

Draft correspondence for consumers

March 31, 2022

Dear (Insurance Consumer/Name),

It has now been just over one year since Washington State Insurance Commissioner Mike Kreidler unilaterally adopted an emergency rule prohibiting insurers from using credit-based insurance scores as a factor to help predict risk and set appropriate premiums for home, renters, auto, RV and similar insurance products in our state.

You may have heard that Commissioner's emergency rule was invalidated in court. That's true. But before the court was able to declare the emergency rule invalid, the Commissioner required insurers to eliminate the use of credit, which they were compelled to do. The result was the increase in premiums that many Washingtonians have experienced over the last year.

On February 1 of this year, the Commissioner adopted a permanent rule that does what the invalid emergency rule did. Specifically, the permanent rule bans the use of credit-based insurance scores for an indefinite time but for no less than 3 years.

The insurance industry (including insurance agents and brokers) challenged the permanent rule in court, just as it had done in response to the emergency rule. However, these more recent court proceedings remain pending. While the Commissioner's permanent rule banning the use of credit-based insurance scores remains in place, enforcement of the rule is stayed pending the outcome of the litigation. Premium increases that resulted from the emergency rule, however, also remain in place, with few exceptions.

It's important to know that in Washington, insurance rates (which are the basis of premiums) must be approved by the Insurance Commissioner before they can be used in the market. It's also important to remember there are literally hundreds of insurers writing home, auto and other lines of Property & Casualty insurance in our state. Finally, it is important to know that most insurers have been including credit information as a factor to rate policies for more than 20 years (a practice that saves most consumers money and is authorized under Washington law).

The impact on insurance rates

For insurers and insurance agents and brokers, the Commissioner's actions have resulted in market chaos, confusion, conflicting information and frustration. But for consumers, the Commissioner's emergency and permanent rules have caused economic hardship on an unprecedented scale. Many who have been among our state's lowest-risk policyholders have ended up paying the highest rates, while seeing their higher-risk neighbors pay less.

When the court invalidated Commissioner Kreidler's emergency rule, a few insurers returned to using credit-based insurance scores. But many were concerned that if they returned to using credit the Commissioner would force them, within weeks or months, to re-file rates and put their customers at risk of additional premium changes. Faced with that risk for customers, many companies chose to wait and see what would happen next.

Very recently, the insurance industry partners that challenged the permanent rule in court secured an agreement with the Office of the Commissioner. The agreement prevents the Commissioner from

enforcing the permanent rule while the trial court and any subsequent appeals are pending, a process that could take from 1 to 3 years to complete. An agreed order that “stays” the permanent rule in accordance with the agreement has now been signed by the presiding judge. Insurers are now free to seek the Commissioner’s permission (file new rates) to return to using credit-based insurance scores. Customers who benefitted from the use of credit before should benefit from its use again as their policies renew or as they seek new coverage with the same or a different insurer. But that rate-filing-and-approval process will take time, and some insurers may be unsure about the future impact of a court ruling and may choose to wait until the court challenge is settled.

Of course, insurers, agents, and brokers believe the right thing for the Commissioner to do is to withdraw his permanent rule and work with insurers and the Legislature to make any necessary changes to state laws to regulate the use of credit information by insurers.

Insurers and our state’s professional agents and brokers want very much to help consumers in these difficult times. If you have received word from your insurer that your policy premium may be increasing due to the credit-based insurance scoring ban, we encourage you to contact your insurer or agent to see how they can help.

Also, another way to take action against Commissioner Kreidler’s rule is to visit www.CoalitionForFairInsurance.org. There, you’ll find information about the rule and its impact, write your own testimonial (and see what others are saying) and even write emails to your legislators urging them to enact legislation to protect fair insurance rates for all policyholders.

Thank you for being an informed insurance consumer!

Sincerely,