

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995
4 By: Representatives Newman, McGee and Brown

A Bill

HOUSE BILL 1763

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 23-66-317 SO THAT INSURANCE
9 COMPANIES MAY USE CREDIT REPORTS BUT ONLY AFTER VERIFYING
10 THAT CREDIT SUBSTANTIALLY INCREASES THE RISK AND AFTER
11 GIVING THE CONSUMER AN OPPORTUNITY TO REBUT INCORRECT
12 INFORMATION IN THE CREDIT REPORT; AND FOR OTHER PURPOSES."

Subtitle

15 "USE OF CREDIT REPORTS BY INSURANCE
16 COMPANIES"

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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20 SECTION 1. Arkansas Code 23-66-317 is amended to read as follows:

21 "23-66-317. Effect of applicant_s credit history on issuance or
22 renewal of coverage.

23 (a) As used in this section, the term _consumer report_ means any
24 written, oral, or other communication of any information by a data collection
25 entity.

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

29 (1) The consumer report of the insured or applicant can be
30 objectively shown to substantially increase any hazard insured or to be
31 insured at or after policy issuance or renewal pursuant to the insurer's
32 underwriting guidelines; and

33 (2)(A) The insurer or its agent sends a notice of cancellation,
34 refusal to renew, or declination to the insured or applicant which contains
35 the following statement:

IMPORTANT NOTICE

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This cancellation, nonrenewal, or declination is based on information contained in a consumer report relating to you and/or someone else who resides in your household; and

(B)The insurer, or its agent, sends to the applicant or insured the name and address of an institutional source from whom the insurer obtained the credit information; and

(C) A statement advising the insured or the applicant that if further credit information which formed the basis of the decision is desired, a free copy of the consumer report may be obtained by mailing a written request to the insurer, or such other party as the insurer shall identify in the notice, no more than ten (10) days after the date on which the notice of cancellation, nonrenewal, or declination was mailed to the insured or applicant.

(c) If the insured or applicant submits written notification, the cancellation, nonrenewal, or declination shall not become effective until thirty (30) days after the accuracy of the credit information, which the insured or applicant has questioned and on which the cancellation, nonrenewal, or declination was based, has been verified and communicated to the insured or applicant. Such verification shall be deemed to have been made upon completion of the investigation of the credit information which the insured or applicant has questioned and upon which the cancellation, nonrenewal, or declination was based. The insured or applicant must cooperate in the investigation of the credit information, including responding to any communication submitted by, or on behalf of, the insurer no more than ten (10) days after the date on which such communication was mailed to the insured or applicant. If the insured or applicant fails to cooperate in the investigation, then, the insurer may, after providing fifteen (15) days written notice to the insured or applicant, terminate such investigation and cancel, nonrenewal, or decline the policy. An insurer may require that an insured or applicant submit written documentation authorizing the insurer, or such other party as the insurer shall identify, to perform the investigation of the credit information. The insured shall be obligated to pay any pro rata premium due for insurance provided during the period in which the investigation of the credit information is pending up to the date

1 on which the policy cancellation or nonrenewal becomes effective.

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

7 (e) *The mandates of this section shall only apply to personal lines of*
8 *property and casualty insurance."*

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

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

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

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23 SECTION 5. It is hereby found and determined by the General Assembly
24 of the State of Arkansas that the present insurance laws on this matter are
25 not sufficient to adequately protect the insurance buying public; an
26 emergency is declared to exist such that all persons can be afforded a
27 reasonable opportunity to acquire insurance. Therefore, an emergency is
28 declared to exist and this act is necessary for the immediate preservation of
29 the public peace, health and safety and shall be in full force and effect
30 from and after its passage and approval.

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32 /s/Rep. Newman, et al

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