

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.