



OFFICE OF  
INSURANCE COMMISSIONER

April 28, 2021

Members of the National Association of Insurance Commissioners  
Sent electronically

RE: Court Upholds Washington Office of Insurance Commissioner Emergency Rule for  
Moratorium on Insurance Credit Scoring

Dear Commissioners, Directors, and Superintendents:

I am writing to update you on the most recent effort by the insurance industry to block my emergency rule imposing a three-year moratorium on insurers' use of consumer credit information for the pricing of personal lines insurance, an effort that to date has been unsuccessful.

On April 23, Thurston County Superior Court denied the industry's petition for a preliminary injunction and, in doing so, rejected all the industry arguments. The court found the insurance associations were unlikely to prevail on the following issues:

- Whether statutes specific to insurance credit scoring exempt credit scoring from the general requirement that rates not be excessive, inadequate or unfairly discriminatory;
- Whether the combination of the effects of the pandemic on consumers and the distortions in credit reporting required by the CARES Act made, and continue to make, insurance credit scoring unfairly discriminatory;
- Whether the fact that insurance credit scores were a reliable predictor of insurance claims prior to the pandemic is not evidence of the current reliability of insurance credit scoring;
- Whether the uncertain timing of the end of federal and state pandemic-related consumer protections and the current different treatment of similarly situated individuals justifies emergency action; and
- Whether the public benefits of the emergency rule outweigh the potential harm alleged by insurers.

The court was skeptical of the industry claims of massive expenses to file new rates without credit and disruption to the market. We informed the court that some insurers had filed new rates in

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compliance with the emergency rule within weeks after the emergency rule was issued, even though filings were not due until May 6.

I encourage similar action in your states. As soon as the CARES Act and state-specific consumer protections end with the tapering of the pandemic, consumers who were financially harmed the most by the pandemic will see their insurance scores drop and face further financial punishment.

As insurance regulators, we are empowered with the responsibility of protecting consumers. Again, I urge you to join me in the effort to end a discriminatory practice and encourage the industry to employ fair and factual methods of determining what policyholders pay for coverage.

If you would like to discuss further or if you have any questions please contact me at [MikeK@oic.wa.gov](mailto:MikeK@oic.wa.gov).

Sincerely,

A handwritten signature in black ink that reads "Mike Kreidler". The signature is written in a cursive, flowing style.

Mike Kreidler,  
Insurance Commissioner