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2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2330

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2330

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 27, 2009

Recorder Job Number: 7860

Committee Clerk Signature

Minutes:

Chairman Klein: Calls the IBL to order and hearing on SB 2330.

Senator Potter: Written Testimony Attached. In favor of SB2330.

Senator Wanzek: Are you saying that we are not all scored equally?

Senator Potter: There can be mistakes with credit scoring, even if it's fair and it has nothing to do with your driving.

Discussion followed.

Chuck Belisle, Bismarck resident: Written Testimony Attached. In support of Senate Bill 2330. Testified on his experience with being credit scored, adverse reactions with the use of credit scoring by the insurance company.

Discussion followed.

John Rich, Representing railroad workers: The point I want to make is that insurance score does not try to predict whether or not you'll have an accident but whether or not you will turn in a claim. People that are poor need to turn it in but others choose to pay.

Larry Maslowski, Senior Analyst and Director, Consumer Protection Property and Casualty Division: Written Testimony Attached. In opposition of Senate Bill 2330.

Chairman Klein: We've had this debate for over ten years, there is a correlation. The system has been analyzed. Commissioners' have looked at it and it works.

Larry: Generally I agree with your comment. I don't know what changes we could make. We're basing it on statistical information.

Chairman Klein: As we have states opt out of the various rules, the states look to the Federal Government, saying we don't like this we want to go to you. Is that not a concern?

Larry: There is a concern of Federal Regulations. This is not a standard.

Senator Horne: The credit scoring is one factor for evaluating someone, what else is used?

Larry: Age, driving record, and type of vehicle and safety features.

Senator Potter: If we vary from what the other states are doing the Federal Government will step in.

Discussion Continued.

Patrick Ward, Representing PCI and State Farm: Written Testimony Attached. In opposition of SB 2330.

Others in opposition: Alex Hagley, and Chris Cashman.

David Matz, Nodak Mutual Insurance Company: Written Testimony Attached. In opposition of SB 2330.

Kent Olson, Director of ND Insurance Agents: I oppose the bill and support the use of credit.

Joel Gilbertson, Representing American Insurance Association: Written Testimony Attached.
In opposition of the bill.

Chairman Klein: We will close the hearing.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2330

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Hearing Date: February 2, 2009

Recorder Job Number: 8379

Committee Clerk Signature

Minutes:

Chairman Klein: Opened discussion on SB 2330

Senator Potter: Said not much at all in offering protest vote.

Senator Wanzek: Made motion to Do Not Pass on SB 2330

Senator Andrist: Seconded the motion.

Roll call vote: 5-1 in favor of a Do Not Pass

Chairman Klein: Closed the hearings on SB 2330

Date: 2/2/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2330

Senate

Committee

Industry, Business and Labor

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Pass ☒ Do Not Pass ☐ Amended

Motion Made By Senator Wanzek Seconded By Senator Andrist

Senator	Yes	No	Senator	Yes	No
Senator Jerry Klein - Chairman	✓		Senator Arthur H. Behm		
Senator Terry Wanzek - V.Chair	✓		Senator Robert M. Horne	✓	
Senator John M. Andrist	✓		Senator Tracy Potter		✓
Senator George Nodland	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Senator Wanzek

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2330: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO NOT PASS** (5 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2330 was placed on the Eleventh order on the calendar.

2009 TESTIMONY

SB 2330

SENATE BILL NO. 2330

Presented by: Larry Maslowski
Senior Analyst and Director, Consumer Protection Property
and Casualty Division
North Dakota Insurance Department

Before: Senate Industry, Business and Labor Committee
Senator Jerry Klein, Chairman

Date: January 27, 2009

TESTIMONY

Good morning, Chairman Klein and members of the Senate Industry, Business and Labor Committee. My name is Larry Maslowski and I am the Senior Analyst and Director of the Consumer Protection Property and Casualty Division of the North Dakota Insurance Department. I appear before you in opposition to Senate Bill No. 2330.

In 2003 a new statute—North Dakota Century Code Chapter 26.1-25.1—was enacted by the Legislature. This then new statute dealt with the issue of insurance companies and how they may use personal credit information in the rating and underwriting of personal insurance. Prior to this there was no statute to give either the insurance industry or the insurance regulator guidance in how credit information could be used.

Without going into great detail, Chapter 26.1-25.1 provided guidelines, including restrictions on the use of credit information as well as some consumer protections including disclosure with reasons.

Recently we were before you to discuss Senate Bill No. 2109 which your committee considered and passed. That bill contained a consumer friendly change that the Department felt needed to be made to the law.

From the onset of the use of credit information by the insurance industry in approximately 1998, the issue has been controversial and rightly so. The industry has done little to convey or educate its consumers in the use of this new tool. Further, most of the highly technical formulas used to evaluate an individual's credit report condensing it down to a mere index, number or score are considered to be trade secret and not readily transparent to the consumer.

As a regulator we, too, had concerns that this may be a potential tool for redlining or unfair discrimination. However, as regulators we have the ability to review and analyze the formulas for such features. To date we have found none. The industry has argued and provided documentation to us that show that a clear correlation between use of credit and future probability of claims exists. It is on this basis that we as a regulator and you as a legislature have accepted its use and provided Chapter 26.1-25.1 as guidelines.

Note: The states of Hawaii and Michigan do prohibit the use of credit information. Vermont, Virginia and the District of Columbia have no provisions in regard to use of credit information. All of the remaining states (including Minnesota, New York, Montana, and Florida, for example) have laws similar if not substantially similar to the law we have in North Dakota.

What Senate Bill No. 2330 would do is take us 180 degrees in the opposite direction by implementing an outright prohibition in the use of credit information in personal lines insurance.

To take this bold move raises major concerns.

First: What would be the impact to the industry? Would this prohibition cause some companies to discontinue to do business in this state since they would clearly have to file a separate and different rating scheme for our state? Would this be a reason to discourage new companies from entering our market? North Dakota currently does

enjoy a very competitive automobile insurance market with virtually all consumers seeking insurance able to find it.

Second: What impact would this have to the consumer? Would there be fewer companies doing business here? Would prices change for consumers? To hear the industry, the use of this tool allows for better and more accurate pricing. Does that mean consumers would see increases in rates if this tool was removed?

Third: Are there any other unintended consequences that might arise as a result of this change which would put our market at odds with the vast majority of states and a less favorable place to do business?

Thank you. I would stand for questions.

TESTIMONY OF PATRICK WARD IN OPPOSITION TO SB 2330

Senate IBL Committee

January 27, 2009

Chairman Klein and Members of the Committee.

My name is Patrick Ward and I represent PCI and State Farm in opposition to SB 2330. I am also attaching a letter from Mr. Mark Johnston of NAMIC who could not be here today.

This legislation will have a negative impact on North Dakota insurance consumers.

1. Insurance companies do not assess "credit worthiness" -- lenders do that. Insurance scoring has nothing to do with the ability to pay premiums. In this context, credit is used to predict the risk of future insurance loss.
2. Insurance companies use credit as a tool to more accurately match price to risk. Many independent studies have demonstrated that credit information can be highly predictive of risk of loss. Because of this high correlation, credit information and insurance scoring models are useful underwriting and rating tools for the selection and pricing of risks.
3. Those who oppose the use of credit can't point to any reliable evidence that refutes the correlation insurers have found. Even if companies can't say "why" the correlation exists, it doesn't mean the tool isn't valid. We know that the

good student discount is valid, though we're not surely exactly "why" students who receive high marks, present lower risk of loss.

4. If insurers are prohibited from using this tool, legislators' constituents who are better risks (and pay lower premiums because of it) will subsidize those people who are poorer risks. A state study in Arkansas in 2006 showed that 30% of auto policies saw rate decreases when companies used credit info, while 10% increased. In Homeowners -- 25% saw decreases while 10% saw increases. Most people see a decrease because most people have good credit. Attached is a copy of the Arkansas study.

5. When people understand it, people accept the use of credit scoring. In 2006, Oregon ballot measure to prohibit the use of credit scores in insurance was defeated by a nearly 3 to 1 margin. When the public understood that rates for low risk insureds would have to increase to subsidize rates for higher risk insureds, identifiable only by the use of credit, people supported its use.

6. This North Dakota legislature debated whether to allow insurers to use credit in 2003, and enacted a reasonable law at that time. Current law provides North Dakota consumers protection against the abusive use of credit information.

7. Insurer's use of credit report information is well established in Federal law. For 20 years the Federal Fair Credit Reporting Act has provided that credit reports may be used in connection with the underwriting of insurance involving

consumers. The Fair Credit Reporting Act was reauthorized in 2004 continuing the uses of credit in insurance and banking.

8. Credit scores are objective and non-discriminatory. Data **NOT** used in the scores: age, income, gender, nationality, net worth, occupation, race, religion or marital status.

9. If credit scoring models are banned or severely limited, the effect would be to further homogenize the risk and essentially charge everyone the same price. This would be a setback to all North Dakotans, especially those of moderate to lower incomes whose risk is low.

10. Credit scores do not measure income but do measure financial management. While it may not be intuitive, Credit Scores have been shown in repeated studies from 1996 to the most current study by Federal Trade Commission, July 2007, to have a correlation between credit score and claims frequency. The worse the score, the higher the claim frequency.

11. The Report to Congress by the Federal Trade Commission on July 2007 includes the following statement regarding use of credit score modeling: *Credit-based insurance scores are effective predictors of risk under automobile policies. They are predictive of the number of claims consumers file and the total cost of those claims. The use of scores is therefore likely to make the price of insurance*

better match the risk of loss posed by the consumer. Thus, on average, higher-risk consumers will pay higher premiums and lower-risk consumers will pay lower premiums.

We strongly urge the committed recommend a Do Not Pass.

January 23, 2009

Mr. Patrick J. Ward
Zuger, Kirmis & Smith
Attorneys-at-Law
316 North Fifth Street
Provident Building
Bismarck, North Dakota 58502

RE: Senate Bill 2330

Dear Mr. Ward:

I am the Midwest State Affairs Manager for the National Association of Mutual Insurance Companies (NAMIC). Founded in 1895, NAMIC is a full service national trade association with more than 1,400 member companies that underwrite over 40% of the property/casualty insurance premium in the United States. In North Dakota, we have 115 member companies, including sixteen domiciled companies, which underwrite 76% of the state's homeowner business and 61% of the automobile insurance business.

NAMIC opposes SB 2330, which would essentially ban the use of credit scoring as an underwriting tool for insurance. We do so for the following reasons:

- Credit-based insurance scores provide an objective and consistent tool that insurers use, in combination with other factors, to better predict the likelihood and cost of future claims. Actuarial studies have consistently demonstrated a strong relationship between an individual's insurance score and incurred losses. In addition, studies have established that the value of the information insurers obtain from using insurance scores cannot be found by using other traditional, more general rating factors.
- Consumers benefit from insurance scores. The use of credit-based insurance scores encourages competition, enables insurers to offer coverage to more consumers at a fair price, and helps streamline operations.

A study conducted by the Arkansas Department of Insurance found that over 31% of insureds receive a discount due to credit, while less than 10% received a rate increase.

- North Dakota law forbids the use of income, ethnicity, race and other similar factors in the calculation of an insurance score.
- North Dakota law prohibits the use of medical bill accounts as a negative factor in determining an insurance score.

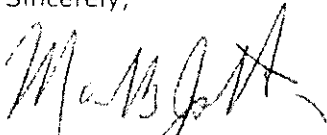
Mr. Patrick Ward
January 23, 2009
Page Two

Here is a link to the copy of the Arkansas study, which is found on the website of the Arkansas Senate:

http://www.arkansas.gov/senate/newsroom/index.php?do=viewArchiveList=1&category_id=1

If you have any questions, please contact me at my office at 314-800-8205 or by e-mail at mjohnston@namic.org. In the meantime, I remain

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Johnston", written over a horizontal line.

Mark Johnston
State Affairs Manager – Midwest Region

Encl

cc: Ms. Barbara Ulbrich

State Capitol Week in Review

February 29, 2008

LITTLE ROCK – Almost a third of Arkansas homeowners and motor vehicle owners paid less in insurance premiums last year because their credit scores were good.

On the other hand, from nine to 10 percent of Arkansas property owners paid higher insurance premiums because of poor credit histories, according to the most recent annual report by the state Insurance Department.

Most insurance companies in Arkansas include credit scores when they determine how much a person pays in premiums. The practice has generated some controversy among consumers, who don't understand how their credit history can affect whether or not they are safe drivers, and whether or not their home is a good or bad risk.

In 2003 the legislature passed Act 1452 to regulate the use of credit in calculating premiums for personal lines of property and casualty coverage. Some wanted a prohibition of the use of credit, but during committee hearings insurance executives said that people's credit scores were a valid indicator of how likely they were to file claims. As a compromise, the act was written to require insurance companies to submit detailed information to the Arkansas Insurance Department, which in turn makes it public in annual reports.

Act 1452 of 2003 prohibits an insurance company from relying solely on credit as a basis for calculating premiums. They must use recent credit reports that have been calculated within 90 days of the date on which the policy is first written or renewed.

Also, insurers may not rely on credit reports that are based on gender, race, marital status or religion. They may not use credit scores based on zip code, because zip codes can easily be used to identify a person by race or ethnic background.

The act requires insurers to notify consumers whenever their credit scores have been factors contributing to adverse action. Insurers must inform consumers that they have the right to obtain a free copy of their credit report from a credit bureau.

Of the 178 insurance companies that in 2006 issued policies in Arkansas, 110 used credit in determining premiums and 68 did not. According to the companies 31.2 percent of automobile owners and 32.3 percent of homeowners saw a decrease in premiums because of credit scores.

The companies said credit was a neutral factor in calculating 59 percent of automobile premiums and in 58.5 percent of homeowners' premiums. They reported that poor credit was a factor in higher premiums for 9.8 percent of motor vehicle owners and 9.2 percent of homeowners.

Bad credit was less of a factor for people who bought other lines of personal insurance, such as for motorcycles and boats. Only 2.5 percent paid higher premiums because of their credit, while 15 percent paid less. For 82.5 percent of those consumers, their credit was a neutral factor.

Arkansas had a population of 2.8 million people in 2006, according to the United States Census Bureau. That same year, insurance companies wrote more than 1.8 million policies for motor vehicle owners and 458,000 policies for homeowners in which credit was a factor in premium amounts. Total premiums paid by Arkansas consumers for car, home and other person lines of insurance was \$1.9 billion.

Testimony of Sen. Tracy Potter on SB 2330, Senate IBL, January 27, 2009

Mr. Chairman, members of the Senate Industry Business and Labor Committee, SB 2330 deals with an issue we discussed earlier in the Session, the use of credit scoring in insurance underwriting. I'm against it.

This bill will prohibit the use of credit scoring in determining premium rates for auto and other personal lines of insurance. The reasons for this are both practical and philosophical.

First, charging someone more for auto insurance simply because the person has a low credit score is piling on. The poorest among us end up paying the most for a product that we as a state require them to buy. That is regressive in the worst way.

Secondly, Credit scores are notoriously imprecise. Is there reason to suspect that the application of credit information by insurance companies is more consistent? Consumers shouldn't suffer financially in auto insurance premiums because someone miss-entered their credit information.

More importantly, credit scores are notorious for what seems like unfairness - people who don't carry credit card balances, or who always pay cash, or any number of frugal activities - we've all heard stories about those people having low credit scores.

My interest in this is about fairness to individuals. The companies lay out their argument clearly. They have found a statistical correlation between credit scores and claims paid.

I don't argue that the correlation doesn't exist. I'm even interested in it and curious. Are people with scores in the low 600s more likely to have fatal accidents or just fender benders? Or do they have similar accident numbers, but are just more likely to file claims, or are they less likely to renew? What exactly is the correlation? I'm curious, but I am not swayed.

I have a simple notion – drivers should be judged by their driving record.

No matter what the behavior of a group we belong to, we deserve to be judged as individuals. In auto insurance that means judging me on my own driving record, not on my age, sex or credit rating. Of those factors, at least age and sex are simple categories, where it is fairly easy to judge accurately whether someone is a man or a woman, 16 or 66. Credit scoring is not so accurate.

Opposition to this measure will suggest that North Dakota cannot practically take this stance against discrimination. That our market is too small and that large national insurance corporations won't amend their practices for a market as small as North Dakota.

My answer to that is – if we can't, then state regulation of insurance is just a front for no regulation. If North Dakota legislators cannot set the rules for insurance in our state, no one can ... except the companies and their servants at the NAIC. Federal regulation of insurance has been forestalled by the principle that the states can best determine how to regulate insurance within their several borders. But, in an industry built on the science of large numbers, consistency

across state lines is something the insurers want. So they foster the NAIC to provide the illusion of a national system based on state regulation.

Let's test the system. Let's tell the companies that in North Dakota we don't judge people based on their credit rating. I request your support for SB 2330.

In Opposition of
SENATE BILL NO. 2330

My name is David Matz and I am testifying on behalf of Nodak Mutual Insurance Company. I have been employed with Nodak Mutual for five years.

79.7% of our Homeowner clients and 79.1% of our Auto clients are receiving a discount because of the use of credit information.

If SB2330 passes:

- ▶ 58.7 % of our Auto clients would see a 25-35% rate increase.
- ▶ 58.2% of our Homeowner clients would see a 10-25% rate increase.
- ▶ Overall, Homeowner clients would see a rate increase of 14.2% and Auto clients would see a rate increase of 23.6% due to the elimination of the use of credit information.

In closing, our statistics support that approximately 80% of our clients are receiving a discount because of their insurance score.

We urge the Committee to vote a Do Not Pass on SB 2330.



American Insurance Association

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January 26, 2009

American Insurance Association Statement on ND SB 2330

This Tuesday (January 27), during a meeting of the Senate Industry, Business and Labor Committee, you will likely have to vote on SB 2330, legislation that would essentially preclude insurers from using credit information to help rate and underwrite personal insurance policies. A substantial majority of your constituents benefit from the use of this modern practice and for that reason we urge a "no" vote on SB 2330.

Enacted in 2003, the present North Dakota law is based on the National Conference of Insurance Legislators' (NCOIL) model that is either legislation or regulation in at least 25 other states. The existing law is a balanced, common-sense approach to regulating the use of credit information that both protects consumers and allows insurers the reasonable use of this valuable tool. It should be retained.

Numerous studies have found that a majority of consumers benefit from the use of credit-based insurance scores. Using credit information as part of the rating or underwriting process helps insurers more accurately assess, and price, for an individual's risk, thereby reducing subsidization of bad risks by good ones, making the system fairer for everyone.

Most recently, the Federal Trade Commission's 2007 study found that when scoring is used, 59 percent of people see premium decreases. A 2008 Arkansas Department of Insurance (ARDOI) study reported that "91 percent of consumers either received a discount for credit or it had no effect on their premium," and "for those policies in which credit played some role in determining the final premium, those receiving a decrease outnumbered those who received an increase by 3.44 to 1." ARDOI studies in the previous three years delivered similar results. North Dakota is an NCOIL state like Arkansas. Additionally, a Wisconsin domestic company testified in the fall of 2007 on a similar bill before its state Senate Insurance Committee that nearly 75 percent of their customers benefited from a premium discount because of the use of credit information.

In addition to the studies which have proven consumers with better insurance scores generally file fewer claims and have lower insurance losses, credit information is completely objective and "blind" to legally prohibited factors such as race, religion, marital status and nationality.

In addition to the various state and federal consumer protection laws, insurance regulators are charged with ensuring that consumers are not charged rates that are "excessive, inadequate, or unfairly discriminatory."

Insurers are subject to strict legal standards for all risk classification variables, including credit, and the state of North Dakota has a strong regulatory system that has worked well for consumers and insurers. There is no need for any drastic action, as presented in SB 2330, that would unfairly penalize less risky consumers.

I hope upon an examination of this information, and that contained in the following attachment, you will agree to retain the law as it is presently written. Our local counsel, Joel Gilbertson, will be following up with you and if you have any questions or would like to discuss our position further please let Joel know or contact me directly.

Thank you.

Sincerely,

Steve Schneider
Vice President
American Insurance Association
150 North Wacker Drive
Suite 2525
Chicago, Illinois 60606
Phone: 312.782.7720
Email: sschneider@aiadc.org

To: Senate Industry, Business, and Labor Committee
From: Chuck Belisle, Bismarck, ND
Submitted: 01-27-09
RE: SB 2330

Mr. Chairman and Committee Members:

You need to know about an incident that occurred the last time I renewed my motorcycle insurance policy. The company notified me that I had "adverse influences" on my insurance score due to credit report findings, and they enumerated four reasons for my less than optimal rating. I suspected an error, and contacted the insurance company. I was informed that their rating was based upon a report they requested from a credit reporting agency, and that I would need to get a copy of that report in order to determine if there was erroneous information on it. If so, they could then reevaluate their rating.

These are facts that are very pertinent to my financial history:

1. I have 11 credit cards on record going back to the early 90's. All but 1 are currently inactive or have been cancelled. All show that they are paid, and that payments were never late.
2. I have 7 vehicle loans on record going back to the early 90's. All but 1 is paid off, and the record shows that there were never any late payments.
3. I have 4 mortgage related items showing on the report that go back to the early 90's. Some of these are due to the mortgage company selling the paper to other companies. Only one mortgage loan is open at this time. All others have been paid and the record shows that payments were never late.
4. There are short-term signature loans on the report. All of these have been paid off, and the record shows that there were no late payments.
5. The last time I checked my credit score, it was just a little under 800.
6. If I chose, I am presently in a position to pay off all outstanding debts including my mortgage without having to liquidate any assets.

It seems to me, or to any thinking person, that this should probably equate to an exceptional credit history, and not one being viewed with "adverse influences".

I obtained my credit report, and the following is a comparison between their four findings and the information on the report:

Finding 1. Length of time accounts established. According to the insurance company, any accounts established within the previous 12 months would be a negative factor.

Report shows that the most recent account established was an auto loan in 2005. There were a few others in 2001-2003, with most accounts opened in the mid 90's. All show that they are either inactive, cancelled, or paid in full, and all show no late payments.

Finding 2. Relationship of balance to high credit limit on accounts. According to the insurance company, the total amount of charges in all accounts as a percentage of all available credit was determined to be too high.

Report shows that the average running balance on the one credit card account that is used is around \$3000 - \$4000 a month. This is accurate. I charge almost everything to one card, and that card is paid in full each month. The revolving nature of the grace period is what is reflected in the balance. I don't even know what the interest rate is on this card. It doesn't matter. Interest is never applied, and the points I receive make for nice vacation travel. I apparently made an error

in canceling unused cards to limit the possibility of identity theft. By not having a huge available credit balance, the revolving monthly balance appears large in respect to the total.

Finding 3. Number of credit inquiries in the last 12 months. I am told that inquiries about my credit reflect negatively on the score.

Report shows that there have been numerous inquiries as of late. I am in process of developing some property east of Bismarck, and have been shopping for the best rates of financing. Thus, various lenders have been running credit checks on me. All have approved my requests, and I'm letting them bid it out against each other. Apparently they do not see any "adverse influences" to my credit.

Finding 4. Number of open accounts. I don't know if a low number or a high number is supposed to be good. I now have one mortgage, one vehicle, and one credit card as open accounts. As stated previously, the total number of accounts on the credit report was 22. Therefore, I have what I consider to be both a low and a high number. How is anyone supposed to prudently manage their credit to satisfy these mysterious requirements if the rules used to determine "adverse influences" are so nebulous?

With this information in hand, I called the insurance company to try and set the record straight. I was told that I would have to talk with their underwriter. The underwriter told me that they based their rates on a report from a company (one based on the Isaac model of insurance score ratings) that rated the credit score. I asked to talk with that company, but was told that they were under contract to do the work for the insurance company, and that they didn't communicate directly with customers. I was also told that they based their insurance score report on data from a credit reporting agency, and if there was no error in that report, then their score would remain unchanged. In other words, my battle was with the credit-reporting agency. When I called that agency, I was told that they just reported what was on file, and if that information was correct (which it was) that there was nothing they could do.

It was at that point that I filed a complaint with the ND Insurance Commissioner. They followed through admirably, but the end result was all that they could do was to make sure that the insurance company had followed applicable law in determining my rate. Since there was no infraction by the insurance company, the case was closed. I was told that I would have to deal with the Legislature if I wanted to take things any further.

So my problem is on two levels. First, if a person such as myself with excellent credit history can be manipulated under the guise of "adverse influences" and therefore charged a higher premium for coverage, what is happening to the thousands of citizens with less than perfect credit? How many extra dollars go to these companies for unfounded "reasons"? And what of these less fortunate people? I suspect that if their credit is bad, they are probably even less able to pay for state and financial institution mandated insurance, and yet, they end up paying the most. Any tax this regressive would draw howls of protest, and yet, because everyone is being treated unfairly equally, this practice has been passed off as justified, and the least able to pay or to fight back, end up being the most affected.

Second, there is no method for redress. The insurance company says talk to the underwriters. The underwriters say they're bound by the Isaac type reports. There's no way to talk to these Isaac type companies because they are protected by statute from questions because their methodologies are proprietary trade secrets. They just base their findings on what the credit bureaus tell them. The credit bureaus tell you that they just report what is on record. The state insurance department just makes sure that the law is being followed. Because of this round robin, the consumer is in a

Catch 22. There is nowhere to go to explain the situations surrounding the credit report. There is no way to present just cause or reasons to change the findings. The bottom line is, just pay more, and don't ask why.

I understand that there will be arguments from the insurance companies that support using credit reports as a part of their risk assessment. They will say that it is only a part of the total package. They will say that it's not practical to change their model for a small market like North Dakota. They won't say that not all states allow use of credit ratings, so that other models already exist, but that may be just an oversight on their part. They will say that in a highly competitive business, they would have to consider withdrawing from the market rather than making accommodations. They won't say that in a threatening manner, but the implication will be there. They will say that insurance will cost more for everyone because "deadbeats" would be defrauding them. They won't say that they staff large departments to deal specifically with fraud. They will say that they are just doing what is in the best interest of the consumers, and that it wouldn't make good business sense for them to do otherwise. It's strange how that argument has a familiar ring. Recently, former Federal Reserve chairman Alan Greenspan admitted that he was wrong in allowing the banking industry to go largely unregulated. He believed them when they had told him that it wouldn't make any sense for them to take positions that would compromise their customer and investor base. He believed that they would act in an upright and economically sound manner in order to thrive in a highly competitive market. We've seen how well that worked out. Of course, that was banking, and not insurance. But what about AIG?

Also, please take into consideration the current economic climate. It is a matter of record that North Dakota does not have the sub prime or credit default swap messes that permeate the rest of the country. We have not seen the rash of foreclosures that we hear about in the news everyday. While the bankruptcy rate in our state did rise by 16% last year, that was only 1/2 of what it did in the rest of the country. It appears that the people of North Dakota tend to take better care of their personal finances. That's all the more reason why a broad-sweeping use of credit ratings has less, if any application, here. That's why the people of North Dakota deserve to be treated with respect, not denigrated by algorithms that have no individual correlation, and at the very least, they deserve to be given a means of recourse when dealing with large, impersonal, insurance corporations.

I ask for your help in correcting this injustice to all of us, and especially to those that are most vulnerable to manipulation and to being marginalized.

Thank you for your consideration.



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TESTIMONY OPPOSING SB 2330
January 27, 2009
10:45 am

SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE
JERRY KLEIN, CHAIR

Mr. Chairman and members of the Senate Industry, Business and Labor Committee.

My name is Norbert Mayer, I represent the members of the ND Association of Insurance and Financial Advisors, and we ask you to oppose SB 2330. Our members believe that use of credit scores in underwriting insurance is an objective and non-discriminatory practice.

The use of credit-based insurance scores is more likely to make the price of insurance match the risk of loss posed by the consumer. If use of credit scores is banned in North Dakota, we risk having everyone charged the same rate for insurance, which would be detrimental to those with moderate to lower income whose risk is low.

We urge you to give a "DO NOT PASS" recommendation for SB 2330.

Thank you for your time and consideration.