

Comments Received from: Commissioner Carol Cutter
Indiana Department of Insurance

September 17, 2009

We do not believe that state insurance departments should get into the business of regulating these entities for several reasons:

- 1) Credit bureaus are not insurance companies.
- 2) Credit bureaus are not advisory organizations. A parallel example would be the BMV. The BMV provides insurance companies with information that certainly has an impact on rates, but we do not regulate the BMV or the accuracy of the data it provides. Another example would be Marshall & Swift/Boeckh building cost estimators. Marshall & Swift building cost estimators definitely have an impact on insurance rating, but we don't regulate Marshall & Swift.
- 3) It is also our opinion that Indiana does not have adequate resources to take on regulation of credit bureaus at this time.
- 4) We do provide regulation of the use of credit information by reviewing rate filings and data that supports the use of credit information in a way that does not result in rates that are excessive, inadequate or unfairly discriminatory.
- 5) We do not currently have a way to verify accuracy of credit data, nor have we been charged with doing so. However, if inaccurate data is used, consumers certainly have methods of recourse established by the FCRA along with state statutes addressing the use of credit.

The model law appears primarily directed towards personal P&C products, but could include commercial. The attachment includes statute language excerpts from Illinois and Oklahoma.

The model law includes regulatory action and services to be provided by the Department, and requirements for advisory organizations.

Aside from the controversial issue that credit scoring is, in and of itself, credit scoring measures credit worthiness. Advisory organizations deal with actual dollar losses and trends in determining rates, or loss costs. Insurers essentially use credit scores as a loss predictor. They apply no modification factor, a credit or debit factor to the rate.

Used in commercial products, there are rating agencies that develop their opinion of a company's ability to meet financial obligations. The Securities and Exchange Commission designates certain organizations as Nationally Recognized Statistical rating organizations. Of these A.M. Best and Weiss focus on the insurance industry. Credit Bureaus focus on the credit worthiness of small businesses. And then the Big 3 for personal credit scores. These organizations provide data at request, and usually for a fee.

The model law appears to be concerned with regulating the Big 3 for personal P&C products, much as internal statistics developed by insurers are currently regulated by Departments of Insurance.

Indiana's statute relative to advisory organizations states:

Advisory Organizations are discussed in IC 27-1-22; Rate Regulation. Specifically, IC 27-1-22-13 is the definition, filing and regulation requirements, including Section 15 of the statute regarding examination of these organizations.

Rating organizations are defined in IC 27-1-22-8, including licensing requirements. Information regarding rating organizations is also found in several(many) sections of the statute, including section 4, and suspension and revocation of licenses in Section 24.

In addition, the Indiana Compensation Rating Bureau is a ratemaking, advisory/statistical organization for Workers Compensation insurance; as outlined within IC 27-7-2.

As a result of our discussions, and these thoughts from our P&C Policy Analysts and Deputy Commissioner for Company Compliance, Indiana would not recommend NAIC or state DOI oversight of the credit bureaus.

Thank you for the opportunity to provide comments on this concept.