Subject: CFA NEWS: Virginia Bans Setting Insurance Premiums Based On Customer Shopping Habits
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Consumer Federation of America

CENTER for ECONOMIC JUSTICE — FAIR ACCESS FAIR TREATMENT

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CONSUMER GROUPS APPLAUD VIRGINIA COMMISSIONER CUNNINGHAM FOR BANNING PRICE OPTIMIZATION

Virginia Is 19th State to Prohibit Insurance Company Practice Of Setting Premiums According To Customer Shopping Habits

Washington, D.C. – Virginia Insurance Commissioner Jacqueline Cunningham issued an official bulletin in April to insurance companies reminding companies that the use of so-called "price optimization" is illegal under Virginia law. Commissioner Cunningham's bulletin clearly explains that insurance rates must be tied directly to risk and cannot be raised based on consumers' shopping habits.

According to the Virginia bulletin:

In order to comply with the rate standards, any rate differentials for the same coverage must be based on differences between expected losses and/or expenses. Examples of practices that have been determined to be inconsistent with the provisions of § 38.2-1904 A 3 include, but are not limited to, the use of:

- Characteristics specific to a particular policyholder to predict and assign pricing components unrelated to losses or expenses *incurred during the policy period.*
- Pricing components related to an insured's *predicted* long-term profitability over time, based on an insured's likelihood to renew.
- Price optimization techniques intended to maximize overall retention, profitability, written premium or market share based on how much of a premium increase *an individual policyholder is likely to tolerate* before seeking coverage with other carriers.

In recent years, insurance companies have begun to use "price optimization" to raise customers' premiums based on individual shopping habits and perceived "price elasticity of demand," which is a measurement of a consumer's tolerance for price changes and can also reflect their level of access to other choices. Price optimization aims to determine how much insurers can increase rates for each individual customer beyond what is appropriate based on his or her risk profile.

"Most Americans are required by law to buy auto insurance and by their mortgage company to buy homeowners insurance, and it is terribly unfair and entirely illegal for insurance companies to vary premiums based on whether or not they are statistically likely to shop around," said J. Robert Hunter, Director of Insurance for CFA and former Texas Insurance Commissioner. "We applaud Commissioner Cunningham for her strong and clear stance in favor of protecting consumers from the unfair practice of price optimization."

According to the consumer groups, price optimization marks a radical departure from the actuarial practice of pricing insurance premiums according to the risk of loss posed by the policyholder. The purpose of price optimization is to extract as much profit as possible from policyholders who are often required to purchase insurance policies.

"Price optimization by insurers is Big Data run amok and simply price gouging by a fancy name. Consumers are being punished for activities and circumstances unrelated to risk and without any disclosure or transparency by insurers," said Birny Birnbaum, Executive Director of CEJ. "The state actions by 19 Insurance Commissioners are the first steps in returning insurance practices to the foundation of pricing insurance based on risk of loss."

Virginia is the 19th jurisdiction to notify insurers that price optimization violates state insurance statutes that require cost-based pricing and prohibit unfair discrimination in setting insurance premiums. Maryland, California, Ohio, Florida, Vermont, Washington, Indiana, Pennsylvania, Maine, Washington, D.C., Rhode Island, Montana, Delaware, Minnesota, Colorado, Connecticut, Alaska, and Missouri have previously issued notices to insurers with the same message as the Virginia bulletin: utilizing non-risk related consumer characteristics to set insurance prices is illegal.

The Consumer Federation of America is a national organization of more than 250 nonprofit consumer groups that was founded in 1968 to advance the consumer interest through research, advocacy, and education.

The Center for Economic Justice is a non-profit organization that works to increase the availability, affordability and accessibility of insurance, credit, utilities, and other economic goods and services for low income and minority consumers.