Testimony of

American Property Casualty Insurance Association (APCIA)
before the
House Economic Matters Committee

HB 436 Motor Vehicle Insurance – Use of Credit History Rating Policy
HB 690 Motor Vehicle Insurance – Use of Credit History Rating Policy

February 15, 2022

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) is a national trade organization representing nearly 60 percent of the U.S. property casualty insurance market. Our members write approximately 50.9 percent of all private passenger auto insurance sold in Maryland APCIA appreciates the opportunity to provide written opposition to House Bill 436 and House Bill 690 which would ban the use of credit history in rating a private passenger auto policy. House Bill 168 and House Bill 221 prohibit a private passenger motor vehicle insurer from using an applicant's or insured's credit history to rate a risk in any matter.

Use of Credit in Maryland

Maryland laws provide very specific criteria and restrictions in the use of credit in rating Maryland private passenger auto policies. Section § 27-501(e-2) of the Maryland Insurance Article provides the guidelines for the use of credit. An insurer may not refuse to underwrite, cancel, refuse to renew, or increase the renewal premium based, in whole or part, on the credit history of an application. An insurer may use credit to rate a **new policy** but 1) may only use credit history going back five years; 2) advise the applicant that credit is used and if requested identify the portion of premium based on credit; 3) may not use the lack of credit or number of credit inquiries as a factor in rating; 4) must review an insured's credit history every two years or by request; and if there is an improvement adjust the premium to reflect the improvement.

Maryland laws provide very specific criteria in regulating underwriting practices of private passenger auto insurers. Section § 27-501(a)(1) of the Maryland Insurance Article prohibits unfair discrimination in underwriting by making clear that an insurer or insurance producer may not cancel or refuse to underwrite or renew a risk or class of risk based wholly or partly on race, color, creed, sex, or blindness of an applicant or policyholder or for any arbitrary, capricious or unfairly discriminatory reason. Further, this Section states that an insurer or insurance producer may not cancel or refuse to underwrite or renew a risk or class of risk except by the application of standards that are reasonably related to the insurer's economic and business purpose. In addition, Maryland only permits the use of credit for underwriting private passenger auto but does not permit it for the use of homeowner's insurance.

Credit History

It is important to understand how insurers use credit information and to note that there are significant differences between the credit scores used by lenders and the credit-based insurance scores used by many insurers. Although both are derived from information found on credit reports, the information is measured differently. Insurers use credit information in developing insurance scores to predict the likelihood of future insurance loss. Credit-based insurance scores (CBIS) provide an objective measurement of how one manages the risk of credit. Lending institutions, on the other hand, use credit scores to determine the availability, amount and price of credit products offered to the consumer. Lending institutions use credit to determine the likelihood of repayment. The most significant difference between insurers and lending institutions is that insurers **do not collect and do not consider income.**

In addition to income level, one's address, ethnicity, religion, gender, familial status, nationality, age education, occupation and marital status are also **not** considered within a credit score calculation. Further, there is no reliable evidence that points to insurance scoring resulting in higher insurance rates for any specific class of individual. Low credit scores do not correlate to a specific territory or class of individuals. On the contrary, both high and low scores are found across all income levels, and territories.

Every serious and reputable actuarial study on the issue, including a study released in 2007 by the Federal Trade Commission[1], has reached the same conclusion: there is a very high correlation between insurance scores and the likelihood of insurance claims. Several other states have reached the same conclusion is in conducting their own studies. The Virginia Bureau of Insurance[2] concluded in 1999 that "[i]n every case where insurers have proposed to use credit scoring as a rating factor…the use of credit scoring has been found to be statistically correlated to losses." More recently, the Vermont Department of Financial Regulation stated, in a 2016 report, that "[c]redit-based insurance scores are a predictor of claims risk that appears to provide a financial benefit to many Vermont policy holders.[3]

Credit-based insurance scores allow insurers to write business that they may not have accepted in the past, and to offer lower rates to many insureds. The majority of consumers have good credit-based insurance scores and benefit accordingly – with rates refined to reduce disproportionate subsidies of higher risk individuals. An annual survey released by the Arkansas Insurance Department between 2005 and 2017[4] consistently found approximately 50 percent of consumers in that state save money due to insurers' use of credit information while only 20 percent pay more because of that same use. The remaining 30 percent are otherwise unaffected. To put it another way, policies decreasing in premium due to insurance scoring outnumbered policies increasing in premium by a factor of 3 to 1.

Greater access to information allows insurers to "grant and price coverage more efficiently, producing

[1]https://www.ftc.gov/news-events/press-releases/2007/07/ftc-releases-report-effects-credit-based-insurance-scores

[2] Available upon request. *See also:* "Virginia State Corporation Commission on the Use by Insurers or Applicant's Credit Information in Connection with Underwriting Motor Vehicle Insurance Policies." (2016) https://rga.lis.virginia.gov/Published/2016/RD331/PDF The Bureau concluded nothing in their analysis leads "to the conclusion that income or race alone is a reliable predictor of credit scores, thus making the use of credit scoring an ineffective tool for redlining."

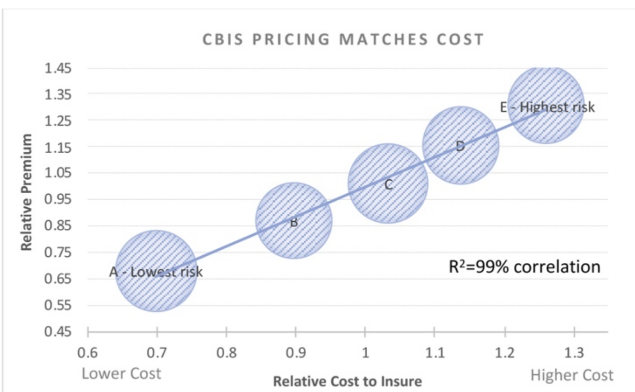
[3] https://legislature.vermont.gov/assets/Legislative-Reports/Credit-based-Insurance-Scoring-Report-12-15-16.pdf

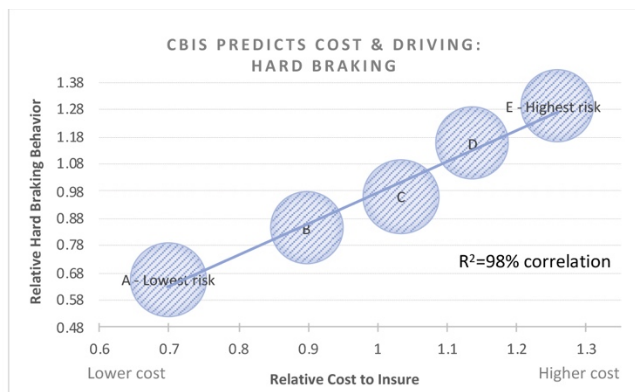
[4] https://insurance.arkansas.gov/uploads/resource/documents/2017credit.pdf

cost savings that could result in lower premiums," and permits insurers to "evaluate risk with greater accuracy, which may make them more willing to offer insurance to higher-risk consumers for whom they otherwise would not be able to determine an appropriate premium."[5]

.An indicator of competitiveness is the market share of MAIF which has dropped from 6.3% of the total written premium for private passenger auto in 2002[6] to 1.17% in 2015.[7] Based on recent 2020 NAIC market share data, MAIF is no longer in the top 15 writers in the marketplace which places their share at less than ½ of a percent of the marketplace. The fact that MAIF's market share has decreased while other writers' market share has increased would indicate that insurers are willing to accept more risk because they can better evaluate risk using various risk factors. Thus, more and more Marylanders are no longer being insured through MAIF. [8]

Further demonstrating the value of the use of credit, APCIA has analyzed data demonstrating that credit-based insurance scores correlate to specific risky driving behavior. For example, consumers with higher credit scores are less likely to brake hard or excessively accelerate -- risky driving behavior associated with higher loss costs.





Contrary to the claim that credit-based insurance scores do not predict risky behavior but instead unfairly discriminate against groups, this data provides a real-world demonstration that certain driving behavior is in fact captured by credit-based insurance scores. Prohibiting the consideration of these factors creates inequity by leading to pricing that is not risk-based.

We understand the desire of legislators to address social inequities, but undermining risk-based pricing by prohibiting the use of certain actuarially justified rating factors could exacerbate those inequities. If credit information is eliminated from consideration, it is highly probably that auto insurers will come

[5] *Id*. Federal Trade Commission, July 24, 2007

[6] The Maryland Insurance Administration's "2008 Report on the Effect of Competitive Rating in the Marketplace"

[7] 2016 Report on the Effect of Competitive Rating on the Insurance Markets in Maryland MSAR #995".

[8] The DLS summary of MAIF's budget for 2023 also indicates that policy counts have dropped 24% from 45,737 in calendar year 2020 to an estimated 34,959 in calendar year 2021. *See exhibit 3:* https://mgaleg.maryland.gov/pubs/budgetfiscal/2023fy-budget-docs-operating-D70J00-Maryland-Automobile-Insurance-Fund.pdf

to rely even more heavily on other factors like driving history as recorded in motor vehicle records (MVRs).

MVRs are notoriously incomplete. In fact, it is these very deficiencies with MVRs that led, in part, to the widespread use of credit-based insurance scores. Overreliance on MVRs can be especially harmful for minorities who are more likely to be the subject of traffic law enforcement actions, as shown by multiple studies:

- The **Stanford Open Policing Project** reviewed 200 million traffic and search stops nationwide and found that black drivers are 20 percent more likely to get pulled over than white drivers and when they are pulled over, black and Hispanic drivers are more likely to be searched than white drivers. [9]

- The **New Jersey Attorney General** found in 2018 that black drivers were involved in a disproportionate share of searches, making up 39 percent of all post-stop activities while only accounting for one fifth of all stops.[10]

- A 2011 study by the **U.S. Department of Justice**, Policy Behavior during Traffic and Street Stops found black drivers are more likely to get pulled over for a traffic stop and black and Hispanic drivers were both ticketed and searched at higher rates than white drivers.[11]

Placing greater weight on a consumer's prior driving history by eliminating the use of other factors more predictive of risk not only harms the very consumers the proposed legislation seeks to protect, but also undermines the fairness and solvency purposes of state regulations that require rates to reflect the risk of future losses. Although helpful, over-reliance on motor vehicle records or prior accidents diminishes insurer's ability to accurately predict future claims experience.

Impact of COVID-19 Pandemic on Average Credit Scores

Despite widespread expectations that the economic slowdown brought about by the pandemic would lead to a cratering in average credit scores, in fact, just as during the Great Recession, average credit scores are about the same if not improving in some states.

Why is this? There are several reasons. A wide range of financial services institutions, such as banks, credit card companies, insurance companies, home finance companies and auto lenders, are granting leniency around payments due to COVID-19. And, under the federal CARES Act, if an account is up-to-date and a consumer enters a debt-relief program with a debtor, the creditor must continue to report the account as current.[12] This means there will be no negative impact on that consumer's credit history.

In addition, consumers in general are changing their behavior because of the changed economic circumstances. They are becoming more conservative in their spending habits and paying down debt, which is stabilizing if not improving credit score.

[9] https://openpolicing.stanford.edu/
[10] https://www.nj.gov/oag/oleps/pdfs/OLEPS-2018-Fifteenth-Aggregate-Report_TEA_njsp.pdf
[11] https://bjs.ojp.gov/content/pub/pdf/pbtss11.pdf
[12] https://www.transunion.com/legal/covid-19-data-furnishers

That is why it would be particularly unfortunate to ban the use of credit-based insurance scores at this time. As a 2019 report from the Maryland Insurance Administration points out, "the use of credit results in a premium decrease for substantially more policyholders than those that experience a premium increase due to credit," **a percentage the report pegs at 75%.** [13]

If this recommendation were to be adopted, it could possibly result in an increase in premium for a substantial number of policyholders at precisely the wrong time to do it, in the middle of a pandemic when so many are dealing with economic uncertainty.

What happens when a state bans credit?

In 2002, Maryland did just that with respect to homeowner's insurance and rates went up. The rates went up at a faster rate than the rest of the country (53% to 36%) between 2002 and 2007, and they went up faster than they did in neighboring states and at least one company left the market.

Restrictions on the use of underwriting factors such as credit could harm the marketplace, thereby negatively impacting a state's economy. Such limits create unfair subsidies among consumers, stifle competition, limit innovation, and force insurers to be more cautious about writing new business or expanding into new markets. As a direct result, consumers enjoy less choice, less availability, and higher average costs. This not only increases the uncertainty risk premium, but insurers are further forced to rely on a decreasing number of legitimate predictive factors, factors that are not necessarily proportionately distributed among different groups. Individual consumers who fare poorly with a small range of very limited factors may have vastly fewer and affordable insurance coverage options without the use of a multiplicity of factors.

For these reasons, APCIA asks the Committee to provide unfavorable reports on House Bills 436 and 690.

Respectfully submitted,

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[13] *See Page 13* https://insurance.maryland.gov/Consumer/Appeals%20and%20Grievances%20Reports/Private-Passenger-Motor-Vehicle-Ins-Rating-Factors-Report.pdf