Public Comments by Consumer Federation of America in Support of R087-20-Adverse Credit Based Rescoring

December 28, 2020

Nevada Legislative Commission
Legislative Building
401 S. Carson Street
Carson City, NV 89701-4747

Dear Legislative Commission,

We, the Consumer Federation of America (CFA), write these comments in support of the Nevada Division of Insurance's proposed regulation Number R087-20—Adverse Credit-Based Rescoring. This regulation has undergone a lengthy and thorough process of hearings, workshops and public input, and it will greatly help Nevadans and protect them from unfair and unjust rate increases.

R087-20 would prohibit insurers from using changes in consumer credit scores to increase policyholder premiums if these changes occurred between March 1, 2020 and two years after the end of date of Nevada's COVID-19 Declaration of Emergency, which was issued on March 12, 2020.

CFA strongly supports this rule, which is needed to protect consumers from being unfairly penalized by circumstances beyond their control and prevent unnecessary insurance premium hikes due to the COVID-19 pandemic and its resulting economic effects. Auto insurance companies have been reporting massive profits due to the pandemic. Vehicle miles traveled, auto crashes, and insurance claims are all far below normal, leading to big windfalls for insurers and excessive rates for consumers. CFA's latest data from four states shows over 181,000 fewer accidents in those states in 2020 compared to 2019, and there is nothing to suggest that Nevada's experience is any different.

Unless this rule is adopted, even as Nevadans are driving less and struggling with financial perils of this pandemic, insurers can raise rates on customers simply because their credit history worsens. Drivers who are unemployed and hardly driving anymore nevertheless face steep penalties if their credit score declines in the wake of this pandemic.

This proposed rule will provide badly needed relief to Nevadans who do not deserve and cannot afford to see their premiums go up. Since the pandemic hit in March, over 330,000 Americans have died, millions have gotten sick, and many more have lost their jobs or seen their incomes decline. When workers are laid off, it usually takes at least several months for them to find another job. Moreover, the pandemic has led to significant economic distress that is not expected to be over anytime.

Nevada's code states that "Rates must not be excessive, inadequate, or unfairly discriminatory," and this regulation is clearly in service of that requirement. It will protect safe drivers from unfair premium increases that only reflect the impact of the pandemic on their financial well-being and do not reflect changes to their risk of loss.

CFA believes that the economic harm caused by the pandemic, and its anticipated long-term impact on consumer credit, makes this rule an essential response by the Division in order to meet its consumer protection mandate. The reason consumers' credit scores will be falling over the next few months and years is because the pandemic has left them without jobs to which they would normally drive or because they had to extend their credit to accommodate new challenges like virtual learning. Credit scores are falling while drivers are *decreasing* their risk of loss, because they are driving so much less, which is exactly the opposite of the thesis behind using credit to rate auto insurance. In other words, consumers' changing credit history is evidence of the impact of the pandemic on their finances; it is not evidence of their driving risk, so it should not be used to penalize them.

The consequences of not adopting this ban on the use of credit information to increase premiums will be severe. Nevadans who are impacted by COVID-19 shutdowns and declining credit will be penalized by insurers and have to pay higher auto insurance premiums, even though they are driving less (and on less crowded roads). Safe drivers paying higher rates than similarly situated drivers simply because the pandemic lowered their credit score is unfair discrimination, and it is the Division's duty to prevent that.

As we previously mentioned, the Division's regulation bans insurers from using changes in consumer credit scores to increase their premiums if the changes happened between March 1, 2020 and two years after the ending date of Nevada's Declaration of Emergency for the pandemic. But it also requires insurers that have already increased consumer premiums under these circumstances to revise those premiums and refund the amounts that consumers overpaid. The application of the regulation's consumer protections from the onset of the pandemic tracks the period in which the use of insurance credit scores became unfairly discriminatory, and means the regulation would provide relief to those Nevadans who faced the financial toll of this pandemic in its earliest stages. The refund of that excess premium will be welcomed by Nevadans who were not driving but, unknowingly, were becoming more at risk of rate hikes with each tear in the fabric of their financial lives. It is now over nine months since the pandemic began and the first wave of closures and stay-at-home orders. For many consumers, the harm has already happened and their credit information has already been used to increase their premiums. Refunds are essential in order to remedy that harm.

CFA also supports the extension of this prohibition for two years after the expiration of the emergency order, because it will take time for the economy to recover and for people to find work and repay new debts. Even after the pandemic ends, consumer credit scores will still be affected by lost jobs, missed or delayed payments, increased levels of debt, and other financial strains. A substantial amount of time will be needed for credit scores to recover from their pandemic-caused declines.

Consumer Federation of America urges the Legislative Commission to swiftly approve proposed regulation Number R087-20 and to reject any attempts to water it down. We stand ready to serve as a resource for the Commission if requested, and are happy to answer any questions or provide more information. We can be reached at douglasheller@ymail.com or mdelong@consumerfed.org.

Sincerely,

Michael DeLong

Douglas Heller

Insurance Expert

CFA

Michael DeLong

Insurance Advocate

CFA