
H.R.1473

Insurance Credit Score Disclosure and Reporting Act (Introduced in House)

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Insurance Credit Score Disclosure and Reporting Act'.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS- The Congress finds as follows:

- (1) According to the Insurance Information Institute, 90 percent of property insurers now use insurance credit scoring in some way in their underwriting decisions.
- (2) According to Consumer Reports, 70 percent of consumer reports have some kind of error and 29 percent have at least 1 major error.
- (3) Since insurance credit scores are based on credit bureau data, the accuracy of the data is essential to achieving accurate scores.
- (4) No insurance credit scoring modeling company has been able to identify the exact relationship between credit characteristics and loss ratios.
- (5) In January 2002, the Florida Task Force on the Use of Credit Reports in Underwriting Automobile and Homeowners Insurance concluded that the use of consumer reports has a negative impact on young people, minorities and people with low incomes.
- (6) The Fair Credit Reporting Act requires that insurers disclose the specific credit criteria used to raise rates or to render a consumer ineligible for a discounted premium.
- (7) Corporate research conducted by Fair, Isaac & Company found that residents of ZIP codes with high minority populations scored substantially lower than residents than residents of other ZIP codes.

(b) PURPOSES- The purposes of this Act are as follows:

- (1) To protect insurance applicants and policyholders from insurers taking adverse action regarding insurance coverage and premiums based solely on credit history or insurance credit score.
- (2) To require insurers to disclose the use of insurance credit scoring to insurance applicants and policyholders prior to original application and to disclose the insurance credit scoring criteria used by insurers to assess risk of applicant.
- (3) To enhance the availability and affordability of insurance products and services to individuals and small businesses of all economic circumstances and in all geographic areas.

(4) To facilitate the enforcement of Federal and State laws that prohibit illegally discriminatory insurance practices.

SEC. 3. ESTABLISHMENT OF GENERAL REQUIREMENTS.

(a) **DISCLOSURE OF USE OF INSURANCE CREDIT SCORE AND CONSUMER REPORT-** An insurer who uses, or may use, a consumer report or insurance credit score as a factor in underwriting an insurance application or policy in a designated line of insurance shall disclose to the applicant for such insurance, including a person renewing an existing policy of insurance, at the time of the original application for the policy or the renewal of the policy that--

- (1) the insurer will, or will not, gather credit information, as the case may be; and
- (2) the cost, coverage, and availability of insurance policy will, or will not, be affected by the consumer report or the insurance credit score of the applicant, as the case may be.

(b) **INFORMATION CONCERNING USE OF CONSUMER REPORTS AND INSURANCE CREDIT SCORES-** An insurer who uses, or may use, a consumer report or insurance credit score as a factor in underwriting an insurance application for, or the renewal of, an insurance policy for a designated line of insurance shall provide to the applicant or policyholder all relevant information on the use of such report or scores and the relationship between the use of insurance credit scores or any other risk scores or predictors and the cost and the scope of the coverage of such insurance to the applicant or policy holder, including the following:

- (1) A clear, concise, and detailed summary of how the scores and predictors are derived.
- (2) All factors taken into account in deriving a score or predictor.
- (3) How such factors are applied to the applicant or policyholder.
- (4) How the applicant or policyholder scored on all factors.
- (5) The relative weight given to each factor.
- (6) The manner and extent to which such factors raise or lower the score or predictor.

(c) **PROHIBITION ON USE OF ADVERSE INFORMATION IN DISPUTE-**

(1) **IN GENERAL-** An insurer may not take any type of adverse action with respect to any application for, or renewal of, an insurance policy in a designated line of insurance that takes into account an insurance credit score or credit information contained in a consumer report that the insurer knows to be in dispute.

(2) **DISCLOSURE OF MAXIMUM POSSIBLE AND ACTUAL INSURANCE CREDIT SCORE-** Additionally, for each industry trade line total, an insurer shall disclose to the applicant or policy holder--

- (A) the highest insurance credit score that it is possible to achieve for each such line; and

(B) the actual insurance credit score determined for the applicant or policy holder for such line pursuant to the insurance credit scoring model.

(3) **REDETERMINATION OF UNDERWRITING FOLLOWING CORRECTION OF CONSUMER REPORT-** If an insurer has taken adverse action with respect to any insurance policy in a designated line of insurance based on inaccurate information contained in a consumer report or utilized in computing an insurance credit score, and that inaccurate information is subsequently corrected, the insurer shall re-underwrite the impacted policy and refund any premium decrease to the insured retroactive to the inception date of the policy.

(d) **PROHIBITION ON USE OF LOW INSURANCE CREDIT SCORES RESULTING FROM MEDICAL EMERGENCIES OR OTHER SPECIAL CIRCUMSTANCES-** An insurer may not make an adverse inference in underwriting an insurance application or policy in a designated line of insurance based on a low insurance credit score as a result of little or no credit information, unusually high bills associated with medical emergencies, or other special circumstances.

(e) **ACTIONS REQUIRED IN CASE OF ADVERSE ACTION BASED ON CONSUMER REPORT OR INSURANCE CREDIT SCORES-** If the use of a consumer report or insurance credit score in underwriting an insurance application or policy in a designated line of insurance results in an adverse action to an applicant or policyholder, the insurer shall--

(1) inform the applicant or policyholder that a consumer report or insurance credit score adversely affected the underwriting of the insurance application or policy;

(2) provide the applicant or policyholder with a copy of the consumer report used by the insurer on which the action was based, together with a detailed explanation, in easy to understand terminology, of--

(A) the specific detailed credit characteristics on which the adverse action was based; and

(B) the specific actions the applicant or policyholder can take to improve the insurance credit score;

(3) ensure that the consumer report provided to applicant or policy holder has the name, address, and a toll-free telephone number of the consumer reporting agency that furnished the credit information;

(4) inform the applicant or policyholder of his or her right to verify any credit information with that consumer reporting agency (and include the names of any other consumer reporting agencies which provided information in the consumer report used by the insurer and provide the applicant or policyholder with the addresses and toll-free telephone numbers of such other consumer reporting agencies); and

(5) inform the applicant or policyholder of his or her right to lodge a dispute with a consumer reporting agency in order to have any erroneous or incomplete information corrected in accordance with the Fair Credit Reporting Act.

(f) PREMIUM PAYMENT PLAN REQUIREMENTS-

(1) BASED ON INSURANCE PAYMENT HISTORY- An insurer that offers premium payment plans to applicants and policyholders in a designated line of insurance may not deny or condition such payment plans on anything other than the payment history of such applicant or policyholder with that insurance company.

(2) EVENHANDED REPORTING OF PAYMENT HISTORY- An insurer that offers premium payment plans to applicants and policy holders in a designated line of insurance shall report both the favorable and unfavorable payment history of the insured to a nationally recognized consumer reporting agency at least monthly, quarterly, semi-annually, or annually pursuant to policy requirements.

(3) RECORDKEEPING REQUIREMENT- An insurer shall compile and maintain, in accordance with regulations, a record of the information provided by applicant or policyholder with respect to a designated line of insurance, together with the credit history or consumer report obtained by insurer and used in underwriting.

(4) INSURANCE CREDIT SCORERS-

(A) IN GENERAL- Any person involved in creating, compiling, or providing insurance credit scores to or on behalf of an insurer relating to a designated line of insurance shall not provide or sell to any party, other than the insurer, information or mailing lists that include an insurance credit score or any other information that, in whole or in part, is generated or derived from credit inquiries or consumer reports of insured persons or insurance applicants.

(B) SCOPE OF APPLICATION- The information to which subparagraph (A) applies includes information that may identify time periods during which an insurance policy of the applicant or insured in a designated line of insurance may expire or an estimated range within which the credit score of a person may fall.

(C) CERTAIN INFORMATION NOT SUBJECT TO THIS PARAGRAPH- This paragraph shall not be construed as limiting or prohibiting the exchange of information that is specifically authorized under the Fair Credit Reporting Act or this Act.

**SEC. 4. ESTABLISHMENT OF GENERAL REQUIREMENTS TO
SUBMIT INSURANCE CREDIT SCORING MODELS AND
INSURANCE CREDIT SCORES USED BY INSURERS IN
UNDERWRITING.**

The Federal Trade Commission shall, by regulation, establish requirements for insurers to compile and submit insurance credit score information with respect to designated lines of insurance to the Commission for each annual reporting period, in accordance with this Act.

SEC. 5. REPORT ON RELATIONSHIP BETWEEN CREDIT AND INSURANCE CREDIT SCORES AND THE RACE, INCOME, GEOGRAPHIC LOCATION AND AGE OF INSURANCE APPLICANTS AND POLICYHOLDERS.

(a) **STUDY REQUIRED-** The Federal Trade Commission shall conduct a comprehensive investigation of the relationship between use by insurers of credit information and insurance credit scores, with respect to designated lines of insurance, and risk factor of loss, including the impact by race, income, geographic location and age.

(b) **REPORT REQUIRED-** Before the end of the 15-month period beginning on the date of the enactment of this Act, the Commission shall submit a report to the Congress of the findings and conclusions of the Commission with regard to the study under subsection (a), together with such recommendations for legislative or administrative action as the Commission may determine to be appropriate.

SEC. 6. DESIGNATIONS.

(a) **DESIGNATION OF LINES OF INSURANCE-**

(1) **IN GENERAL-** For purposes of this Act, the Commission shall, by regulation, designate lines of insurance as designated lines of insurance as follows:

(A) **AUTOMOBILE-** The Commission shall designate private passenger automobile insurance and shall also designate any sublines and coverage types of private passenger automobile insurance that the Commission considers appropriate, after comparing the availability, affordability, and type of coverage in such lines by geographic area.

(B) **NONCOMMERCIAL INSURANCE FOR RESIDENTIAL PROPERTY-**

(i) **IN GENERAL-** The Commission shall designate homeowners insurance, including mobile homeowners, manufactured homeowners, condominium owners, and renters' coverage, dwelling fire and allied lines, earthquake coverage for a residence or personal property, personal liability and theft coverage, mechanical breakdown coverage for personal auto or home appliances, and shall distinguish the coverage types in such lines by the perils covered and by market or replacement value.

(ii) **NATURE OF OFFERING-** With respect to lines of insurance designated under clause (i), the Commission shall also require insurers to inform the Commission as to whether the insurance is offered voluntarily or in conjunction with a residual market mechanism.

(C) **SMALL BUSINESS-** The Commission shall designate as designated lines of insurance any lines of small business insurance,

and any sublines and coverage types of small business insurance, that the Commission determines to be appropriate after comparing the availability, affordability, and type of coverage in such lines by geographic area.

(2) REPORT ON NONDESIGNATED LINES- At any time the Commission determines that any line of insurance not described in paragraph (1) should be a designated line because disparities in coverage provided under such line exist among geographic areas having different income levels or racial composition, the Commission shall submit a report recommending designating such line of insurance as a designated line for purposes of this Act to the Committee on Financial Services of the House of Representatives and to the Senate.

(b) DURATION OF DESIGNATION-

(1) IN GENERAL- Except as provided in paragraph (2), the Commission shall make the designations under this section once every 5 years, by regulation.

(2) ALTERATION OF DESIGNATION- During any 5-year period referred to in paragraph (1) in which designations are in effect, the Commission may amend or revise the designated lines, sublines, and coverage types only by regulation and only in accordance with the requirements of this section.

(c) NOTICE OF DESIGNATIONS- Before the end of the 90-day period beginning on the date a designation of a line of insurance is made under this section, the Commission shall notify any person who has an interest in or is affected by such designation of the designation.

(d) OBTAINING INFORMATION- The Commission may require insurers to submit to the Commission such information as the Commission considers necessary to make designations specifically required under this Act.

SEC. 7. ENFORCEMENT.

(a) CIVIL PENALTIES- Any insurer who is determined by the Commission, after providing opportunity for a hearing on the record, to have violated any requirement of this Act or any regulation prescribed under this Act shall be subject to a civil penalty of not to exceed \$5,000 for each day during which such violation continues.

(b) INJUNCTION- The Commission may bring an action in an appropriate United States district court for appropriate declaratory and injunctive relief against any insurer who violates the requirements of this Act.

(c) INSURER LIABILITY- An insurer shall be responsible under this section for any violation of a statistical agent acting on behalf of the insurer.

SEC. 8. RELATION TO OTHER LAWS.

(a) STATE LAW- No provision of this Act shall be construed as annulling, altering, or affecting the laws of any State or any political subdivision of a State

relating to public disclosure, submission of information, and record keeping or exempting any insurer subject to this Act from any obligation under, or an obligation to comply with, any such law.

(b) OTHER FEDERAL LAW- This Act relates specifically to the business of insurance.

SEC. 9. REGULATIONS.

(a) IN GENERAL- The Commission shall prescribe, after notice and opportunity for comment, such regulations as may be necessary to carry out this Act and prevent evasions of this Act and such regulations.

(b) FACTORS TO BE CONSIDERED- In prescribing regulations under this Act, the Commission shall take into consideration the administrative, paperwork, and other burdens on insurance agents, including independent insurance agents, involved in complying with the requirements of this Act and shall minimize the burdens imposed by such requirements with respect to such agents.

SEC. 10. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ADVERSE ACTION- The term `adverse action'--

(A) means a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of insurance; and

(B) includes the nonrenewal of an existing insurance policy.

(2) COMMISSION- The term `Commission' means the Federal Trade Commission.

(3) CONSUMER REPORTING AGENCY- The term `consumer reporting agency' has the same meaning as in section 603(f) of the Fair Credit Reporting Act.

(4) CONSUMER REPORT- The term `consumer report'--

(A) when used in connection with insurance issued primarily for personal, family, or household purposes, has the same meaning as in section 603(d) of the Fair Credit Reporting Act; and

(B) when used in connection with small business insurance, has the meaning given such term by the Commission in regulations.

(5) INSURANCE APPLICATION- The term `insurance application' means an application for insurance, as determined by the Commission, made by any means, including in writing, orally, and by electronic means.

(6) INSURANCE CREDIT SCORE- The term `insurance credit score' means a numerical representation of the insurance risk a person presents using the person's attributes derived from a consumer report or credit information in a formula to assess insurance risk on an actuarial or statistical basis.

(7) **INSURANCE POLICY**- The term `insurance policy' means a policy, contract, or certificate or evidence of insurance.

(8) **INSURER**- The term `insurer'--

(A) means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is authorized to transact the business of property or casualty insurance in any State or that is engaged in a property or casualty insurance business; and

(B) does not include an individual or entity which represents an insurer as agent solely for the purpose of selling or which represents a consumer as a broker solely for the purpose of buying insurance.

(9) **RESIDUAL MARKET MECHANISM**- The term `residual market mechanism' means any assigned risk plan, private insurance placement facility, joint underwriting association, or similar mechanism established by a State or pursuant to any State law to provide property and casualty insurance for property owners who are unable to obtain such coverage in the voluntary market. Such term includes each State-wide plan of any State to assure fair access to insurance requirements under part A of title XII of the National Housing Act.
