

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

As Engrossed: H2/21/97

# A Bill

HOUSE BILL 1663

4  
5 By: Representatives Newman, Brown, and McGee

## For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 23-66-317 REGARDING THE USE  
10 OF CONSUMER REPORTS IN THE UNDERWRITING OF INSURANCE; AND  
11 FOR OTHER PURPOSES."

### Subtitle

13 "USE OF CONSUMER REPORTS BY INSURANCE  
14 COMPANIES."

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

20 ~~"§ 23-66-317. Effect of applicant's credit history on issuance or  
21 renewal of coverage.~~

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

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

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

34 ~~\_\_\_\_\_ (B)(i) The insurer or its agent sends written communication  
35 to the insured or applicant, wherein the insurer or its agent discloses the  
36 reason the insurance coverage was declined after application, was not renewed,~~

1 ~~or was limited in scope or amount or benefits.~~

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

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

10 ~~\_\_\_\_\_ (c)(1) The provisions of this section are intended to and shall apply~~  
11 ~~only to automobile insurance issued by insurance companies authorized to~~  
12 ~~transact insurance business in this state.~~

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

18 23-66-317. Effect of a consumer report on the issuance or renewal of  
19 coverage.

20 (a) As used in this section, the term consumer report means any  
21 written, oral, or other communication of any information by a consumer  
22 reporting agency bearing on a consumer's credit worthiness, credit capacity,  
23 character, general reputation, personal characteristics, or mode of living  
24 which is used or expected to be used or collected in whole or in part for the  
25 purpose of serving as a factor in establishing the consumer's eligibility for  
26 insurance and other purposes authorized by the Fair Credit Reporting Act.

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

30 (1) The consumer report of the insured or applicant can be shown  
31 to identify characteristics which correlate to the risk of loss at or after  
32 policy issuance or renewal; and

33 (2) The insurer or its agent sends a notice of cancellation,  
34 refusal to renew, or declination to the insured or applicant which contains a  
35 statement which advises that the cancellation, non-renewal, or declination is  
36 based on information contained in a consumer report relating to an

1 applicant/insured and/or other residents of the household; and

2           (3) The insurer, or its agent, sends to the applicant or insured  
3 the name and address of the institutional source from which the insurer  
4 obtained the consumer information and provides a statement advising the  
5 insured or the applicant of the information contained in such report that was  
6 relied upon by the insurer to reach its decision. Such statement should  
7 further indicate that if more detail on the credit information which formed  
8 the basis of the decision is desired, a free copy of the consumer report may  
9 be obtained by making a written request or by appearing in person at the  
10 credit reporting agency or such other party as the insurer shall identify in  
11 the notice, no more than ten (10) days after the date on which the notice of  
12 cancellation, non-renewal, or declination was mailed to the insured or  
13 applicant; or

14           (c) If the insurer is relying solely upon a credit scoring system or  
15 model in reaching its underwriting decision, the insurer must provide the  
16 insured or applicant with a clear, concise explanation of the factors taken  
17 into consideration in reaching its decision.

18           (d) If used for rating, the guidelines on the use of consumer reports  
19 or scoring system or model must be filed with the Insurance Commissioner as  
20 part of the company's rating rules.

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 or the Fair Credit Reporting Act applicable  
30 to lending institutions, credit bureaus, or other credit service organizations  
31 that maintain or distribute credit histories on insurance applicants or  
32 policyholders, or any other similar Arkansas law thereon.

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

36           (h) The mandates of this section shall only apply to personal lines of

1 property and casualty insurance."

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

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

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

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16 /s/Rep. Newman, et al

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