Comments in Support of Nevada Proposed Regulation LCB File No. R087-20-Adverse Credit-Based Rescoring

September 29, 2020

Commissioner Barbara Richardson
Nevada Division of Insurance
1818 East College Parkway, Suite 103
Carson City, NV 89706

Dear Commissioner Richardson,

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 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 will protect consumers from being unfairly penalized by circumstances beyond their control and prevent unnecessary premium hikes during this challenging time. We note that while some insurers may oppose these important protections for hard-hit Nevadans, auto insurance companies have been reporting double and triple digit spikes in their net income during the pandemic. As Americans stopped driving and caused fewer accidents by staying home to prevent the spread of COVID-19, auto insurers have reported billions of dollars in increased profits compared to prior years. This proposed regulation will not put a dent in those windfalls, but it will provide much needed relief to many Nevadans who do not deserve and cannot afford to see their insurance premium rise.

The COVID-19 pandemic has affected all Americans and directly harmed tens of millions of people. Over 200,000 Americans have died due to COVID-19, millions have gotten sick and needed medical treatment, and millions more have lost their jobs, seen their hours and wages reduced, or had to close their businesses. When workers are laid off, it usually takes several months or longer for them to find another job. The pandemic has caused severe economic disruption and hardship and these circumstances persist. The U.S. economy is not expected to fully recover to pre-pandemic levels anytime soon.

The Nevada Division of Insurance has a responsibility to ensure that insurance rates are not excessive or unfairly discriminatory. The proposed regulation is clearly in service of that obligation. 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.

Without debating the appropriateness of credit-history as a rating factor in normal times, we believe that the economic havoc created by the pandemic, and its impact on consumer credit, have made 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 and because they have 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, individuals' 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.

If this rule is not adopted, 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 that requires an intervention such as the one developed by the Division.

The Division of Insurance's proposed regulation would ban 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. The regulation also requires insurers that have already increased consumer premiums under these circumstances to revise those premiums and refund the amounts that consumers overpaid.

In applying the rule retroactively to the onset of the pandemic, the proposal 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 residents who were not driving but, unknowingly, becoming more at risk of rate hikes with each tear in the fabric of their financial lives. We also support the extension of the protection 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. 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 reasonable amount of time will be needed for credit scores to recover from their pandemic-caused declines.

These comments are not meant to indicate that CFA thinks credit scoring is otherwise acceptable. In fact, we have been strongly critical of credit scoring as unfairly discriminatory and biased against low-income communities in the past, and we are even more convinced that credit scoring is harmful to consumers. However that is not the debate here; the proposal that we are supporting is a temporary solution to a particular problem caused by the pandemic.

Consumer Federation of America urges the Nevada Division of Insurance to swiftly implement proposed regulation Number R087-20 and to reject any attempts to weaken it or create loopholes. We stand ready to serve as a resource for the Division if needed, and please reach out to us if you have questions.

Sincerely,

Consumer Federation of America