Montana State Legislature

Exhibit Number: 2

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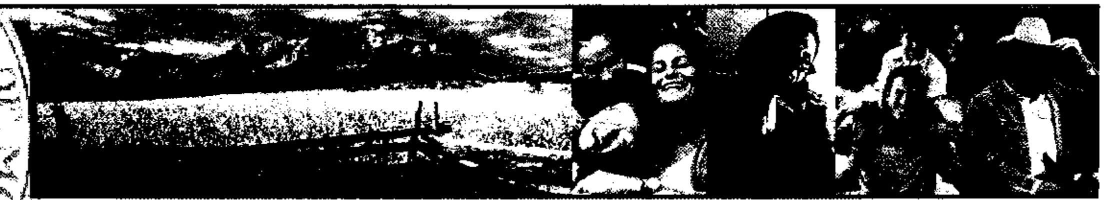
MONTANA STATE AUDITOR
JOHN MORRISON



Protecting Montana's consumers through insurance and securities regulation

EXHIBIT 2
DATE 1-28-05
HB 41

Limiting use of Credit Scores by Insurers

Current practice leads to higher premiums and denied coverage

HB 41 – Sponsored by Rep. Bill Wilson

A credit score is not the same as a credit history. Even if your credit history is very good, the insurance company may indicate you are a high risk to insure, do to a low credit score. This can cause higher premiums or may be the reason for an insurance company to refuse to insure you at all. Currently, insurance companies do this with very little regulation in Montana.

Background

A credit score is a number insurance companies assign consumers based on credit history. Unfortunately, there are problems in using credit scoring as an underwriting tool. Many of the things being held against a consumer appear to have no merit. The following factors are included in a score:

- The number and types of credit cards used,
- The number of outstanding credit balances;
- The number of recent credit inquiries; and
- The age of credit accounts.

Credit scores vary by company, as each uses and weighs factors differently.

Insurance companies increasingly have used credit information over the last several years to determine a consumer's premium for auto, home and renter policies.

Purpose

The State Auditor's Office has heard from hundreds of consumers who are outraged that despite no late payments or claims, their rates were increased or their policy was non-renewed based on credit. This bill would limit the ways insurance companies can use credit histories. It will also provide a means for corrections to erroneous errors on credit histories or score as used by insurers and will require record keeping by insurers on such matters.

Bill Details

- Credit scoring cannot be used to cancel or non-renew personal insurance.
- Certain types of credit history may not be used, including:
    1. The absence of a credit history or the inability to determine a consumer's credit history;
    2. The number of credit inquiries made about a consumer;
    3. Collection accounts identified with medical bills; and
    4. The consumer's use of a particular type of credit or debit card.
- When a consumer is adversely treated (not given the best rate available, placed in a sub-standard company, canceled, etc.) based wholly or in part on his/her credit score, the insurance company must provide written notice of the adverse action to the consumer, including the negative credit factors that affected the credit score.
- Consumers are entitled to a free copy of the credit report used to calculate their credit scores.
- Consumers have the right to correct inaccurate credit information and have their credit score recalculated.

Factors that negatively impact credit scores

Factors that insurance companies currently consider when setting your premiums may include the following examples:

Insufficient length of credit history – This measures how long you've had credit. It discriminates against young consumers and unfairly punishes individuals who have recently opened an account. It also discriminates against individuals who have "no credit" because they pay for items with cash.

Number/type of credit cards- If you have ten credit cards, a company may well consider you a higher risk than someone with two cards, even if you pay all balances on time. Further, an insurance company may rate you a higher risk if you hold retail credit cards such as a Sears Credit Card instead of a Visa or Master Card.

Outstanding balances – This measures how much you owe on the accounts listed in your credit report. Even if you pay your bills in full each month, this could count against you if your score is checked while there are balances.

Too many recent credit checks – This includes credit checks you incur when shopping for insurance or a mortgage, but also may include credit inquiries from companies sending you unsolicited offers for credit cards.

Identity theft - If somebody obtains access to your identity or your credit cards and charges thousands of dollars against it before they are stopped, you may be able to find legal means to get the debt reduced. Regrettably, if it get into your credit history, and your insurance company discover it, they may use it against you in your credit score. By being a victim of a crime you may be charged a higher premium or not be able to obtain insurance at all.

Medical Bankruptcy - If you had a serious illness, such as cancer or a heart attack, and spent a significant amount of time in medical treatment that resulted in enormous medical bills, you may have to file medical bankruptcy at some point. Although something like that is out of your control, an insurance company will consider it as a mark against you in your credit score.

Inconsistencies in credit scoring

Companies judge what types of credit are "good" and "bad." For example, one company has determined that a gas card is a favorable factor, but a department store card is unfavorable. Companies are not required to justify their analysis or their decisions and have been unable to disprove allegations that this practice is discriminatory. Home and auto insurance credit scoring models differ so a person's credit score may be considered good for one type of insurance and bad for another.

Insurance companies and banks view credit differently. Good credit established to buy a home may harm an individual's insurance credit score. She could buy a home, but not insure it.

Consumers have reported to the State Auditor's Office that in getting quotes from different insurance agencies in the same day, they get vastly different credit scores from each company.

Your credit score could be drastically different from one month to the next, based on factors including your account balances, the amount of time that has passed since you opened a credit card account or had a credit inquiry, or if you opened a particular line of credit.

Companies regularly change the factors they use. It is difficult to consider them valid when they differ from company to company and year by year.

Companies use vague terms in defining factors that affect credit scores. They say "unfavorable amount," "insufficient" or "too many." Without a definitive measure, consumers don't know to what standard they are being held.

Many factors that a company considers are the same, just worded differently. One action by a consumer can result in several factors being used against them. Example: If a consumer opens two department store credit cards to receive discounts when shopping for holiday gifts, that decision could result in a large number of factors counting against him. The following are among the factors that companies list as negative scoring factors:

- Too many accounts with balances
- Unfavorable number of newly active accounts
- Unfavorable number of revolving open accounts
- Excessive amount owed on revolving accounts
- Insufficient time since most recent account established
- Too many new accounts
- Unfavorable number of accounts
- Too many revolving accounts with balances
- Too many recent credit checks
- Insufficient length of revolving credit history
- Unfavorable length of time since most recent retail account opened
- Unfavorable percentage of open revolving accounts, to all other accounts.

Credit Scoring Law Comparisons

HB 41, modeled after Washington law, offers considerably more protection for Montanans than current law or the NCOIL Model.

HB 41	Washington Law (HB2544)	NCOIL Model (LC1475)
Adverse action includes cancellation, denial, nonrenewal, or any other unfavorable action to the consumer of personal insurance.	Adverse action includes cancellation, denial, nonrenewal, or any other unfavorable action to the consumer of personal insurance.	Definition of adverse action is vague and may not apply to nonrenewals.
Definition of "credit history" does not include public information such as lawsuits, etc.	Definition of "credit history" does not mention exclusion of public information.	Definition of "credit history" does not mention exclusion of public information.
An insurer may not deny (refuse to offer) personal insurance based on a credit history or score, unless they have given substantial weight to other underwriting factors.	An insurer may not deny (refuse to offer) personal insurance based on a credit history or score, unless they have given substantial weight to other underwriting factors.	Allows insurers to rate policies based on credit as long as they consider any other applicable underwriting actor. ***This is similar to current Montana law.**
Insurer cannot cancel or nonrenew personal insurance based in whole or in part on a consumer's credit history or insurance score. Offer of placement with an affiliate insurer does not constitute cancellation or nonrenewal.	Insurer cannot cancel or nonrenew personal insurance based in whole or in part on a consumer's credit history or insurance score. Offer of placement with an affiliate insurer does not constitute cancellation or nonrenewal.	Allows insurers to deny, cancel or nonrenew a policy based on credit, as long as they consider any other applicable underwriting factor. *(**Credit could be weighed 99% and other factors such as driving record only 1%) This is similar to existing law in Montana.**
An insurer may not take any adverse action against a consumer based on the absence of credit history. ***Important to protect senior citizens and other Montanans who don't use credit cards.**	Insurers cannot deny personal insurance coverage based on the absence of credit history, if the insurer has received accurate and complete information from the consumer, nor can this factor be used in developing a insurance score.	Allows insurers to take an adverse action against a consumer who uses cash rather than credit.
An insurer may not take any adverse action against a consumer based on the number of credit checks against a consumer. ***Important as checks are run for anything from shopping for insurance to buying a home or vehicle.**	Insurers cannot deny personal insurance coverage based on the number of credit inquiries nor can this factor be used in developing a insurance score.	Allows insurer to take an adverse action against a consumer if someone has requested the consumer's credit history.

HB 41	Washington Law (HB2544)	NCOIL Model (LC1475)
An insurer may not take any adverse action against a consumer based on the consumer's total available line of credit or total debt, except that an insurer may consider the total amount of outstanding debt if it exceeds the total line of credit.	Insurers cannot deny personal insurance coverage based on the consumer's total available line of credit or total debt, nor can this factor be used in developing a insurance score, except that an insurer may consider the total amount of outstanding debit if it exceeds the total line of credit.	Allows insurer to take an adverse action against a consumer for their total available line of credit. ***Even if consumer pays all their credit card bills on time, this can still be counted against them.**
An insurer shall develop reasonable underwriting exceptions concerning the use of a consumers credit history or scores when the consumer has catastrophic injury, temporary loss of employment, or has been a victim of identity theft.	Not included.	Not included.
Requires the insurer to provide notice to consumer that an adverse action has been taken on basis of credit. Insurer must state at least the four greatest negative factors on the credit score that led to the action.	Requires the insurer to provide notice to consumer that an adverse action has been taken on basis of credit. The notice must state the significant factors of the credit history that resulted in the action.	Requires the insurer to provide notice to consumer that an adverse action has been taken on basis of credit. Requires up to four reasons for the action.
Requires insurer to inform the consumer that they are entitled to a fee copy of their credit report. Requires insurer to provide the name and number of the reporting agency that the insurer used to determine the credit score.	Requires insurer to inform the consumer that they are entitled to a fee copy of their credit report.	Does not require the insurer to inform the consumer that they are entitled to a free copy of their credit report.
If the insurer uses credit history or a credit score in determining personal underwriting, rates or premiums, they must file the credit scoring methodology used with the insurance commissioner. Insurer must specify and justify the reasons for its use.	Credit history cannot be used to determine personal insurance, rate, and eligibility for coverage unless the scoring models are filed with the insurance commissioner.	Must file scoring model with insurance commissioner, however do not have to include loss experience to justify the use of credit information.
An insurer may not use the services of a third party to develop a credit score unless the third party, without qualification, consents to provide to the insurance commissioner their scoring model.	Not included.	A third party reporting agency does not have to file scoring model on behalf of insurer.
Not included.	A year after enactment, insurance commissioner must report to the legislature how the act has been implement and how it has impacted consumers.	Not included.