GOVERNMENT MATTERS

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January 4, 2022 **Visit us on-line at ERIE Action Network**

New Year, Renewed Efforts to Preserve Risk-Based Underwriting and Pricing Freedom

Legislative and regulatory attempts to ban underwriting/rating factors like credit-scoring, education and occupation are nothing new for the property and casualty insurance industry. However, in the past couple years, such attempts gained momentum and are expanding to include long-accepted factors such as gender, marital status and geography.

New Challenges and Pressures

From the insurance industry perspective, such restrictions run counter to the fundamental insurance premises of accurate risk evaluation, economic competition and consumer freedom. These measures pose a major threat to the way personal lines insurance markets work. While insurers have historically used pro-consumer economic and actuarial justifications to preserve these practices, this task is getting harder in today's highly politicized environment.

Examples in 2021 include Washington state's insurance commissioner ban on the use of credit-based insurance scoring via emergency regulation and a new Colorado law that requires insurance companies to demonstrate that their use of external data and complicated algorithms do not discriminate on the basis of certain classes. ERIE's own footprint has seen increasing threats in this area.

In addition to renewed focus from state regulators and legislators, the National Association of Insurance Commissioners (NAIC) and federal policymakers are also scrutinizing the industry's rating and underwriting practices as well as its use of consumer data.

This comes at a difficult time for the industry – recent challenges include record levels of catastrophe activity, property insurance supply chain issues and increasing auto claims costs. Meanwhile, consumer advocates have been pressuring regulators at the NAIC to mandate further refunds from auto insurers after the unprecedented voluntary ones in 2020.

Consumer Fairness and Freedom

In the face of such attacks, ERIE's trade associations are marshalling new research, resources and time-tested arguments to show that such restrictions would have counterproductive results, such as price increases and unfair subsidies. Here is a link to the APCIA Web page entitled "Intersection of Risk-Based Pricing and Social Equity – Championing Social Equity & Advancing Consumer Fairness," that spells out the industry's case.

There are many positive consumer-oriented results of the industry's development of sophisticated risk-based pricing, including the following:

- In the auto market, such progress has led to massive historic declines in residual market populations over the past three decades, a trend resulting largely from the use of credit-based insurance scores and underscoring the competitive health of the auto insurance market in handling more risks.
- According to industry research, recent advances in telematics that track driving behavior clearly demonstrate that current variables are predictive.

- More generally in personal lines insurance and other financial services areas, recent research shows that all walks of consumers, including traditionally underserved populations, have benefited from risk-based pricing in terms of increased product and pricing choices.

Moreover, the industry continues to emphasize that lowering the claims costs side of the equation should be the proper focus of policymakers, especially safety measures that have long benefitted our society. The industry and ERIE are proud of the long history of supporting safety organizations (from Underwriters Laboratories to the Insurance Institute for Highway Safety and many others) that save lives, prevent injuries and allow for economic resiliency.

Looking Ahead

2022 is shaping up to be a difficult year for the industry on this front in almost every state. Educating lawmakers and regulators will be key. ERIE Government Relations will continue to work with our business areas and trade associations to preserve current longstanding risk evaluation practices.