February 16, 2021

The Honorable Paul Holvey
Representative, State of Oregon
900 Court Street NE
Salem, OR 97301

Sent via electronic submission

Re: HB 2043, Relating to Information permitted for insurer's decisions concerning motor vehicle liability insurance – APCIA's, NAMIC's, and NWIC's Opposition

Dear Representative Holvey:

On behalf of the **American Property Casualty Insurance Association** (APCIA), the **National Association of Mutual Insurance Companies** (NAMIC) and the **Northwest Insurance Council** (NWIC) (hereafter referred to as the "trades"), whose members collectively write the vast majority of property & casualty insurance policies in the state of Oregon, thank you for the opportunity to express our concerns regarding how HB 2043 radically alters the way auto insurance is priced.

Insurers, like other businesses and leaders in our society today, welcome the national discussion over the need for racial and social equity and justice. To that end, it is proper for policymakers to raise important questions about policies and practices of the financial services industry to ensure they are applied fairly and equitably to all. We believe a fact-and-data-based review of insurers' consideration of factors that would be prohibited by HB 2043 demonstrates that:

1. Rating factors considered by insurers today are accurate and objective across all classes of policyholders, regardless of race or income, and
2. Prohibiting consideration of these factors would increase insurance costs for most Oregon consumers, without regard to race or income.

Most people save money when credit, education and occupation are used to assess how much you pay for insurance. Sadly, HB 2043 takes these tools that reduce prices away, increasing the price for the majority of customers who are already struggling to make ends meet during the COVID-19 pandemic recession.

When insurers are free to responsibly underwrite and rate risks – as they are today in Oregon – consumers benefit with lower rates, more choices and greater market and price stability. That is why we support the ability of insurers to consider risk-based underwriting and rating criteria—including factors such as credit history, gender, marital status, education and occupation—that are objective and fair; are supported by actuarial and statistical evidence; and which are consistently shown to provide reduced insurance rates for the majority of policyholders in Oregon.

HB 2043 is modeled after California, where insurance prices are the fifth highest in the nation. According to Insure.com, customers in California – where credit, education and occupation use is banned in assessing insurance rates – pay $600 more for insurance than Oregon customers

Oregon's auto insurance marketplace is healthy and competitive. This means consumers have a variety of auto insurers to choose from, including some that use some of the underwriting criteria listed above, and others that underwrite primarily on driving factors such as usage-, or mileage-based factors. The trades support the right of consumers to enjoy a competitive market and to be able to choose from among insurers offering different underwriting models.

We are also concerned HB 2043, rather than mitigating social inequities, will actually exacerbate them. If all non-driving factors are eliminated from consideration, insurers will more heavily rely on driving history as recorded in motor vehicle records (MVRs). MVRs, however, are notoriously incomplete, in some cases because masking laws allow motorists who can afford to enroll in diversion courses that prevent certain infractions from being recorded or because of the failure of courts to properly report infractions. In fact, it is these very deficiencies with MVRs that led to, in part, the widespread use of credit-based insurance scores (CBIS), one of the factors HB 2043 would ban. **Overreliance on MVRs can be especially harmful for people in communities of color who are often more likely to be the subject of traffic law enforcement actions, as shown by multiple studies, including the Stanford Open Policing Project.**

While we are supportive of the use of all the rating factors that HB 2043 would prohibit, we would like to highlight to you the use of credit history and how it benefits Oregonians as indicative of the need to allow insurers the ability to utilize risk-based pricing.

The federal Fair Credit Reporting Act first authorized insurers to consider credit information nearly 40 years ago. Within the past 15 years, however, the use of credit information in insurance has grown, as ever-increasing evidence (demonstrated in numerous state regulatory, federal, university and industry studies over decades) has proven just how predictive and accurate it is.

CBIS is an objective and accurate method for assessing the likelihood and severity of insurance loss. Insurers that consider credit information in their pricing decisions do so for only one reason – insurance scoring allows them to underwrite and price insureds with a greater degree of accuracy and certainty. Sound underwriting and rating, in turn, allows insurers to offer a wider range of products at more competitive, accurate prices; providing a direct benefit to consumers.

In fact, individual insurers can actually point to products available to more consumers today than were available in the past expressly due to the addition of this accurate rating tool. And some of

the insurers we've spoken to are also developing information that compares insurance scores of current policyholders with real-time driving data obtained through the voluntary use of vehicle telematics and are seeing correlation there as well. However, it is important to note that not all insurers offer Usage-Based policies, and for those that do, not all insureds are opting-in to having telematics devices in their vehicles.

As our industry has frequently shared with policymakers, regulators, industry professionals and consumers over the past several years, there are significant differences between "credit scores" used by lenders, employers, government agencies and others; and the credit-based insurance scores used by many insurers. You may recall this was highlighted in a recent release by the National Association of Insurance Commissioners.[1]

As you know, although both "credit scores" and CBIS are derived from information found on consumer credit reports, the information is measured differently. Insurers use credit information in developing insurance scores to predict the *likelihood of future insurance loss*, which does not include or rely on income-related information. Lending institutions, on the other hand, use credit scores *to determine the availability, amount and price of credit products* offered to the consumer. Income is naturally a major component in the calculation of the likelihood of repayment.

By law, insurers cannot inquire about race or income on applications or renewals for insurance policies. Credit-based insurance scores in and of themselves do not consider income level, address, race, ethnicity, religion, gender, familial status, nationality, age, and marital status. Further, there is no reliable evidence that points to insurance scoring resulting in higher insurance rates for any specific class of individual. Low insurance scores do not correlate to specific geographies or classes of individuals. On the contrary, both high and low scores are found across all income levels and geographies. And what cannot be disputed is that higher insurance scores strongly correlate to lower risk of insurance loss and vice-versa. Thus, we argue that rates are tied to risk and not to race or income, and that loss of the use of insurance scores makes insurance pricing less accurate, leading to higher costs for many consumers, regardless of race or income.

Every serious and reputable actuarial study on the issue, including a study released in 2007 by the **Federal Trade Commission**,[2] has reached the same conclusion: there is high correlation between insurance scores and the likelihood of filing insurance claims. That same FTC study also concluded that the full range of scores – highest to lowest – were present in all racial groups and income levels they reviewed.

Most consumers have good credit-based insurance scores and benefit accordingly. An annual survey released by the **Arkansas Insurance Department** between the years 2005-2017 consistently found approximately 50 percent of consumers in that state save money due to insurers' use of credit information while only 15-20 percent pay more (because those policyholders are actuarially predicted to be higher risk insureds). The remaining 30-35 percent

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[1]https://content.naic.org/article/consumer_insight_creditbased_insurance_scores_arent_same_credit_score_understand_how_credit_and_other_factors.htm

[2] https://www.ftc.gov/sites/default/files/documents/reports/credit-based-insurance-scores-impacts-consumers-automobile-insurance-report-congress-federal-trade/p044804facta_report_credit-based_insurance_scores.pdf

are otherwise unaffected. The most recent Arkansas study, issued in June of 2017, found that "80% of consumers either received a discount for credit or it had no effect on their premium."[3]

The **Vermont Department of Financial Regulation** reached a similar conclusion in 2016, finding that 84% of drivers either receive a discount for credit or it had no effect on their premium.[4] The Vermont study further found that although 16% of drivers pay more for auto insurance than they would if credit-based insurance scoring were not used, there is no evidence that a driver's premium is related to income. Several other studies have come to a similar conclusion that insurance scores do not act as a proxy for income.

The Vermont study also considered what the potential impact might be if credit-based insurance scoring was banned as a rating tool such as this bill would propose and the study found that in addition to the premium discount being removed, implementation of a ban could also cause significant upheaval, stating that "implementation of a ban would be a complex undertaking, since insurers would need to develop new actuarial models to try to account for the variability in risk currently predicted with credit-based insurance scores." **Relative to the impact of a ban, the Vermont study stated, "Given how widely credit is used and how highly it is valued by insurers as a predictive factor, however, removing it as a pricing factor is likely to affect the entire market and to result in higher premiums for many customers."**

As you know, Oregon already strictly regulates insurers' use of credit information (ORS 746.600(33)). Insurers must inform consumers of its use and, while insurers may use credit to decline coverage, they can only do so if it is used in combination with other factors. Further, insurers may only use credit-based insurance scores at policy renewal if the use of that information does not increase the insured's premium. Insurers must also file their insurance scoring models and policy rates and forms with the Division of Financial Regulation, which must approve them prior to use. They must also establish a written policy that includes an explanation of CBIS and the standards governing their use.

Credit-based insurance scoring is a predictive tool for insurers - and one that benefits consumers. To protect lower prices, competition and consumer choice, it is imperative that insurers be permitted to fairly price risks using nondiscriminatory and statistically valid tools available to them.

Credit-based insurance scores and the other risk-based factors prohibited under HB 2043 will, we believe, lead to higher costs for Oregon insurance consumers without regard to race or income. Therefore, on behalf of insurers and the consumers we serve in Oregon, we must oppose HB 2043.

At the same time however, insurers believe this is an important time to be fully and continually engaged together in discussions about race, income and insurance as policymakers consider calls for change. In that spirit, we are committed to continued discussions with legislators, DFR, and consumer organizations and will seek out or provide additional data that might serve to better inform public policy efforts going forward.

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[3] https://insurance.arkansas.gov/uploads/resource/documents/2017credit.pdf

[4] https://legislature.vermont.gov/assets/Legislative-Reports/Credit-based-Insurance-Scoring-Report-12-15-16.pdf

If you have any questions, please feel free to contact **Denneile Ritter**, APCIA: (209) 968-9107; **Christian Rataj**, NAMIC: 303-907-0587 or **Kenton Brine**, NWIC: 206.624.3330.