

The Center for Economic Justice

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November 15, 2004

Representative George Keiser
Chair, NCOIL Property Casualty Committee

By Electronic Mail

Re: Proposed NCOIL Model on Insurers' Use of Loss History Information

Dear Representative Keiser:

The Center for Economic Justice (CEJ) submits the attached comments on the proposed NCOIL Proposed Model Act Regarding the Use of Insurance Claims History Information. In addition to the general comments in this letter, we have provided detailed comments in the file "CEJ NCOIL CLUE Comments REDLINE 041115.pdf." A clean version of our comments – what the model would look like with all our suggested changes – is also attached.

CEJ will not be able to attend the NCOIL meeting in Duck Key because of the significant travel costs. Consequently, we hope that NCOIL does not take action on the loss history information model before CEJ and state insurance regulators have an opportunity to discuss the model with NCOIL committee members in person. We also hope that NCOIL works closely with the NAIC to develop a model that both organizations can support. The value of a model act increases dramatically if both NCOIL and the NAIC, as well as consumers, support it. However, we understand that few, if any, insurance commissioners active on the NAIC Market Regulation (D) Committee will be able to attend the NCOIL meeting.

As you will see in our attached comments, we suggest a number of changes. The changes result in a much shorter and more focused model law. Our suggested changes also provide for greater consistency with the provisions and requirements of the federal Fair Credit Reporting Act which governs the collection and distribution of certain consumer information, including insurance claims. Our suggestions also build on the experience of other models, such as the NCOIL credit scoring model, to eliminate and/or clarify phrasing that has proven to be troublesome.

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Thank you for your consideration. We wish we could join you in Duck Key!

Sincerely,

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

Birny Birnbaum
Executive Director
e-mail: birny@flash.net

cc Rhode Island Senator David Bates
NCOIL Property Casualty Committee Members
Wes Bisset, IIABA
Lenore Marema, PCI
Joel Ario, Oregon Insurance Administrator and NAIC Vice President