Introduction to NCOIL Model Credit Scoring Act

(Section 4727 of Consumer Protection Act)

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1. DFR's 2016 Study of Credit Scoring in Automobile Insurance

At the end of the 2016 legislative session, DFR was directed to conduct a study of the use of credit-based insurance scoring and its impact on Vermont drivers. The Department submitted its report on December 15, 2016. The report's principal findings were:

- Every evidence-based study of credit scoring has shown that it is highly-predictive of claims risk.
  - There is a clear "relationship between credit-based insurance scores and risk for all types of coverage analyzed." (2007 Federal Trade Commission Report to Congress at 25).
- All 18 domestic and national automobile insurance companies surveyed by DFR use credit scoring in Vermont as one factor in determining the premium that a new customer will pay.
- Vermont's average credit score is the fifth highest in the nation.
- For the 150,000 vehicles included in DFR's data call that were rated using credit-based insurance scores:
  - Drivers of 66% of the vehicles paid less based on their insurance score;
  - Drivers of 18% of the vehicles paid no more or less based on their insurance score.
  - Drivers of 16% of the surveyed vehicles paid more based on their insurance score.
- If the use of credit-based insurance scores was prohibited, approximately two-thirds of drivers of vehicles whose premiums are calculated using credit-based

insurance scores would see a premium increase. The median annual premium increase would be $33.

- There is no evidence, based on the data reviewed by the Department, that a Vermont driver's premium is related to his or her income.

2. The NCOIL Model Act

In an effort to preserve the benefits of insurance scoring while mitigating some of its potentially adverse effects, the National Conference of Insurance Legislators (NCOIL) in 2002 released a "Model Act Regarding Use of Credit Information in Personal Insurance" (the "NCOIL Model Act"). To date, the NCOIL Model Act has been adopted in whole or part by twenty-nine states. Other states have adopted some of the same types of restrictions as those included in the NCOIL model. At present, the only states without any statutory or regulatory restriction on the use of insurance scoring are Vermont and Pennsylvania.

The NCOIL Model Act establishes a number of safeguards designed to mitigate any adverse impacts and misuse of insurance scoring on vulnerable members of the population. Among the most important of these are:

- a prohibition on the use of income, gender, address, zip code, ethnic group, religion, marital status, or nationality in calculating a consumer's insurance score;
- a prohibition on the use of a consumer's insurance score as the sole factor in setting his or her rates or in an insurer's decision to cancel or non-renew a policy;
- for consumers who lack credit history or have a small credit file (such as young drivers), a requirement that the insurer either exclude credit as an underwriting factor or treat the consumer as if he or she had a neutral credit score;
- a prohibition on taking adverse action against a consumer based on negative credit information unless the credit report upon which the adverse action is based has been updated within the previous 90 days;
- A requirement that at least every 36 months following the most recent use of credit the insurer recalculate the insured's insurance score, unless credit was not used for underwriting or rating the initial policy or unless the insured's renewal premium excludes credit altogether;

- a requirement that the insurer notify the consumer if it does take adverse action based upon credit information, provide the consumer with a clear explanation for the adverse action, and allow the consumer to contest the credit information upon which the adverse action was based;
- a requirement that any insurance scoring methodology or credit review performed for underwriting or rating purposes exclude collection accounts with a medical industry code or multiple lender inquiries from the home mortgage or auto lending industries; and
- a provision allowing consumers whose credit history has been adversely affected by extraordinary life circumstances such as divorce, serious illness or the involuntary loss of employment to request that their insurance score not be considered in rating decisions.

For the individual consumer, the NCOIL Model Act provides significant protections from the potential adverse impacts of insurance scoring. Some of the most significant of these are the extraordinary life circumstances provision, the requirement that insurers exclude from their scoring methodology collection accounts with a medical industry code, and the requirement that insurers exclude credit as an underwriting factor for drivers with little or no credit history.