The Center For Economic Justice
1506 South First St.
Austin, TX 78704
(512) 912-1327
(fax) 912-1375

March 17, 2002

The Honorable William Larkin
New York State Senator
President, National Conference of Insurance Legislators
139 Lancaster Street
Albany, NY 12210-1903

Re: NCOIL Resolution Regarding NAIC Credit Personal Property Model Act

Dear Senator Larkin:

As one of many consumer, fair lending and fair housing organizations that worked for several years to encourage the NAIC to improve protections for credit insurance consumers – including the development and adoption by the NAIC of the Credit Personal Property Model Act – the Center for Economic Justice strongly objects to the NCOIL resolution on the Credit Property model and will vigorously urge the NAIC to reject the NCOIL resolution.

We find NCOIL's interest in the NAIC Credit Property model surprising, given that NCOIL has, to our knowledge, never done anything to address problems in credit insurance markets. And despite the poor value of credit insurance in many states – as demonstrated by very low loss ratios – and all too frequent instances of abusive sales practices – including the problems with single premium credit life insurance – NCOIL's first foray into credit insurance is not to call for better treatment of consumers, but to take up the industry's cause.

As described in my February 22, 2002 letter to Representative Eiland (attached), the industry had many opportunities to present their views and arguments before the NAIC working group and committees. But, at the NAIC, the regulators were also able to hear from consumer advocates who responded to the industry arguments. The legislators at NCOIL did not benefit from such a balanced presentation of views.

It is difficult to respond to the NCOIL resolution because the rationale behind the resolution seems to be a moving target. The resolution concludes that a minimum loss ratio is inappropriate for credit property insurance and argues that a component rating approach is "in accordance with insurance actuarial best practices and procedures." In fact, the model couples a minimum loss ratio with component rating. Further, in certain lines of insurance, loss ratio ratemaking does represent actuarial best practices and procedures. As described in our February 22, 2002 letter, a minimum loss ratio is an essential consumer protection in the reverse-competitive credit insurance market.

The fact is that straight component rating has not protected credit property insurance consumers – as documented by loss ratios for many insurers in the single digits and teens for many years and overall countrywide credit property loss ratios ranging from only 15% to 23% from 1997 through 2000.

Your February 21, 2002 letter to Commissioner Bernstein describes the 60% minimum loss ratio as arbitrary. This was not the case. We provided extensive analysis indicating that a component rating analysis produces loss ratios greater than 60%. Our analyses are borne out by a number of recent credit property insurance rate filings in Texas that reflect expected loss ratios of 65% or more.

Your letter also raises a new issue – that a uniform loss ratio standard denies a regulator the flexibility to "tailor requirements" in his or her state. The fact is that insurers (and lenders) try to have a uniform credit property product – and price – across the states because, in large part, lenders operating in multiple states want to be able to use the same product and sales material. That is one of the main reasons why debt cancellation and debt suspension products are so attractive to lenders. Consequently, it is unclear why a minimum standard for measuring the reasonableness of benefits in relation to premium should vary by state.

I found it ironic at the March 1, 2002 Property Casualty Committee meeting to hear Representative Bowler argue for giving the regulator flexibility in establishing reasonableness standards since the Louisiana legislature establishes credit insurance rates in statute. Yet credit insurance rates are the highest – and loss ratios the lowest – in Louisiana and the several other states in which the legislature sets the credit insurance rates in statutes. Judging by her comments on the value of credit property insurance consumers, Representative Bowler did not seem troubled by the fact that Louisiana credit property consumers receive benefits equal to just 12% of premium, while lenders take over 50% of the premium dollar in commissions.

In your letter to Commissioner Bernstein, you state that legislators attempt to protect consumers from excessive premium rates while allowing insurers to charge adequate rates. If this is truly your goal, NCOIL should reconsider the credit property resolution.

Sincerely,

Birny Birnbaum
Executive Director