

1 HOUSE BILL NO. 29

2 INTRODUCED BY J. MCNIVEN

3 BY REQUEST OF THE STATE AUDITOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT INCLUDING ~~DIVORCE AND~~ MILITARY SERVICE DEPLOYMENT
6 OVERSEAS AS AN EXTRAORDINARY EVENTS EVENT TO BE CONSIDERED FOR UNDERWRITING OR
7 RATING EXCEPTIONS IN REGARD TO CREDIT REPORTS; AMENDING SECTION 33-18-605, MCA; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **Section 1.** Section 33-18-605, MCA, is amended to read:

13 **"33-18-605. Use of credit information.** (1) An insurer authorized to do business in this state that uses
14 credit information to underwrite or rate risks may not:

15 (a) use an insurance score that is calculated using income, gender, address, zip code, ethnic group,
16 religion, marital status, or nationality of the consumer as a factor;

17 (b) deny, cancel, or not renew a policy of personal insurance on the basis of credit information without
18 consideration of any other applicable underwriting factor independent of credit information and not expressly
19 prohibited by subsection (1)(a);

20 (c) base an insured's renewal rates for personal insurance upon credit information without consideration
21 of any other applicable factor independent of credit information;

22 (d) take an adverse action against a consumer because the consumer does not have a credit card
23 account without consideration of any other applicable factor independent of credit information;

24 (e) consider an absence of credit information or an inability to calculate an insurance score in
25 underwriting or rating personal insurance unless the insurer does one of the following:

26 (i) treats the consumer as otherwise approved by the commissioner if the insurer presents information
27 that the absence or inability relates to the risk for the insurer;

28 (ii) treats the consumer as if the consumer had neutral credit information, as defined by the insurer; or

29 (iii) excludes the use of credit information as a factor and uses only other underwriting criteria;

30 (f) take an adverse action against a consumer based on credit information unless an insurer obtains and

1 uses a credit report issued or an insurance score calculated within 90 days from the date that the policy is first
2 written or renewal is issued;

3 (g) use credit information unless not later than every 36 months following the last time that the insurer
4 obtained current credit information for the insured, the insurer recalculates the insurance score or obtains an
5 updated credit report. Regardless of the requirements of this subsection (1)(g):

6 (i) at annual renewal, upon the request of a consumer or the consumer's agent, the insurer shall
7 reunderwrite and rerate the policy based upon a current credit report or insurance score. An insurer need not
8 recalculate the insurance score or obtain the updated credit report of a consumer more frequently than once in
9 a 12-month period.

10 (ii) the insurer has the discretion to obtain current credit information upon any renewal before the 36
11 months provided for in subsection (1)(g); if consistent with its underwriting guidelines;

12 (iii) an insurer may but does not have to obtain current credit information for an insured, despite the
13 requirements of subsection (1)(g)(i), if one of the following applies:

14 (A) the insurer is treating the consumer as otherwise approved by the commissioner;

15 (B) the insured is in the most favorably priced tier of the insurer within a group of affiliated insurers;

16 (C) credit was not used for underwriting or rating the insured when the policy was initially written;

17 (D) the insurer reevaluates the insured beginning not later than 36 months after inception and at similar
18 succeeding times based upon other underwriting or rating factors, excluding credit information.

19 (h) use a credit score that treats any of the following as a negative factor for the purpose of underwriting
20 or rating a policy of personal insurance:

21 (i) credit inquiries not initiated by the consumer or inquiries requested by the consumer for the
22 consumer's own credit information;

23 (ii) inquiries relating to insurance coverage, if so identified on a consumer's credit report;

24 (iii) collection accounts with a medical industry code, if so identified on the consumer's credit report;

25 (iv) multiple-lender inquiries, if coded by the consumer reporting agency on the consumer's credit report
26 as being from the home mortgage industry and made within 30 days of one another, unless only one inquiry is
27 considered;

28 (v) multiple-lender inquiries, if coded by the consumer reporting agency on the consumer's credit report
29 as being from the automobile lending industry and made within 30 days of one another, unless only one inquiry
30 is considered;

1 (vi) the number of credit inquiries;

2 (vii) the consumer's use of a particular type of credit card, charge card, or debit card or the number of
3 credit cards obtained by a consumer;

4 (viii) a loan if information from the credit report makes it evident that the loan is for the purchase of an
5 automobile or a personal residence. However, an insurer may consider the bill payment history of any loan, the
6 total number of loans, or both.

7 (ix) the consumer's total available line of credit or total debt. However, an insurer may consider:

8 (A) the consumer's bill payment history on the debt; or

9 (B) the total amount of outstanding debt if the outstanding debt exceeds the total line of credit.

10 (2) (a) An insurer shall, on written request from an applicant or an insured, provide reasonable
11 underwriting or rating exceptions for a consumer whose credit report has been directly affected by an
12 extraordinary event.

13 (b) An insurer may require reasonable written and independently verifiable documentation of the event
14 and the effect of the event on the consumer's credit before granting an exception. An insurer is not required to
15 consider repeated extraordinary events or extraordinary events the insurer reconsidered previously.

16 (c) An insurer may also consider granting an exception to a consumer for an extraordinary event not
17 listed in this section.

18 (d) An insurer may not be considered to be out of compliance with its filed rules and rates as a result of
19 granting an exception pursuant to this subsection (2).

20 (e) As used in this subsection (2), "extraordinary event" means:

21 (i) expenses related to a catastrophic injury or illness;

22 (ii) temporary loss of employment;

23 (iii) death of an immediate family member; or

24 (iv) theft of identity pursuant to 45-6-332; OR

25 ~~_____ (v) divorce; or~~

26 ~~(vi) (v) military service DEPLOYMENT OVERSEAS IN SUPPORT OF A CONTINGENCY OPERATION AS DEFINED IN 10~~
27 U.S.C. 101(A)(13)."

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29 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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