

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: H3/25/99 H4/7/99

A Bill

Act 1535 of 1999
SENATE BILL 524

5 By: Senator Critcher
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For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 23-66-317 TO REVISE THE
10 LAW ON THE USE OF CONSUMER REPORTS ON A PERSON'S
11 CREDIT WORTHINESS IN THE UNDERWRITING OF INSURANCE;
12 AND FOR OTHER PURPOSES."
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Subtitle

14 "TO REVISE THE LAW ON THE USE OF CONSUMER
15 REPORTS ON A PERSON'S CREDIT WORTHINESS
16 IN THE UNDERWRITING OF INSURANCE."
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 23-66-317 is amended to read as follows:

23 "23-66-317. Effect of ~~applicant's credit history~~ a consumer report on
24 issuance or renewal of coverage.

25 ~~(a) For the purposes of this section, 'credit history' shall mean that~~
26 ~~portion of a credit report or background report which addresses the~~
27 ~~applicant's or insured's debt payment practices or the lack thereof, but does~~
28 ~~not include public information such as records of convictions, lawsuits,~~
29 ~~repossessions, bankruptcies, or similar public information.~~

30 ~~(b) No authorized automobile insurer shall refuse to issue or renew~~
31 ~~coverage or limit the amount of coverage on an automobile risk in this state~~
32 ~~based solely upon the insurer's knowledge of the applicant's credit history,~~
33 ~~unless:~~

34 ~~(1)(A) The credit history of the insured or applicant~~
35 ~~substantially increases any hazard insured or to be insured at or after policy~~
36 ~~issuance or renewal pursuant to the insurer's underwriting guidelines; and~~

1 ~~(B)(i) The insurer or its agent sends written communication~~
2 ~~to the insured or applicant, wherein the insurer or its agent discloses the~~
3 ~~reason the insurance coverage was declined after application, was not renewed,~~
4 ~~or was limited in scope or amount or benefits.~~

5 ~~(ii) Upon the subsequent request of the insured or~~
6 ~~applicant, the credit history vendor shall mail or deliver a copy of the~~
7 ~~credit report at issue to the insured or applicant within ten (10) calendar~~
8 ~~days of receipt of such request; or~~

9 ~~(2) Fraudulent or material misrepresentations as to the credit~~
10 ~~history were made by or with the knowledge of the applicant or insured in~~
11 ~~obtaining the policy, continuing or renewing the policy, or in presenting a~~
12 ~~claim under the policy.~~

13 ~~(c)(1) The provisions of this section are intended to and shall apply~~
14 ~~only to automobile insurance issued by insurance companies authorized to~~
15 ~~transact insurance business in this state.~~

16 ~~(2) The provisions of this section are not intended to conflict~~
17 ~~with any disclosure provisions of the federal Truth in Lending Act applicable~~
18 ~~to lending institutions, credit bureaus, or other credit service organizations~~
19 ~~that maintain or distribute credit histories on insurance applicants or~~
20 ~~policyholders, or any other similar Arkansas law thereon.~~

21 (a) As used in this section, the term 'consumer report' means any
22 written, oral, or other communication of any information by a consumer
23 reporting agency bearing on a consumer's credit worthiness, credit capacity,
24 character, general reputation, personal characteristics, or mode of living
25 which is used or expected to be used or collected in whole or in part for the
26 purpose of serving as a factor in establishing the consumer's eligibility for
27 insurance and other purposes authorized by the federal Fair Credit Reporting
28 Act. A consumer report shall not include motor vehicle records or claims
29 records.

30 (b) No insurer shall refuse to issue or renew coverage or limit the
31 amount of coverage on a risk in this state based solely upon the insurer's
32 knowledge of the insured's or applicant's consumer report, unless:

33 (1) The consumer report of the insured or applicant can be shown
34 to identify characteristics which substantially increase the risk of loss at
35 or after policy issuance or renewal; and

36 (2) The insurer or its agent sends a notice of cancellation,

1 refusal to renew, or declination to the insured or applicant which contains a
2 statement which advises that the cancellation, non-renewal, or declination is
3 based on information contained in a consumer report relating to an
4 applicant/insured or other resident of the household; and

5 (3) The insurer, or its agent, sends to the applicant or insured
6 the name and address of the institutional source from which the insurer
7 obtained the consumer report and advises the applicant or insured that if more
8 detail on the credit information which formed the basis of the decision is
9 desired, a free copy of the consumer report may be obtained by making a
10 written request or by appearing in person at the credit reporting agency or
11 such other party as the insurer shall identify in the notice, not more than
12 ten (10) days after the date on which the notice of cancellation, non-renewal,
13 or declination was mailed to the insured or applicant.

14 (c) If the insurer is relying solely upon a credit scoring system or
15 model in reaching its underwriting decision, the insurer must:

16 (1) file the credit scoring system with the commissioner; and

17 (2) provide the applicant or insured with a clear, concise
18 explanation of the factors taken into consideration in reaching its decision.

19 (d) If used for rating, the guidelines on the use of consumer reports or
20 consumer report scoring system or model must be filed with the commissioner.

21 (e) If an insurer chooses to utilize a consumer report or credit scoring
22 system or model in underwriting a class or subclass of applicants, the insurer
23 must apply the same criteria for all applicants in the class or subclass of
24 business. However, nothing in this act is intended to prevent an insurer from
25 considering each risk on an individual basis nor is it intended to interfere
26 with an insurer's right to rescind a contract ab initio based upon a material
27 misrepresentation in the application.

28 (f) The provisions of this section shall be subject to provisions of the
29 federal Truth in Lending Act and the federal Fair Credit Reporting Act.

30 (g) No insurer may condition the issuance of an insurance policy in this
31 state upon the fact that an applicant or insured does not possess a credit
32 card.

33 (h) Any proprietary consumer report scoring system or model filed with
34 the commissioner under this section shall remain confidential.

35 (i) This section shall only apply to personal lines of property and
36 casualty insurance."

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SECTION 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

/s/ Critcher

APPROVED: 4/15/1999