

NATIONAL CONFERENCE OF INSURANCE LEGISLATORS (NCOIL)

**Resolution Supporting State Regulation of the Use of
Credit Information in Personal Insurance**

*Adopted by the NCOIL Property-Casualty Insurance Committee on July 11, 2008, and
Executive Committee on July 13, 2008.*

Sponsored by Rep. George Keiser (ND)

WHEREAS, in 2002 the National Conference of Insurance Legislators (NCOIL) adopted a *Model Act Regarding Use of Credit Information in Personal Insurance* in order to regulate the use of insurance scoring so that consumers would be afforded certain protections with respect to the use of their credit data; and

WHEREAS, the NCOIL model law is non-discriminatory; assists the young, old, and those who suffer extraordinary life events; and provides for use of updated credit information, among other things; and

WHEREAS, 26 states have adopted legislation and/or regulation based on the NCOIL model act; and

WHEREAS, these states have protected consumers while helping to promote competitive insurance marketplaces; and

WHEREAS, a total of 48 states have laws that regulate insurance scoring; and

WHEREAS, federal H.R. 5633, entitled the *Nondiscriminatory Use of Consumer Reports and Consumer Information Act of 2008*, is pending in the 110th Congress and would amend the *Fair Credit Reporting Act* (FCRA) to prohibit use of insurance scoring if the Federal Trade Commission (FTC) found that it has a proxy effect for race or ethnicity; and

WHEREAS, such a proxy effect would mean that an insurance score served as a substitute, either intentionally or in effect, for race or ethnicity; and

WHEREAS, H.R. 6062, entitled the *Personal Lines of Insurance Fairness Act of 2008*, also is pending and would outright prohibit the use of credit-based scoring in underwriting or rating personal automobile and homeowners' insurance; and

WHEREAS, passage of H.R. 5633 or H.R. 6062 would intrude on an area of regulation resolved at the state level;

NOW, THEREFORE, BE IT RESOLVED that the National Conference of Insurance Legislators (NCOIL) opposes federal legislation that would restrict a state's lawmaking ability regarding use of consumer credit information—as such federal legislation would infringe on states' well-established authority to oversee the business of insurance and would disregard legislatures' ability to determine what is best for their individual states;

BE IT FURTHER RESOLVED that NCOIL will continue to educate states regarding consumer protections in the NCOIL *Model Act Regarding Use of Credit Information in Personal Insurance* in order to assist legislatures as they consider regulating insurance scoring;

BE IT FINALLY RESOLVED that NCOIL will distribute this resolution to state and federal leadership, as appropriate, and to the Federal Trade Commission (FTC) following the 2008 NCOIL Summer Meeting.