



AN ACT PROHIBITING THE USE OF CREDIT INFORMATION IN WRITING PERSONAL INSURANCE; AMENDING SECTIONS 33-18-210 AND 33-19-205, MCA; REPEALING SECTIONS 33-18-601, 33-18-602, 33-18-603, 33-18-604, 33-18-605, 33-18-606, 33-18-607, 33-18-608, 33-18-609, 33-18-610, 33-18-611, AND 33-18-612, MCA.

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

Section 1. Section 33-18-210, MCA, is amended to read:

"33-18-210. Unfair discrimination and rebates prohibited -- property, casualty, and surety insurances. (1) A title, property, casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

- (a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;
- (b) special favor or advantage in the dividends or other benefits to accrue on the policy; or
- (c) valuable consideration or inducement not specified in the policy, except to the extent provided for in

an applicable filing with the commissioner as provided by law.

(2) An insured named in a policy or an employee of the insured may not knowingly receive or accept, directly or indirectly, a:

- (a) rebate, discount, abatement, credit, or reduction of premium;
- (b) special favor or advantage; or
- (c) valuable consideration or inducement.

(3) An insurer may not make or permit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics or between insureds because of race, color, creed, religion, or national origin.

(4) This section may not be construed as prohibiting the payment of commissions or other compensation

to licensed insurance producers or as prohibiting an insurer from allowing or returning lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

(5) An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(6) An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk or on the personal property contained in the residential property, because of the age of the residential property, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(7) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual because of the sex or marital status of the individual. However, an insurer may take marital status into account for the purpose of defining persons eligible for dependents' benefits.

(8) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired. However, this subsection does not apply to accident and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.

(9) (a) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available to an individual under a private passenger automobile policy based solely on adverse information contained in an individual's driving record that is 3 years old or older. An insurer may provide discounts to an insured under a private passenger automobile policy based on favorable aspects of an insured's claims history that is 3 years old or older.

(b) An insurer may not use more than the most recent 5 years of loss experience that is available when determining whether to refuse to insure, refuse to continue to insure, charge higher rates, or limit the amount of coverage available under a commercial automobile policy. An insurer may provide discounts to an insured under a commercial automobile policy based on favorable aspects of an insured's claims history that is 5 years old or older.

(c) As used in subsection (9)(a), "private passenger automobile policy" means an automobile insurance policy issued to individuals or families but does not include policies known as commercial automobile policies.

(10) An insurer may not charge points or surcharge a private passenger motor vehicle policy because of a claim submitted under the insured's policy if the insured was not at fault.

(11) (a) An insurer writing personal insurance may not refuse to insure or refuse to continue to insure an individual, vary rates, or limit the scope or amount of coverage or benefits available to an individual based in any part on the insurer's knowledge of the individual's credit history.

(b) For the purposes of this section:

(i) "credit history" means that portion of a credit report or background report that addresses the applicant's or insured's debt payment history or lack of history, including how an applicant or insured uses credit and credit scores based on factors such as amounts owed, payment history, length of credit, new credit, and types of credit use; and

(ii) "personal insurance" means private passenger automobile, homeowner's, motorcycle, mobile home, and noncommercial dwelling fire insurance policies and boat, personal watercraft, snowmobile, and recreational vehicle policies. These policies must be individually underwritten for personal, family, or household use."

Section 2. Section 33-19-205, MCA, is amended to read:

"33-19-205. Investigative consumer reports. (1) An insurance institution, insurance producer, or insurance-support organization may not prepare or request an investigative consumer report about an individual in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement, or a change in insurance benefits unless the insurance institution or insurance producer informs the individual:

(a) that the individual may request to be interviewed in connection with the preparation of the investigative consumer report; and

(b) that upon a request pursuant to 33-19-301, the individual is entitled to receive a copy of the investigative consumer report.

(2) If an investigative consumer report is to be prepared by an insurance institution or insurance producer, the insurance institution or insurance producer shall institute reasonable procedures to conduct a personal interview requested by an individual.

(3) If an investigative consumer report is to be prepared by an insurance-support organization, the insurance institution or insurance producer desiring the report shall inform the insurance-support organization as to whether a personal interview has been requested by the individual. The insurance-support organization shall institute reasonable procedures to conduct the interview, if requested.

(4) Nothing in this chapter may be construed to allow an insurer to consider an individual's credit information in the rating of personal insurance."

Section 3. Repealer. The following sections of the Montana Code Annotated are repealed:

- 33-18-601. Short title.
- 33-18-602. Purpose.
- 33-18-603. Scope.
- 33-18-604. Definitions.
- 33-18-605. Use of credit information.
- 33-18-606. Dispute resolution and error correction.
- 33-18-607. Initial notification.
- 33-18-608. Adverse action notification.
- 33-18-609. Filing.
- 33-18-610. Indemnification.
- 33-18-611. Sale of policy term information by consumer reporting agency.
- 33-18-612. Refund for expunged record.

- END -

I hereby certify that the within bill,
SB 0208, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2015.

Speaker of the House

Signed this _____ day
of _____, 2015.

SENATE BILL NO. 208

INTRODUCED BY J. WINDY BOY

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