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10/3/03
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1260

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1260

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date February 3, 2003

Tape Number	Side A	Side B	Meter #
1	X		1563- end
1		X	312-2557
Committee Clerk Signature <i>Elizabeth B. Grier</i>			

Minutes: **Chair Keiser:** Opened hearing on HB 1260.

Rep. Koppelman: Introduced bill and supports with written testimony.

Rep. Keiser asked if they should eliminate the variable from the score that has teens paying higher insurance. Rep. Koppelman did not think so because statistically, teens still have more accidents. The correlation is what matters. There is a correlation between poor credit and poorer drivers or people that do not pay their premiums on time. There is no correlation between teens and bad credit. The situation has to be directly related to the underwriting.

Rep. Severson: Did the constituents come to you because they had been dropped by an insurance company, or has the insurance company left the state? Rep. Koppelman said most primarily were new people trying to get insurance. Credit scores are not just bad ratings. Could be no use of credit.

Larry Maslowski (ND Insurance Dept.): Supports with written testimony.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number 1260

Hearing Date February 3, 2003

Rep. Kelser: Are there other organizations that do insurance scoring besides Fair, Isaac?

Maslowski replied that ChoicePoint and Transunion also do. Progressive Insurance could not give the Fair Isaac model, so they made up their own and turned it over to the Insurance commission.

Rep. Kelser asked what the penalty is for disclosing Fair, Isaac's model. Maslowski did not know.

Rep. Severson: Insurance companies usually want to know what the formula is or they want someone to build a model. Why do they consider it proprietary? Maslowski said the formula is itself proprietary. But there is a two step process. First they agree to use a formula, but they do not even see the formula. Then the insurance company looks at their clients and the score. But if the scores do not correlate with the premiums, they will ask the companies to document why they made their decisions because that is not proprietary.

Rep. Ekstrom asked if Maslowski knows of other states that are doing this. Maslowski said that NCOIL (Nat'l Conference of Insurance Legislators) approved a process in Nov of 2002. 30 states looked at this last year. 10 have approved in some form or another. Rep. Ekstrom then asked what the penalty is to insurance companies in ND. Maslowski said it would be handled like other insurance issues. They hold the licenses.

Rep. Kasper asked about misinformation. If a credit bureau has misinformation and that is used in the credit score, could that affect the report? Is that the issue. Maslowski said that has come up, but is not the fundamental issue. In clarification, he said that yes, part of the insurance report is credit scoring, regardless of accuracy or inaccuracy.

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number 1260

Hearing Date February 3, 2003

Rep. Keiser asked about medical codes not being used in the formula. Rep. Keiser wanted to know if it is the departments contention that medical accounts are not a problem in general.

Maslowski said that that is not the contention, but that some people have medical emergencies and they may unfairly skew the numbers. Rep. Keiser asked if medical collection accounts are quick. And because of that, many people fall behind on other payments. Would that not lead to them having trouble making their premiums? Maslowski said the insurance company knows the clients and if the company finds payment problem with a client, they have the right to deal with it.

Joel Gilbertson (Alliance of American Insurers): Cautious support as amended. Written testimony with amendments attached. Said other federal laws cover some of the issues.

Dennis Prindiville (Dakota Fire Insurance): Feels people react because this is a personal issue. However, this bill will drive up the costs and make ND restrictive. This will keep other insurance companies out and make some leave. Prindiville said there is no way to know future costs and that is why they need insurance scoring.

Rep. Kasper asked if they do business in Minnesota. Prindiville said they do some border business, but mostly ND, SD, MT, and ID.

Rep. Keiser asked if Prindiville has met with other companies on their willingness to come to ND if they would limited by this bill. Prindiville said he has not, but ND weather is the biggest restriction.

Rep. Kasper asked Prindiville if he has seen the ID statute on credit rating. He has and said there is no fresh score requirements, however, the renewal process is different. Rep. Kasper then

Page 4

House Industry, Business and Labor Committee

Bill/Resolution Number 1260

Hearing Date February 3, 2003

read the ID statute and asked if it is not like the current bill. Prindiville said the terminology is the same and they do not have a problem with it.

Ron Davies (Progressive Insurance): Progressive has their own model and has filed their credit model with the state. Credit is a predictor of future loss. They just filed a new model in January that favors older drivers with no credit history.

Rep. Kasper asked how many states Progressive covers. Davies said they are in 48 states (not in MA or NJ). When asked if other states prohibit, Davies was not sure of how many, but knows that many are considering.

Rep. Kelsner asked if Progressive has problems with other factors on page 2 other than age? (Under "use of credit information") Davies said that it makes it tougher if they have to change models based on age.

Pat Ward (ND Domestic Insurance Companies): Passed out pamphlets relating to insurance scoring. Noted that companies still want to sell insurance and they need the tools to do this. Urge the committee to adopt NCOIL in the original form and has draft amendments to move this bill to that end.

Rep. Kelsner asked about the limits since NCOIL has limits. Ward responded that although NCOIL has limits, it would be nice if all states adopted NCOIL instead of changing per state.

Rep. Severson asked what impact it would have on ND if we deviated from NCOIL. Ward responded that the current companies will adjust. Some may choose to leave. ND is a risky state because of weather (i.e. hail, fire).

Page 5

House Industry, Business and Labor Committee

Bill/Resolution Number 1260

Hearing Date February 3, 2003

Rep. Zaiser: When asking for clarification on the weather, Ward said that population is dense in 4 cities. If a major storm hits one city, the companies are hurt. Not much business in the rural areas.

Chair Kelser reminded the committee that loss ratios are different from insurance scoring.

Kelser then asked how scoring has improved the ability to underwrite and if we know who is benefiting from the scoring and who is being hurt. Ward replied that scoring is just another tool to be more informed. They can also use credit to write risks they normally would not have written. Noted there is also a correlation between those who do not manage credit and those who have claims.

Dennis Prindiville responded to earlier questions. Said that more insured people receive discounts than not. Hopes that if people have a low credit score they will clean their credit up.

Rep. Kasper asked if it is fair to use scoring to increase premiums to those who are more at risk. Prindiville said they either give a discount or they don't. They do not raise the premiums. Rep. Kasper noted that the methodology is different, but they are finding those who are more at risk and they have higher premiums.

Chair Kelser Closed hearing on HB 1260

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1260

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date February 11, 2003

Tape Number	Side A	Side B	Meter #
1	X		3039-end
Committee Clerk Signature <i>Elizabeth R. Fier</i>			

Minutes: **Chair Kelser:** Opened discussion on HB 1260. Reminded the committee that there is correlation data out there. They have not proven that 16 yr. olds are more likely to have accidents, but they can correlate to other factors.

Rep. Kasper: Credit scoring bills are coming up all over the country. CA, TX, MN, IN, and ID are looking at prohibiting entirely and it is the duty of the committee to look at the issue. Rep. Kasper also noted that the input that goes into the algorithms may not be correct. But we do not know because we do not know what formulas they use.

Rep. Ruby: Asked if this will prohibit entirely or just "solely." Rep. Severson replied that he sees this as prohibiting from using the credit score as the "sole" reason to deny insurance.

Rep. Thorpe: A friend of his daughter had her insurance double because of credit scoring after a divorce. The system is not working correctly and he supports the bill.

Rep. Kasper: Clarified that they can not use credit scoring for renewal policies.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number 1260

Hearing Date February 11, 2003

Rep. Keiser: Reminded the committee that you are just spreading risk to the other policy holders.

Rep. Ekstrom: Likes this bill because you can't use credit scoring as the sole reason. This gives the citizens recourse.

Rep. Severson: This amendment brings the bill back to the NCOIL model, which is what opponents asked for if they bill is going to pass.

Rep. Klein moved to adopt amendments (one from Pat Ward and one the "short" amendment).

Rep. Kasper seconded. Voice vote. Amendments adopted.

Rep. Froese: Why do we need this bill. Rep. Kasper noted that this restricts credit scoring information.

Rep. Boe: Said that his notes from testimony say that the opposition thinks this bill would limit the ability to give discounts. Rep. Ruby wanted to know if that is implied testimony. Rep. Keiser reminded the committee that one company said they do the underwriting first and then they look at the credit rating and give discounts based on the rating.

Rep. Kasper: Does not see where they can not give a positive credit rating.

Rep. Severson moved DP as amended. Rep. Zaiser seconded.

Vote: 10 Yes 4 No 0 Absent and not voting Carrier: Severson

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1260

Page 3, remove lines 5, 6 and 7

Page 3, line 23, remove "ninety" and insert "one hundred twenty"

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10/3/03
Date

AMENDMENTS TO HB 1260

Page 2, line 18, remove "condominium owners, tenants,"

Page 2, remove lines 22 through 25

Page 2, line 28, replace "risks may" with "risks, shall"

Page 2, line 30, remove "age, occupation,"

Page 3, line 9, remove "or in the absence of a credit report,"

Page 3, line 12, after "Consider" insert "an absence of credit information or"

Page 3, lines 15 through 16, replace "the inability to calculate a score relates to increased risk for the insurer" with "such an absence or inability relates to the risk for the insurer."

Page 4, line 16, after "for" insert "underwriting or rating"

Page 5, remove lines 7 through 12

Page 5, line 28, replace "must" with "shall"

Page 5, line 28, replace "application" with "applicant"

Page 6, line 29, replace "confidential" with "trade secret under chapter 47-25.1 of the North Dakota Century Code"

Page 7, line 1, after "information" insert "and/"

Page 7, line 10, after "includes" insert ", but is not limited to,"

P:\Chofland\Legislature 2003\Amendments to HB 1260 -- shorter.doc

30507.0101
Title.0200

Adopted by the Industry, Business and Labor
Committee
February 12, 2003

VR
2/12/03
1082

HOUSE AMENDMENTS TO HOUSE BILL NO. 1260 IBL 2-13-03

Page 2, line 18, remove "condominium owners, tenants,"

Page 2, remove lines 22 through 25

Page 2, line 27, remove "1."

Page 2, line 29, replace "a." with "1."

Page 2, line 30, remove "age, occupation,"

HOUSE AMENDMENTS TO HB 1260

IBL 2-13-03

Page 3, line 1, replace "b." with "2."

Page 3, line 4, replace "subsection" with "section"

Page 3, remove lines 5 through 7

Page 3, line 8, replace "d." with "3."

Page 3, line 9, remove "or in the absence of a credit report,"

Page 3, line 12, replace "e." with "4." and after "Consider" insert "an absence of credit information or"

Page 3, line 14, replace "(1)" with "a."

Page 3, line 15, replace "the inability to" with "such an absence or inability relates to the risk for the insurer."

Page 3, remove line 16

Page 3, line 17, replace "(2)" with "b."

Page 3, line 19, replace "(3)" with "c."

Page 3, line 21, replace "f." with "5."

Page 3, line 23, replace "ninety" with "one hundred twenty"

Page 3, line 25, replace "g." with "6."

Page 3, line 28, replace "subsection" with "section"

Page 3, line 29, replace "(1)" with "a."

HOUSE AMENDMENTS TO HB 1260

IBL 2-13-03

Page 4, line 3, replace "(2)" with "b."

Page 4, line 6, replace "(3)" with "c."

Page No. 1

30507.0101

In Costa Rickford
Operator's Signature

10/3/03
Date

HOUSE AMENDMENTS TO HB 1260

IBL 2-13-03

2 of 2

Page 4, line 7, replace "paragraph 1" with "subdivision a"

Page 4, line 8, replace "(a)" with "(1)"

Page 4, line 10, replace "(b)" with "(2)"

Page 4, line 14, replace "(c)" with "(3)"

Page 4, line 16, after "for" insert "underwriting or rating"

Page 4, line 18, replace "(d)" with "(4)"

Page 4, line 21, replace "h." with "7."

Page 4, line 24, replace "(1)" with "a."

Page 4, line 26, replace "(2)" with "b."

Page 4, line 28, replace "(3)" with "c."

Page 4, line 30, replace "(4)" with "d."

HOUSE AMENDMENTS TO HB 1260

IBL 2-13-03

Page 5, line 3, replace "(5)" with "e."

Page 5, remove lines 7 through 12

Page 5, line 28, replace the second "application" with "applicant"

HOUSE AMENDMENTS TO HB 1260

IBL 2-13-03

Page 6, line 29, replace "confidential" with "a trade secret under chapter 47-25.1"

Renumber accordingly

Date: 2/14/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1260

House INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP as amended

Motion Made By Severson Seconded By Zaiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		✓	Boe	✓	
Vice-Chair Severson	✓		Ekstrom	✓	
Dosch		✓	Thorpe	✓	
Froese		✓	Zaiser	✓	
Johnson	✓				
Kasper	✓				
Klein	✓				
Nottestad		✓			
Ruby	✓				
Tieman	✓				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Severson

If the vote is on an amendment, briefly indicate intent:

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10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
February 13, 2003 9:12 a.m.

Module No: HR-28-2536
Carrier: Severson
Insert LC: 30507.0101 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1260: Industry, Business and Labor Committee (Rep. Kelsor, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1260 was placed
on the Sixth order on the calendar.

Page 2, line 18, remove "condominium owners, tenants,"

Page 2, remove lines 22 through 25

Page 2, line 27, remove "1."

Page 2, line 29, replace "a." with "1."

Page 2, line 30, remove "age, occupation,"

Page 3, line 1, replace "b." with "2."

Page 3, line 4, replace "subsection" with "section"

Page 3, remove lines 5 through 7

Page 3, line 8, replace "d." with "3."

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Page 3, line 15, replace "the inability to" with "such an absence or inability relates to the risk for
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Page 3, remove line 16

Page 3, line 17, replace "(2)" with "b."

Page 3, line 19, replace "(3)" with "c."

Page 3, line 21, replace "f." with "5."

Page 3, line 23, replace "ninety" with "one hundred twenty"

Page 3, line 25, replace "g." with "6."

Page 3, line 27, replace "subsection" with "section"

Page 3, line 29, replace "(1)" with "a."

Page 4, line 3, replace "(2)" with "b."

Page 4, line 6, replace "(3)" with "c."

Page 4, line 7, replace "paragraph 1" with "subdivision a"

Page 4, line 8, replace "(a)" with "(1)"

(2) DESK, (3) COMM

Page No. 1

HR-28-2536

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10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
February 13, 2003 9:12 a.m.

Module No: HR-28-2536
Carrier: Severson
Insert LC: 30507.0101 Title: .0200

Page 4, line 10, replace "(b)" with "(2)"
Page 4, line 14, replace "(c)" with "(3)"
Page 4, line 16, after "for" insert "underwriting or rating"
Page 4, line 18, replace "(d)" with "(4)"
Page 4, line 21, replace "h." with "7."
Page 4, line 24, replace "(1)" with "a."
Page 4, line 26, replace "(2)" with "b."
Page 4, line 28, replace "(3)" with "c."
Page 4, line 30, replace "(4)" with "d."
Page 5, line 3, replace "(5)" with "e."
Page 5, remove lines 7 through 12
Page 5, line 28, replace the second "application" with "applicant"
Page 6, line 29, replace "confidential" with "a trade secret under chapter 47-25.1"
Renumber accordingly

(2) DESK, (3) COMM

Page No. 2

HR-28-2536

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2003 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1260

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1260

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-17-03

Tape Number	Side A	Side B	Meter #
2	XXXXX		1960-4666
Committee Clerk Signature <i>Lisa Van Buren</i>			

Minutes: Chairman Mutch opened the hearing on HB 1260. All Senators were present.

HB 1260 relates to use of credit information in personal insurance.

Testimony in support of HB 1260

Charles Johnson, General Counsel for the North Dakota Insurance Department, introduced the bill. See written testimony.

Representative Koppelman, District 13, spoke in support as well. See written testimony.

Senator Mutch: Is this a model act that is being introduced?

Rep. Koppelman: I believe it is. National Conference of Insurance Legislators has created a model bill and much of that is in this bill with a few minor changes. My constituents have unrelated things coming up when trying to get insurance. Credit scores being one of them.

Senator Krebsbach: What changes were made from the original bill to the engrossed bill now?

Rep. Koppelman: I am not sure what they all were.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number 1260

Hearing Date 03-24-03

Senator Klein: It's interesting but there is a relation between poor credit and a poor history on the amount of claims someone has. There are cases like with an older person who has always paid cash and doesn't have credit. National companies are coming up with this credit information.

Senator Espgaard: A couple areas that prohibit a negative factor in credit is based on medical area?

Rep. Koppelman: I think that is if you have medical debt that you are trying to pay off.

Senator Espgaard: Wouldn't this just about get rid of the scoring factor in insurance? Who would do this?

Rep. Koppelman: The bill prohibits solely using credit in underwriting score. That doesn't eliminate consideration of a credit score. Also it is the least onerous way to address the issue.

Senator Mutch: Why shouldn't the insurance company be able to decide if they want to discontinue doing business for any reason?

Charles Johnson: I think what we are seeing here is a national trend. The decision should be based on the consistency of the customer, not a category or group that they fall into.

Senator Espgaard: In this particular case, couldn't they rate it because of too much debt, credit score, etc.?

Charles Johnson: Yes, certainly. There would have to be underwriting guidelines. He then proposes amendments. See attached.

Pat Ward, American Family Insurance, supports bill with amendments.

There was no opposition to the bill.

The hearing was closed. No action was taken.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1260

Senate Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 03-24-03

Tape Number	Side A	Side B	Meter #
1		XXXXX	3590-end
Committee Clerk Signature <i>Lisa Van Berkum</i>			

Minutes: Chairman Mutch opened the committee discussion on HB 1260. All Senators were present.

HB 1260 relates to use of credit information in personal insurance.

Senator Espeland: Credit scoring is confusing. You can get a bad credit score because you went to buy a new car and they sent it to 5 different places. This bill says you have to disregard those. It also says that you can have no credit score if you have no credit. This bill basically says that that can't be the only thing you can use to deny insurance.

Senator Klein moved a DO PASS. Senator Krebsbach seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent

Carrier: Senator Klein

Date: 3-24-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

Senate 1260 Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Klein Seconded By Krebsbach

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Nething	X				
Senator Heitkamp	X				
Senator Every	X				
Senator Espgaard	X				

Total (Yes) Click here to type Yes 7 No Click here to type No 0

Absent 0

Floor Assignment Click here to type Floor Assignment Klein

If the vote is on an amendment, briefly indicate intent:

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Lu Costa Rickford 10/3/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
March 24, 2003 1:02 p.m.

Module No: SR-45-5547
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1260, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1260 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-45-5547

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2003 TESTIMONY

HB 1260

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10/3/03
Date

Testimony in Support of H.B. 1260 As Amended

Good morning Mr. Chairman and members of the Industry, Business & Labor Committee. I am Joel Gilbertson, an attorney with the Vogel Law Firm, with offices in Bismarck and Fargo. I am here on behalf of the Alliance of American Insurers. The Alliance is a national association of over 340 property and casualty insurance companies of all sizes and located throughout the country underwriting all kinds of auto, homeowners, professional liability, commercial and other kinds of property and casualty insurance.

First of all, it is important to note that the Alliance has worked with NCOIL, NAIC and other entities on the problems of unfair credit scoring using discriminatory data that is actuarially unsupported.

Some opponents of credit scoring in insurance seem to think that the practice is unregulated in this state. However, insurer use of credit information is already very regulated. The federal Fair Credit Reporting Act gave insurers the right to consider credit information and insures that applicants and policyholders receive notification and access to information where credit information is considered by the insurer. The Act covers permissible use, notification to the consumer and dispute resolution.

In addition, the federal Equal Credit Opportunity Act, which insures that all consumers are given an equal chance to obtain credit, prohibits specific factors from being included in a credit report and credit score. Included are one income level, address, ethnicity, religion, age and marital status, among other factors. The Insurance Commissioner is able to monitor insurer practices through market conduct surveys and filing approval processes.

If this bill receives favorable approval, we believe that two amendments should be made. The first is that all of subsection 3 on page 3 should be

deleted. These ratings could stop those with good credit from getting rating discounts they deserve.

Credit is never the sole factor used in developing a rate. But, all other factors being equal, credit may be the factor that determines a discount or tier. One of the Alliance member companies provides a discount off the base rate for 90% of policyholders due to credit. In fact, many companies only discount. We believe the language in subsection c could be interpreted to prevent this. Some believe that as other factors are considered in the *total* rate, this language would not prevent using credit as the factor that leads to a discount or surcharge. We're not convinced.

The second change is simply to change the 90 day requirement in subsection f to 120 days. Many smaller carriers buy credit scores by batch processes. The 90 day requirement, in addition to other concerns, would provide sufficient underwriting and processing time, and will add a cost burden to smaller insurers dependent on batch ordering. "Batch ordering," simply put, means that they order a large amount at one time. So, for example, instead of buying scores for all of their business renewing over the next 120 days (3 times per year), they would have to order four times per year. Frankly, this is not a large amount of costs for some companies, but for some of the smaller companies, and many of them are doing business in North Dakota, it is significant.

The concern, here, is to work with relatively current information. 120 days will do that. That certainly is not to say that all companies will follow 120 days. Large companies will probably order far more frequently.

This extension simply allows smaller companies, that must spread some set fees among fewer policies, a better chance to compete.

Thanks for your attention and time. I will respond to questions.



Representative Kim Koppelman
 District 13
 513 First Avenue NW
 West Fargo, ND 58078-1101
 kkoppelm@state.nd.us

NORTH DAKOTA HOUSE

STATE CAPITOL
 600 EAST BOULEVARD
 BISMARCK, ND 58505-0360



COMMITTEES:
 Appropriations

Testimony on House Bill 1260

Good Morning, Mr. Chairman and Members of the House Industry, Business and Labor Committee. For your record, I am Representative Kim Koppelman and I represent District 13, which consists of most of the city of West Fargo and a small surrounding rural area.

In the course of our legislative duties, we periodically discover issues which are of concern to our constituents or examples of how they've been harmed. Sometimes, these stem from fundamental unfairness or practices which clearly need to be modified. For the past few years, I have heard such concerns and investigated such complaints with regard to insurance underwriting which relies heavily or solely upon credit scores.

My constituents have reported cases in which someone who is an excellent insurance risk, based upon traditional underwriting criteria, such as claims history and premium payment record, has been denied coverage or been asked to pay a much higher premium that would normally be required. The reason? A less than perfect credit score.

While it may be true that insurance companies can draw statistical corollaries between credit history and insurance risk, I believe that most reasonable people would conclude that it is inappropriate to punish an otherwise good insurance customer with a good insurance history, solely or predominantly based upon such information.

I first became concerned about this issue approximately three years ago and a bill addressing it was introduced last session, without success. During the interim, however, I have worked with Insurance Commissioner Poolman on the issue and, in cooperation with his office and with the benefit of the research his staff has conducted, I have introduced the bill before you.

While it is not our intent to deny the insurance industry the use of important information, it is clear that there must be limits on the weight placed on such information and that consumers who are good insurance risks must not be denied coverage or forced to pay exorbitant rates only because they may have experienced credit challenges or recently applied for credit.

Mr. Chairman and members of the committee, I urge your favorable consideration of House Bill 1260. While I would encourage you to hold your more technical questions for the representative of the Insurance Commissioner's office who will testify, I would be happy to answer any general questions you may have.

Lu Costa Rickford
 Operator's Signature

10/3/03
 Date

HOUSE BILL NO. 1260

Presented by: Larry Maslowski
Senior Property and Casualty Analyst
North Dakota Insurance Department

Before: Industry, Business and Labor Committee
Representative George Kelser, Chairman

Date: February 3, 2003

TESTIMONY

Mr. Chairman and members of the committee:

Good morning, my name is Larry Maslowski, Senior Property and Casualty Analyst with the North Dakota Insurance Department. I stand before you today to introduce House Bill No. 1260.

The use of a consumer's credit score based upon their credit report in the underwriting and rating of personal lines insurance products is a controversial issue. In 2002 the Department held a hearing to gather input into the matter. The industry claims that a person's credit score is a predictor of future loss experience; therefore, a tool for more accurate rating and underwriting of a risk. Consumers fail to understand how their credit score relates to auto or homeowner claims. Agents have difficulty addressing consumers' questions because much of the process of using credit scores is hidden in the process and technology used by the company.

This bill would create a new section to the code to address most of the issues raised by interested parties over the years. The text of the bill is primarily based upon a recently enacted model act by the National Conference of Insurance Legislatures (NCOIL) with some modification by the Department. The most significant change is directed at how companies treat a "no hit" file and a "thin file", which will be described in more detail later.

This bill does not prohibit the use of credit scores. It does, however, attempt to provide consumer protections in the form of disclosure requirements for both applications and adverse decisions, as well as procedural limitations for the industry in certain instances.

26.1-25.1-01 - Scope. The section limits the new chapter to the use of credit scores in personal insurance only, not commercial insurance. This includes use in private passenger automobile, homeowners, motorcycle, mobile home owners, condominium owners, tenants, and noncommercial dwelling fire policies.

26.1-25.1-02 - Definitions. The section sets out the definitions used in this chapter. Definition No. 9 for "tier" is a Department modification to the NCOIL model. The last part of the definition includes the tiers within a group of affiliated insurers. This definition would treat the placement of a consumer's account in an affiliated company (sister company) just the same as placement in a different tier within a single company's underwriting or rating program. Therefore, companies would need to document and support statistically or actuarially the difference in tiers even between sister companies.

Please note the definition for "adverse action", definition No. 1, as this is used often in the bill and this testimony. It 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 personal insurance."

26.1-25.1-03 - Use of Credit Information. The section sets out the following activities as those that are prohibited by companies in the use of credit information:

1. Prohibits use of income, gender, address, zip code, ethnic group, religion, marital status, age, occupation, or nationality of the consumer as a factor in determining an insurance/credit score. The Department did modify the NCOIL model to add "age" as a factor.
2. Prohibits a company from denying, canceling, or non-renewing a policy solely

on the basis of an insurance score without considering other underwriting factors.

3. Prohibits a company from basing a consumer's renewal rate solely on the basis of an insurance score without considering other underwriting factors.
4. Prohibits a company from making an adverse decision based solely on the fact a consumer has no credit report (a no hit) without considering other underwriting factors.
5. Prohibits a company from denying or canceling or nonrenewing a policy based on the inability to calculate a score (a thin file) unless the company has filed statistical documentation with the Commissioner and received approval to do so, or the company treats the consumer as having neutral credit information, or the company does not use credit information in its process. Note: The NCOIL model combined the "no hit" and "thin file" in this section. The Department's modification was to separate the "no hit" into No. 4 making a more stringent limitation on the use of "no hits".
6. Prohibit a company from taking an adverse action based upon the use of credit reports over 90 days old at the time of use.
7. Prohibits a company from using credit information if the company has not used it within the 36 months prior on the existing account. However:
 - a. The consumer or agent may request the company do a credit review at renewal but not more often than every 12 months.
 - b. The company may order current credit information on any renewal within 36 months if consistent with underwriting guidelines.
 - c. The requirement of a company to obtain current credit information as

Indicated in subdivision a, is negated if:

- (1) The company is approved to treat the consumer in a specific manner.
- (2) The consumer is in the most favorably priced tier of a group (unless underwriting guidelines permit).
- (3) The company did not use credit information on the initial application (unless underwriting guidelines permit).
- (4) The company reevaluates within 36 months based upon other underwriting or rating factors and does not use credit information.

8. Prohibits a company from using the following as a negative factor in insurance scoring:

- a. Credit inquiries not initiated by the consumer or inquiries by a consumer for their own information.
- b. Credit inquiries for insurance coverage purposes.
- c. Collection accounts based upon medical industry codes.
- d. Multiple lender inquiries from home mortgage industry within 30 days of one another.
- e. Multiple lender inquiries from automobile lending industry within 30 days of one another.

9. Prohibit a company from using an insurance score to determine eligibility for

a payment plan. Note: The insurance score is not the same score a lender may get for determining loan eligibility and is not felt to be appropriate here. This is a modification to the NCOIL model. The company may use the consumer's payment history with the company as a basis for determining eligibility.

Companies will continue to have the right to underwrite accounts based on other reasons or factors within the first 60 days of an application.

26.1-25.1-04 - Dispute Resolution and Error Correction. If a consumer under the federal Fair Credit Reporting Act has had errors corrected in the consumer's credit report, the consumer may request that a company re-underwrite or re-rate the consumer's account. The company has 30 days to do so. If a policyholder has overpaid, the company is required to refund any overpayment made within the last 12 months.

26.1-25.1-05 - Initial Notification. This section requires that a company (or its agent) disclose to the consumer when applying for insurance that credit information will be used in the process. A specific statement is provided for companies to use which will be deemed to comply with the notification requirement if used.

26.1-25.1-06 - Adverse Action Notification. This section requires that a company that takes an adverse action based upon credit information to:

1. Give notice in accordance with the federal Fair Credit Reporting Act.
2. Provide the reasons for the adverse action. Reasons are to be clear and specific. This expands the requirement by the Fair Credit Reporting Act which says you only need to tell someone the adverse action "is a result of something in your credit report; please contact the credit bureau". The new requirement that the company list up to four reasons will give the consumer some specific reasons to look for and work on when evaluating their credit report.

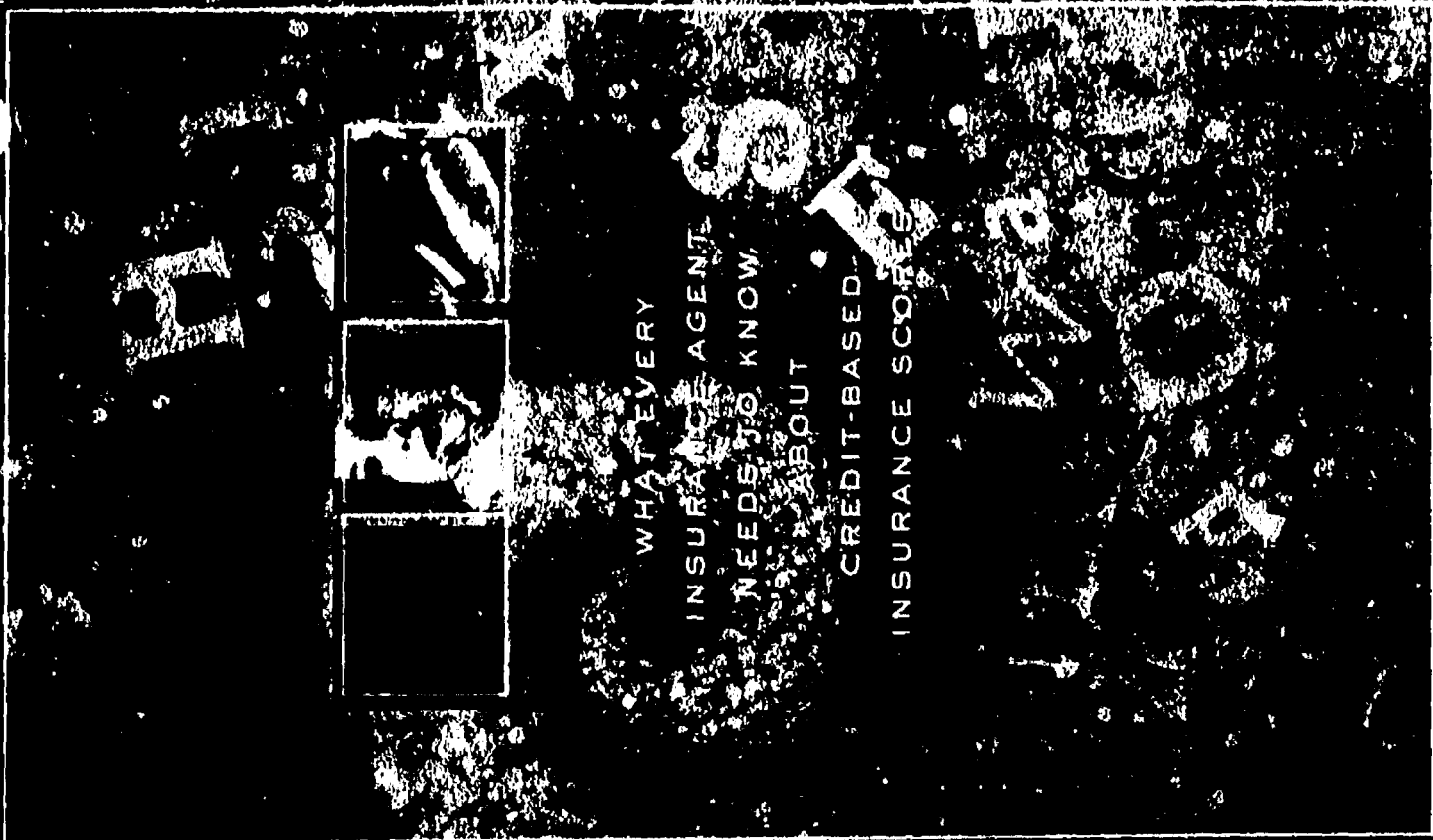
26.1-25.1-07 - Filing. This section requires insurance companies to file the model (formula) used to calculate an insurance score and supporting documentation. The filing of the model is confidential.

26.1-25.1-08 - Indemnification. This section requires insurance companies to indemnify, defend, and hold harmless agents from liability in the use of credit information.

26.1-25.1-09 - Sale of Policy Term Information by Consumer Reporting Agency. This section prohibits a credit reporting agency from providing or selling information obtained in an insurance inquiry. However, this prohibition does not apply to the sharing of information between the credit reporting agency and the insurance company requesting information about its own clients. The prohibition does not apply to information from a claims history or motor vehicle report.

26.1-25.1-10 - Severability. This section links the statute to the Fair Credit Reporting Act in the case of future changes that might make specific sections invalid.

26.1-25.1-11 - Effective Date. This section sets out a future compliance date to allow time for industry to make appropriate systems revisions and filing to nine months after August 1, 2003.



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Michaela M. M. M.
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10/2/03
Date



WHAT EVERY
INSURANCE AGENT
NEEDS TO KNOW
ABOUT
CREDIT-BASED
INSURANCE SCORES



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10/3/03
Date

WHAT EVERY INSURANCE AGENT NEEDS TO KNOW ABOUT
CREDIT-BASED INSURANCE SCORES . . .

Insurance agents have the complex job of being on the front line every day with consumers. From dealing with complicated claims, to placing a difficult risk, to reassuring a client after a loss, insurance companies rely on the agent community to communicate with policyholders. One of the more difficult current issues that agents and customers are trying to understand is insurance scoring and use of credit reports. The mention of their use may bring to mind questions about privacy, agent liability and consumer protections. Members of the insurance industry recognize the value of providing you with the tools you need to answer such questions. We designed this brochure with the producer community and that goal in mind. It is intended to help you answer questions, and communicate the benefits of insurance scoring to your customers. Understand, however, that this is a rapidly-changing area in which practices vary from company to company.

DEFINITIONS

WHAT ARE INSURANCE SCORES AND WHY DO ONLY SOME
COMPANIES USE THEM?

Research shows that people with certain patterns of behavior in their credit history are more likely to result in losses for the insurance company. While having a good insurance score does not necessarily mean a policyholder is a good driver or more responsible homeowner, research shows that those individuals generally file fewer and/or less expensive claims.

It is important to understand that insurance scores are not credit scores or credit reports — they are distinctly different. Insurance scores are developed differently and predict a different outcome than credit scores. Insurers use a variety of methods to assign scores. In general, though, an insurance score is a number, generally ranging from 100-900, that predicts the future loss of an individual insurance policyholder or applicant; a credit score, on the other hand, is also a number, ranging from 300-850, but it predicts the likelihood of future delinquency on credit accounts of a credit prospect or customer. (A credit report is a summary, produced by a credit bureau, of the data they have on file for a particular consumer.) Like credit score models, insurance score models calculate scores based on credit bureau data only. Yet, unlike credit bureau scores, the insurance score models were developed to predict future insurance losses, with some models examining actual policyholder

performance data from insurance companies in conjunction with the corresponding credit data of that policyholder. These scores are very predictive of the frequency and severity of future losses. Overall, insurance scores consider patterns of credit management practices. Single incidents generally have minimal impact.

Every company differs in how and why they use insurance scores — one of the benefits of a competitive marketplace. Companies that use credit information find it helps supplement the underwriting picture — more accurate and precise underwriting decisions are made. This promotes a more competitive market resulting in more affordable rates.

PROCESS

WHO ARE FAIR, ISAAC, CHOICEPOINT, TRANSUNION, EXPERIAN
AND EQUIFAX? HOW DO THEY DIFFER?

Insurance scores are based on information from consumer credit reports that insurers or modelers get from the three major credit bureaus: Equifax, Experian (formerly TRW) and TransUnion. Fair, Isaac provides statistical models to a wide array of clients, mainly in the financial services arena, including many of the models used to calculate insurance scores. ChoicePoint is an information provider — it provides insurance companies with underwriting and claims information services to assist those companies in assessing insurability. ChoicePoint also provides statistical models.

HOW DO YOU GET AN INSURANCE SCORE?

Generally, an insurer sends an inquiry to one of the major credit bureaus. The credit bureau then conducts a process in which specific credit report attributes are input into the model that then produces a score. The score is returned to the inquiring insurer. An insurer can use the score in a variety of ways in its decision-making process.

CONSUMER CREDIT REPORT INFORMATION
USED IN SCORING INCLUDES:

PAYMENT HISTORY,
COLLECTIONS,
BANKRUPTCIES

OUTSTANDING
DEBT

LENGTH OF
CREDIT HISTORY

NEW APPLICATIONS
FOR CREDIT

TYPES OF
CREDIT IN USE

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Operator's Signature

Augusta Rickford

10/13/03
Date

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HISTORY

I'VE BEEN AN AGENT FOR OVER 20 YEARS AND HAVE ONLY RECENTLY HEARD ABOUT INSURER USE OF CREDIT REPORTS, CREDIT SCORING OR INSURANCE SCORING. WHY HAS THERE BEEN SUCH A HIGH LEVEL OF INTEREST OVER THE LAST FEW YEARS? ARE INSURANCE COMPANIES USING THEM MORE?

Insurance companies have learned that insurance scores are an accurate predictor of future loss likelihood. Over the past few years, new expertise has been developed using computer models that permit analysis of credit reports. To ensure an objective look at credit information, several vendors and insurers developed mathematical models to identify predictive characteristics of loss and then assign weights to these characteristics.

Independent tests by insurance companies and a major consulting firm that compared insurance scores against the claims history of policyholders found that the scores do predict the likelihood of claims. Also, when assessing various scoring models, insurance companies typically conduct a retrospective trial, where they run 1-year old to 2-year old data through the models being evaluated. In these studies, the models demonstrate that the lowest scoring segments have the highest loss ratios and the highest scoring segments have the lowest loss ratios.

IMPLEMENTATION

WHY DOES EVERY INSURANCE COMPANY THAT I WORK WITH USE INSURANCE SCORES IN A DIFFERENT WAY?

Just as every company's underwriting guidelines and rating tools are different, insurers use insurance scores in a variety of ways. Some companies only use insurance scores as part of the underwriting decision-making process for new policies. Others may use insurance scoring for renewal policies and rating. All companies that use insurance scores, though, use them as a tool to better evaluate risk. More accurate underwriting and rating will lead to a more competitive environment. As an agent, you know that the more competitive the market is, the more your customers will benefit.

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INQUIRIES

THERE IS A LOT OF CONFUSION ABOUT THE EFFECT OF NUMEROUS INQUIRIES OR "HITS" ON CREDIT REPORTS. DO A LARGE NUMBER OF "HITS" AFFECT AN INSURANCE SCORE?

One way you may help your customers improve their scores is to educate them on the impact of inquiries. However, it is important to make sure you communicate to your clients that insurance scores consider patterns of credit management practices, while single incidents generally have minimal impact.

THE FOLLOWING OUTLINES THE TYPES OF INQUIRIES:

CONSUMER-INITIATED CREDIT INQUIRIES

Too many inquiries adversely affect an insurance score if the customer initiates or starts them. While a single consumer-initiated inquiry has little negative effect on an insurance score, multiple inquiries in a short period will have a greater impact. There are some exceptions to this rule.

NON-CONSUMER-INITIATED CREDIT INQUIRIES

This type of inquiry includes promotional inquiries, account review inquiries, and also consumer inquiries where the consumer has requested a copy of their own report. These types of inquiries do not affect insurance scores.

INSURANCE INQUIRIES

Insurance inquiries generally do not affect a customer's ability to get a loan. The majority of major credit providers do not use models that evaluate insurance inquiries when calculating scores. Likewise, most insurers use models that do not include insurance inquiries.

For example, under most insurance score models, multiple car dealership or mortgage inquiries in a short period of time are treated as a single inquiry. So, customers can shop around for the best deal – a sign of financial responsibility – without impacting their insurance scores.

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IMPACT ON AGENTS

WHAT HAS THE USE OF CREDIT REPORTS ADDED TO MY BUSINESS?
WHAT ARE THE OPERATIONAL BENEFITS?

Agents can look at business that might have been previously rejected and enter new markets with the knowledge that each risk will be more accurately priced. All agents want to write more business — insurance scoring is an accurate tool that can expand your book of business and keep it strong. The use of insurance scores creates operational efficiencies within an agency because it allows quick responses to applications.

MULTIPLE COMPANIES. MULTIPLE SCORES

WHY DOES THE SAME CUSTOMER GET DIFFERENT SCORES FROM DIFFERENT COMPANIES?

As the use of insurance scores becomes more prevalent, more companies are introducing scoring products into the marketplace. At the same time, many insurers themselves are using their own experience to develop their own models. Think of the insurance scoring process as a menu, in which each insurance company can choose from any combination of the following:

PROVIDES CREDIT DATA	BUILDS SCORING MODELS	RUNS MODELS AGAINST CREDIT FILES	DELIVERS SCORES TO THE FINAL USER
TransUnion	Fair, Isaac	ChoicePoint	ChoicePoint
Equifax	ChoicePoint	TransUnion	TransUnion
Experian	Other Vendors	Other Vendors	Other Vendors
	Company-Specific Models	Company-Specific Report Ordering	Company-Specific Report Ordering

This competition in the marketplace is the reason why a customer may get different scores from different insurers.

6

FEDERAL FAIR CREDIT REPORTING ACT

WHAT IS THE FAIR CREDIT REPORTING ACT? HOW DOES IT AFFECT INSURANCE SCORING?

The federal Fair Credit Reporting Act (often referred to as the FCRA), enacted over 30 years ago, expressly allows consumer reporting agencies to provide credit information to insurers for their business purposes.

The FCRA, which applies for both new and renewal business, also requires that if insurers take an adverse action on a policy (such as to deny insurance or terminate a policy) and that decision is based in whole or in part on credit information, that fact must be disclosed to the policyholder or applicant. The disclosure must include the name, address, and toll-free telephone number of the consumer reporting agency that supplied the information to the insurer; a notice of the individual's right to dispute any incorrect or incomplete information; and must inform the policyholder that he may request a free copy of his credit report from the consumer reporting agency. These disclosure requirements are the same as those required when an insurer takes an adverse action as a result of a motor vehicle report (MVR).

Generally, compliance with FCRA requirements will be the responsibility of the company. However, as business practices vary, agents may wish to clarify their obligations under the act with each company's legal department.

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Deborah Rickford

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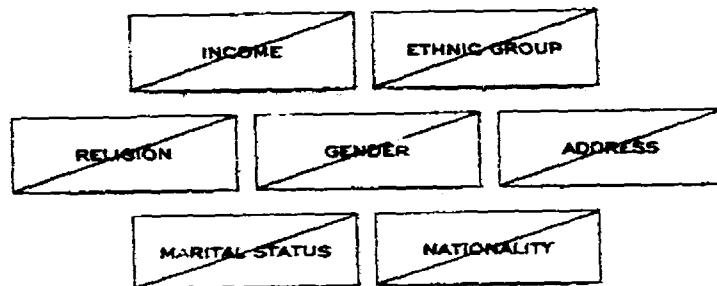
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INCOME AND OTHER ISSUES

DOES A PERSON'S INCOME OR ADDRESS HAVE AN IMPACT ON THEIR INSURANCE SCORE?

No. The following information is *NOT* used in any insurance score models:



CORRECTING MISTAKES ON CREDIT REPORTS

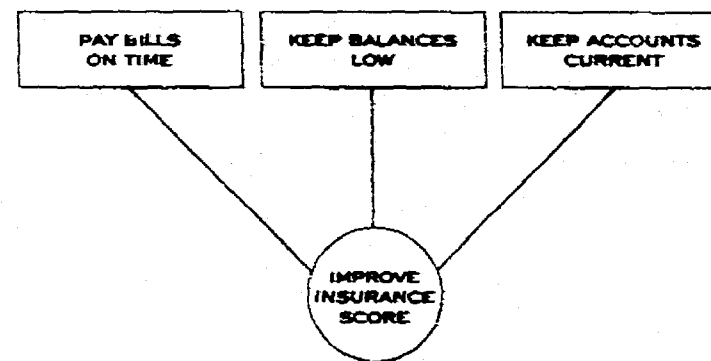
A FEW OF MY CUSTOMERS HAVE DISCOVERED MISTAKES ON THEIR CREDIT REPORTS. WHAT, IF ANYTHING, CAN THEY DO TO MAKE CHANGES TO THEIR CREDIT REPORTS?

The FCRA gives consumers the right to challenge information in their credit report they believe to be inaccurate. If the information is found to be inaccurate, the *credit bureau* is required to promptly correct the error. Addresses and phone numbers of the three major consumer credit reporting bureaus are listed at the end of this brochure.

IMPROVING SCORES

WHAT CAN MY CUSTOMERS DO TO IMPROVE THEIR SCORES?

An insurance score is a snapshot of your customer's insurance risk based on information in their credit report that reflects their credit payment patterns over time, generally with more emphasis on recent information. Even though you, as an agent, are not a credit counselor, there are a few things you can tell your customers to improve a score:



PAY BILLS ON TIME. Delinquent payments and collections can have a major negative impact on an insurance score.

KEEP BALANCES LOW on unsecured revolving debt like credit cards. High outstanding debt can affect an insurance score.

APPLY FOR AND OPEN NEW CREDIT ACCOUNTS only as needed.

Customers can improve their insurance scores over time by using credit responsibly.* It is also a good idea for customers to periodically obtain a copy of their credit report from the three major credit bureaus to check for any inaccuracies. See the end of this brochure for more details.

* Insurance companies differ with regard to how often they will recheck a policyholder's score.

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GOOD NEWS

WHAT IS THE GOOD NEWS ABOUT INSURER USE OF CREDIT REPORTS AND INSURANCE SCORES?

There is a lot of good news out there for the majority of your customers – you need to be sure to convey the following messages when talking about insurance scoring:

The use of insurance scores allows insurance companies to give better rates to customers who are less likely to have losses.

The use of credit-based insurance scores has allowed more companies to offer more products to more people. Since insurance scores have been used, competition in the auto insurance market has increased significantly – leading to more choices for consumers.

The Federal Fair Credit Reporting Act (FCRA) (15 U.S.C. 1681 et. seq.) provides numerous consumer protections. These include:

- The right to obtain a free copy of your credit report if you are adversely affected (for example, denied coverage) based on information in your credit report
- The right to contest any inaccuracies in your credit report and to have inaccurate information removed

The use of insurance scores allows for objective, consistent and accurate underwriting and/or pricing. With the use of insurance scores, subjectivity is minimized as a formula is applied that evaluates empirically derived data, allowing for an impartial underwriting and/or pricing decision.

The use of credit-based insurance scoring has led to an expansion of eligibility for insurance. There are fewer rejections for underwriting reasons, because use of insurance scores has allowed insurers to write more business.

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ADDITIONAL RESOURCES

Equifax (www.equifax.com)

For a copy of your report, call 1-800-685-1111.
To dispute information in your report, write to:
P.O. Box 740241
Atlanta, GA 30374

Experian (www.experian.com)

For a copy of your report, call 1-888-397-3742.

TransUnion (www.tuc.com)

For a copy of your report, call 1-800-888-4213.
If you have a copy of your report and wish to discuss it, call 1-800-916-8800.
To dispute information in your report, write to:
P.O. Box 34012
Fullerton, CA 92831
(for residents of the West & Southwest U.S.)
P.O. Box 2000
Chester, PA 19022
(for residents of all other regions)

Consumer Data Industry Association (CDIA) (www.cdionline.org)

Contact CDIA for information on the credit report dispute resolution process.
Phone 202-408-8011

ChoicePoint (www.choicepoint.net)

Fair, Isaac (www.fairisac.com)

Federal Trade Commission (www.ftc.gov)

Education efforts courtesy of:

Alliance of American Insurers (www.allianceai.org)

American Insurance Association (www.aiadc.org)

National Association of Independent Insurers (www.naii.org)

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Operator's Signature Augusta Richard Date 10/3/03

News you can use about credit!

Sound financial management is more important today than ever before. Banks, employers and even cell phone companies use credit information. Maintaining good credit offers many benefits, and getting a better price from some insurance companies is one of them.

Insurance scores are not the same as credit scores. Although both scores use credit information, insurance scores are developed by using a unique mathematical formula that helps insurers predict the likelihood of insurance claims being filed.

You can improve your insurance score and credit by paying bills on time, keeping balances low on credit cards, applying for and opening new credit accounts only as needed.

It's a good idea to periodically check your credit report. If you find an error, report it to the credit bureau. If you are applying for insurance, notify the insurer about the incorrect information. A small error may have little or no impact on your score. If there is a significant error, the insurer may choose to re-evaluate or disregard the score and rely on other underwriting information.

Your credit report is maintained by Equifax, Experian and Trans Union. Credit reports contain information that identifies who you are as well as your debts, payment history, tax liens,

bankruptcies, inquiries for your credit report and accounts referred to collection agencies. For more information about credit reports and your credit record contact:

Consumer Data Industry Association
(www.cdiaonline.org)

Contact CDIA for information on the credit report dispute resolution process.
Call 202-371-0910

Equifax (www.equifax.com)

For a copy of your report, call 800-685-1111.

To dispute information in your report, write to:

P.O. Box 740241
Atlanta, GA 30374

Experian (www.experian.com)

For a copy of your report, call 888-397-3742.

Trans Union (www.tuc.com)

For a copy of your report, call 800-888-4213.

If you have a copy of your report and wish to discuss it, call 800-916-8800.

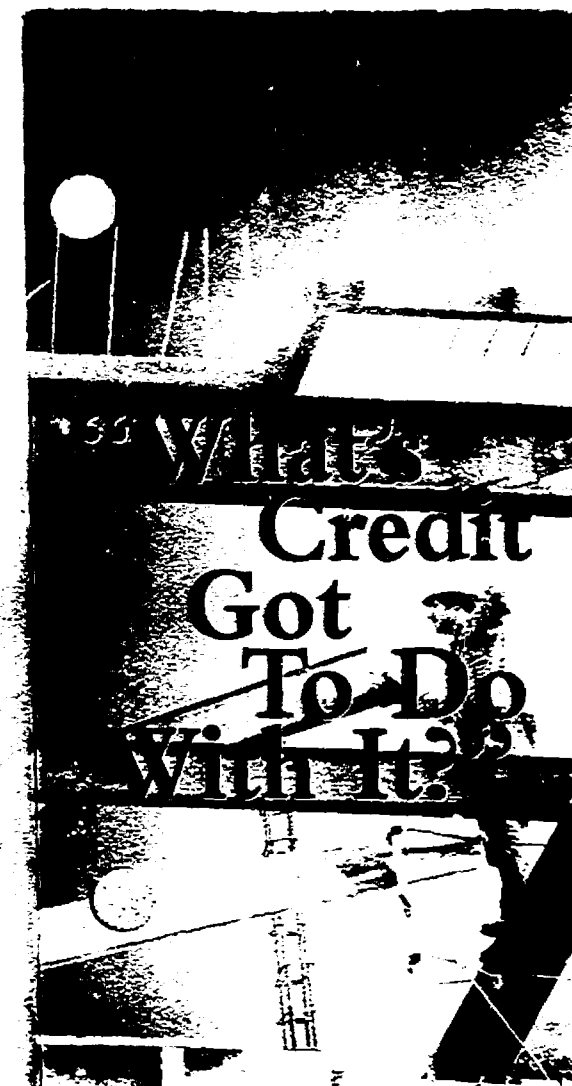
To dispute information in your report, write to:

P.O. Box 34012 (For residents of the Western
Berkeley, CA 94709 and Southwestern U.S.)

P.O. Box 2000 (For residents of all
Chester, PA 19022 other regions)

So what's credit got to do with insurance?

- It is an accurate predictor of future claim filing.
- It lowers costs for the majority of consumers.
- It fairly allocates the cost of coverage based on a consumer's claim potential.
- It provides an objective tool for decision-making.
- It increases the availability and affordability of insurance for consumers.
- It allows insurers to underwrite some consumers who would receive coverage using more traditional underwriting criteria.



A CONFIDENTIAL MATTER

Insurance companies understand the sensitive nature of credit information and it is kept strictly confidential. In many cases insurance agents only see the score, not the information that went into developing the score.

SCORES CAN IMPROVE OVER TIME

Your insurance score will improve through a pattern of responsible credit use. It is a snapshot of your insurance risk picture at a particular point in time. Your score changes as new information is added to your file.



National Association
of Independent Insurers

How Insurance Scoring Benefits Consumers

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An Costa Rickford
Operator's signature

The insurance industry wants you to be an informed consumer

This brochure is designed to answer many of your questions regarding the use of credit information in connection with auto and homeowners insurance. This practice, known as insurance scoring, is now very common because it not only allows many consumers to pay less for insurance, but helps insurers write more business. Insurance scoring provides additional information that enables insurers to make more accurate underwriting and rating decisions.

What is an insurance score?

An insurance score provides an assessment of your insurance risk at a particular point in time. The score is developed from specific credit information that reflects credit management patterns such as collections, bankruptcies, outstanding debt, length of credit history, types of credit in use and the number of new applications for credit. Keep in mind, insurers are only interested in how well you handle your assets rather than how much money you make or whom you owe.

What's not included?

Only credit-related information is used in determining a score. The Equal Credit Opportunity Act prohibits the use of race, religion, gender, marital status and birthplace in determining an insurance score.

Is there a connection between financial responsibility and insurance?

In addition to actual insurance company experience, several independent studies have proven a strong connection between an individual's insurance score and the likelihood of filing a claim. One possible reason for this is that people who are financially responsible tend to act very responsibly in other areas of their lives and this careful behavior leads to fewer accidents. If you are less likely to file a claim, you should pay a lower premium. An insurance score based on credit information

helps some insurance companies develop a more complete picture of your likelihood to file a claim and ensure that you pay only your fair share for insurance.

How are insurance scores used?

To make well-informed decisions
Insurers are interested in making fair and objective decisions about who they want to insure and how much to charge particular consumers. Insurance scores provide a consistent tool to evaluate risk.

To provide more data

Most companies that use insurance scores treat it as just one of several factors. Generally, your insurance score alone is not likely to keep you from getting insurance. In fact, it can help you get insurance, often at a lower price.

To increase business

An NAII survey found that insurance scoring helps insurers write more policies. Companies said they are able to accept some customers because insurance scores offset other information such as a less than perfect driving record.

What's the "real-world" experience in using insurance scores?

Consumers benefit regardless of income or race.

A study by a major insurance company shows great similarity in the average insurance score for all income groups. It also found that

average, people living in rural, urban and suburban areas all had similar scores. Keep in mind, factors such as income and race are not used to calculate an insurance score.

This tool is designed to examine credit management patterns and provides an objective tool for decision-making. Experience has shown that policyholders with positive insurance scores are less likely to incur losses.

Insurance scores are reliable

The Insurance Research Council found credit reports are much more reliable than motor vehicle records. The Consumer Data Industry Association, formerly Association of Credit Bureaus, reports that less than one percent of all credit report challenges result in a change once the inquiry has been fully investigated.

Most consumers pay less for insurance

Most people have good credit and stand to benefit from the use of this information. In some cases consumers are able to qualify for lower insurance rates because of their financial responsibility. One NAII member reports that insurance scoring helps it offer premiums to over two-thirds of its customers.

LET'S LOOK AT THE FACTS

AN ESTABLISHED PRACTICE

As early as 1970, the U.S. Congress passed the Fair Credit Reporting Act (FCRA), which permits insurers to use credit information in making underwriting and rating decisions.

A STRONG LINK BETWEEN CREDIT HISTORY AND RISK OF LOSS

Several independent studies have proven a strong connection between credit history and the likelihood of an individual filing a claim.

AN OBJECTIVE TOOL

Insurance scores provide insurers with an objective tool for decision-making. The information insurers receive is based solely on credit-related material. This tool avoids subjective value judgments.

CONSUMERS BENEFIT

Most people have good credit and may benefit from the use of this information. Good credit can enable you to qualify for lower insurance rates. In some cases it can even offset a less-than-perfect driving record.

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Augusta Richard

10/3/03
Date

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ENGROSSED HOUSE BILL NO. 1260

Presented by: Charles E. Johnson
General Counsel
North Dakota Insurance Department

Before: Senate Industry, Business and Labor Committee
Senator Duane Mutch, Chairman

Date: March 17, 2003

TESTIMONY

Mr. Chairman and members of the committee:

Good morning, my name is Charles Johnson, General Counsel with the North Dakota Insurance Department. I appear here today to introduce Engrossed House Bill No. 1260. It has been amended somewhat in the House. I appear here today as a substitute for Larry Maslowski, our Senior Property and Casualty Analyst, who is not able to be here.

The use of a consumer's credit score in the underwriting and rating of personal lines insurance products is a controversial issue. A credit score is based on a consumer's credit report. In 2002 the Department held a hearing to gather input into the use of credit scores by the insurance industry. The industry claims that a person's credit score is a predictor of future loss experience; therefore, a tool for more accurate rating and underwriting of a risk. Consumers fail to understand how their credit score relates to the risk of having an auto or homeowner claim. Agents have difficulty addressing consumers' questions because much of the process behind the use of credit scores is hidden. The credit scoring algorithm is kept secret by the company.

This bill would create a new section to the code to address most of the issues raised by interested parties. The text of the engrossed bill is based upon a recently enacted model by the National Conference of Insurance Legislatures (NCOIL). This bill does not prohibit the use of credit scores. It does, however, attempt to provide consumer protections in the

form of disclosure requirements relating to applications and adverse insurance decisions. It also provides procedural limitations for the use of credit scores by the insurance industry.

26.1-25.1-01 - Scope. The section limits the use of credit scores in personal insurance only, not commercial insurance. Personal insurance includes private passenger automobile, homeowners, motorcycle, mobile home owners, and noncommercial dwelling fire policies.

26.1-25.1-02 - Definitions. The section sets out the definitions used in this chapter. Please note the definition for "adverse action", definition No. 1, as this is used often in the bill and this testimony. It 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 personal insurance."

26.1-25.1-03 - Use of Credit Information. The section:

1. Prohibits use of income, gender, address, zip code, ethnic group, religion, marital status, or nationality of the consumer as a factor in determining an insurance/credit score.
2. Prohibits a company from denying, canceling, or non-renewing a policy solely on the basis of an insurance score without considering other underwriting factors.
3. Prohibits a company from making an adverse decision based solely on the fact a consumer does not have a credit card account without considering other underwriting factors.
4. Prohibits a company from denying or canceling or nonrenewing a policy based on the inability to calculate a score (a thin file) or the absence of credit information (a no hit) unless the company has filed statistical documentation

with the Commissioner and has received approval to do so, or the company treats the consumer as having neutral credit information, or the company does not use credit information in its process.

5. Prohibit a company from taking an adverse action based upon the use of credit reports over 120 days old at the time of use.
6. Requires that a company update its credit information at least every 36 months if it intends to use credit information on the existing account. However:
 - a. The consumer or agent may request that the company do a credit review at renewal but not more often than every 12 months.
 - b. The company may order current credit information on any renewal within 36 months if it is consistent with underwriting guidelines.
 - c. The requirement of a company to obtain current credit information if requested to do so by a customer as indicated in subdivision a, is negated if:
 - (1) The Commissioner has approved the company's proposed treatment of the consumer.
 - (2) The consumer is already in the most favorably priced rating tier (unless underwriting guidelines permit).
 - (3) The company did not use credit information on the initial application (unless underwriting guidelines permit).

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- (4) The company reevaluates within 36 months based upon other underwriting or rating factors and does not use credit information.
7. Prohibits a company from using the following as a negative factor in insurance scoring:
- a. Credit inquiries not initiated by the consumer or inquiries by a consumer for their own information.
 - b. Credit inquiries for insurance coverage purposes.
 - c. Collection accounts based upon medical industry codes.
 - d. Multiple lender inquiries from home mortgage industry within 30 days of one another.
 - e. Multiple lender inquiries from automobile lending industry within 30 days of one another.

Companies will continue to have the right to underwrite accounts and reject an application based on reasons or factors other than a credit score within the first 60 days of an application as provided for in Title 26.1.

26.1-25.1-04 - Dispute Resolution and Error Correction. If a company uses a credit score and if a consumer under the federal Fair Credit Reporting Act has found errors in the consumer's credit report and has had those errors corrected, the consumer may request that a company re-underwrite or re-rate the consumer's account. The company has 30 days to do so. If a policyholder has overpaid, the company is required to refund any overpayment made within the last 12 months.

26.1-25.1-05 - Initial Notification. This section requires that a company (or its agent) disclose to the consumer when applying for insurance that credit information will be used in the process. The bill provides specific language for companies to use which is deemed to comply with the notification requirement if used.

26.1-25.1-06 - Adverse Action Notification. This section requires that a company that takes an adverse action based upon credit information must:

1. Give notice in accordance with the federal Fair Credit Reporting Act.
2. Provide the reasons for the adverse action. Reasons are to be clear and specific. This expands the requirement by the Fair Credit Reporting Act which says that the insurance company only need to tell the customer the adverse action "is a result of something in your credit report; please contact the credit bureau". The bill requires that the company list up to four reasons for the adverse action. This requirement will give the consumer the specific reasons to look for and work on when evaluating the credit report.

26.1-25.1-07 - Filing. This section requires insurance companies to file the model (formula) used to calculate an insurance score and the supporting documentation. The filing of the model is considered a trade secret.

26.1-25.1-08 - Indemnification. This section requires insurance companies to indemnify, defend, and hold an agent harmless from liability resulting from the use of credit information.

26.1-25.1-09 - Sale of Policy Term Information by Consumer Reporting Agency. This section prohibits a credit reporting agency from providing or selling information obtained from an insurance company in conjunction with a request for a credit report or an insurance credit score. However, this prohibition does not apply to the sharing of information between the credit reporting agency and the insurance company requesting information

about its own clients. The prohibition does not apply to information from a claims history or motor vehicle report.

26.1-25.1-10 - Severability. This section links the statute to the Fair Credit Reporting Act in the case of future changes that might make specific sections invalid.

26.1-25.1-11 - Effective Date. This section sets out a future compliance date of April 30, 2004, to allow time for industry to make appropriate systems revisions.