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Legislative Document

No. 470

H.P. 362

House of Representatives, February 4, 2003

An Act To Ensure Fairness Regarding Use of Consumer Credit Reports in Insurance Underwriting

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. Mac Failand

MILLICENT M. MacFARLAND Clerk

Presented by Representative CANAVAN of Waterville.

Cosponsored by Representative SUSLOVIC of Portland, President DAGGETT of Kennebec and Representatives: DUDLEY of Portland, O'NEIL of Saco, PERRY of Calais, RECTOR of Thomaston, RICHARDSON of Brunswick, THOMPSON of China, TRAHAN of Waldoboro, Senator: BRENNAN of Cumberland.

Be it enacted by the People of the State of Maine as follows:	
	Sec. 1. 24-A MRSA §2169-B is enacted to read:
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2	2169-B. Use of consumer reports in insurance underwriting
	1 Definitions be used in this section unless th
~ .	1. Definitions. As used in this section, unless the
	ontext otherwise indicates, the following terms have the
£,	orrowing meanings.
	A. "Adverse underwriting decision" has the same meaning a
	in section 2204, subsection 1.
	B. "Consumer report" has the same meaning as in Title 10
	section 1312, subsection 3.
	C. "Consumer reporting agency" has the same meaning as :
	Title 10, section 1312, subsection 4.
	D. "Insurance score" means a number calculated to predic
	the future loss exposure of an applicant for insurance or
	policyholder that is based on consumer report information
	relating to credit history and experience.
_	2. Use of consumer reports. Notwithstanding th
	ubsection, an insurer may use a consumer report as permitten nder the Fair Credit Reporting Act pursuant to Title 10, chapte
	10 and 15 United States Code, Chapter 41. An insurer may u
	nformation obtained from a consumer reporting agency
	alculate an insurance score for underwriting and rati
	urposes, except that an insurer may not:
5	<u>argobob/ onoogo ando an</u> indutor may noor
	A. Use an insurance score that is calculated using incom
	gender, address, zip code, ethnic group, religion, marita
	status or nationality of a consumer as a factor;
	B. Deny, cancel or refuse to renew a policy solely on the
	basis of information contained in a consumer report;
	C. Raise premium rates or reduce coverage on a poli-
	solely on the basis of information contained in a consum
	<u>report;</u>
	D. Take an adverse action against a consumer based
	negative credit information caused by illness, period
	unemployment or death of spouse;
	E. Consider an absence of credit history, the number
	inquiries or requests made for a consumer's credit report (
	an inability to determine a credit history as a negative
	indicator on a consumer's insurance score; or

- F. Take an adverse action against a consumer based on credit information unless an insurer obtains and uses a
 credit report issued or an insurance score calculated within 90 days before the date the policy is first written or
 renewal is issued.
- 8 3. Notice of use of consumer reports. If consumer reports are used by an insurer, an insurer shall provide written notice
 10 to consumers at the time of application for coverage that the insurer uses consumer reports in making underwriting decisions.
 12 The notice must include contact information to allow an applicant to address questions to the insurer relating to credit-based
 14 underwriting decisions by the insurer.
- 16 4. Notice of adverse underwriting decisions. If an insurer makes an adverse underwriting decision using information obtained 18 from a consumer report in compliance with this section, the insurer shall provide the applicant or policyholder with written 20 notice of the adverse underwriting decision. The notice must also include the following information:
- A. The specific reason for the adverse underwriting24decision;

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- 26 B. The specific credit-based information used to support the underwriting decision;
- C. Contact information, including name, address and telephone number, for a person employed by the insurer who can answer questions concerning credit-based underwriting decisions made by the insurer;
- 34 D. Contact information, including name, address and telephone number, for the consumer reporting agency that
 36 provided the insurer with the credit-based information; and
- 38 E. Statements informing an applicant or policyholder of a consumer's right to obtain a copy of that consumer's
 40 consumer report and the right to challenge information contained in that consumer report.
- 5. Applicability. This section applies only to personal automobile insurance and property and casualty insurance. This section does not apply to commercial insurance.
- 46 48 SUMMARY 50 This bill prohibits an insurance company authorized to

transact automobile or homeowners' insurance in this State from making underwriting and rating decisions based solely 2 on information contained in consumer credit reports. The bill also prohibits an insurer from using an insurance score that is 4 calculated using income, gender, address, zip code, ethnic group, religion, marital status or nationality as a factor and from б considering an absence of credit history or an inability to determine a credit history as a negative indicator on 8 an insurance score. An insurer may continue to use consumer credit reports in underwriting and rating decisions in conjunction with 10 other relevant underwriting criteria to the extent allowed under 12 state and federal fair credit reporting laws.

14 The bill also requires insurers to provide written notice to a consumer who is adversely affected by a credit report. The 16 notice must include the specific credit-based reasons for the adverse decision and contact information necessary to assist the 18 consumer in appealing the insurer's decision.