

The Center for Economic Justice

NEWS

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Consumer Organization Calls on NCOIL to Bring Consumer and Regulator Perspectives to Claim History Database Debate

Current Proposals Simply a Debate Among Insurers and Provide No Substantive Consumer Protection

The Center for Economic Justice (CEJ), a non-profit consumer advocacy organization, today called on the National Conference of Insurance Legislators (NCOIL) to reject proposed models dealing with insurers' use of claims history databases and to adopt a model that provides meaningful consumer protections and regulatory tools.

The loss history database models considered by NCOIL address how insurers can use claims histories of consumers and properties to deny consumers coverage or determine the terms of coverage. The issue of claims history databases has become a hot topic among consumers because of abusive practices by insurers that include counting an inquiry to the insurer as a claim, denying a consumer purchasing a property coverage because there was an insurance claim on the property under a previous owner and denying coverage because of claims due to catastrophic weather events. CLUE reports are one example of a loss history database.

Birny Birnbaum Executive Director of CEJ said, "CEJ strongly opposes the loss history database models being considered by NCOIL. The two models under consideration are both sponsored by insurers and, predictably, reflect insurer desires to avoid any scrutiny of their underwriting practices by consumers or regulators. One model is sponsored by the American Insurance Association and the other model is sponsored by the Property Casualty Insurance Association and the National Association of Mutual Insurance Companies. Instead of consumer protection, these models legitimize unfair practices. Where are the models sponsored by consumers or insurance regulators in this debate?"

Birnbaum offered CEJ's loss history database model which contains the following consumer protection provisions:

- A strong definition of adverse action so that all consumers are notified when an insurer offers insurance at at less favorable terms than it would have offered if the consumer's loss history report had been more favorable. The absence of a strong definition of adverse action in the two industry models is a huge failing.
- A ban on insurers' use of consumer inquiries as a claim against the consumer. Consumers should not be discouraged from asking their insurer about their policy.
- A ban on insurers' use of claims closed with payment against a consumer. A consumer should not be penalized for trying to use her policy.
- A ban on insurers' denying coverage based on the claims history of a property under a previous owner unless the insurer does an inspection of the property to identify any problems with the property and gives the consumer an opportunity to fix the problems.
- A strong limitation on denying coverage based on catastrophe claims. Consumers should not be penalized for using an insurance policy for the exact purpose it is designed for.
- Strong disclosure to the consumer about the insurers' use of claims histories and about any adverse actions resulting from such use.
- Filing of any underwriting guidelines, tier placement rules and rating plans that rely upon information in a claims history database. Insurance regulators need to be able to monitor the market for abusive practices, like the use of inquiries as a claim.

Birnbaum said, "The debate at NCOIL on loss history databases is so clearly missing the perspectives of consumers. The insurer-sponsored models are all about limiting insurer exposure by shifting the risk on to consumers instead of working with consumers to lower the risk of loss. It is only in the isolated world of insurers that denying a consumer coverage on a new home purchase because of past claims at the property under a prior owner seems fair. In the world of consumers, a fair approach would be for insurers to inspect any property they had concerns about, identify the specific problems with the property that makes it uninsurable and give the consumer a chance to fix the problem. This approach also results in lower overall claim costs because any small problems with the property can be fixed before they become big problems and big claims."

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The Center for Economic Justice is a Texas nonprofit corporation dedicated to protecting the interests of minority and low-income consumers on insurance, credit and utility matters. Web Site: www.cej-online.org