, phrase, or any part of this Act passed 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.

Section 14. Effective Date

This Act shall take effect on *[insert date],* applying to personal insurance policies either written to be effective or renewed on or after 9 months from the effective date of the bill.