

House BILL NO. 488

INTRODUCED BY

Heavy Runner Marshall Munkitke - Stewart Young Mendon

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING INSURERS FROM DENYING, CANCELING, FAILING TO RENEW, OR LIMITING COVERAGE OR BENEFITS ON AUTOMOBILE AND HOMEOWNER INSURANCE POLICIES BASED SOLELY ON AN INDIVIDUAL'S CREDIT HISTORY; AND AMENDING SECTION 33-18-210, MCA."

Bill Nelson Farovich Kotch Hurdle Larson Cocchiarella Battelle Nettel Brakley

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 duly licensed insurance producers or as prohibiting an insurer from allowing or returning

1 lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or
2 subscribers.

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

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

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

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

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

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

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

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

26 (9) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit
27 the amount of coverage available to an individual based solely on adverse information contained in a driving
28 record that is 3 years old or older.

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

1 (11) (a) For the purposes of this subsection (11), "credit history" means that portion of a credit
2 report or background report that addresses the applicant's or insured's debt payment history or lack of
3 history but does not include public information including convictions, lawsuits, bankruptcies, or similar
4 public information.

5 (b) An insurer writing automobile or homeowner insurance may not refuse to insure, refuse to
6 continue to insure, charge higher rates, or limit the scope or amount of coverage or benefits available to
7 an individual based solely on the insurer's knowledge of the individual's credit history unless:

8 (i) the credit history of the individual substantially increases any hazard insured or to be insured
9 at or after policy issuance or renewal pursuant to the insurer's underwriting guidelines;

10 (ii) the insurer or its agent sends written communication to the individual disclosing the reason that
11 the insurance coverage was declined, not renewed, or limited in scope or amount of coverage or benefits;
12 and

13 (iii) upon subsequent request of the individual, the insurer provides the individual with a copy of the
14 credit report at issue within 10 days of receipt of the request.

15 (c) The provisions of this subsection (11) are not intended to conflict with any disclosure provisions
16 of state law or the federal Truth in Lending Act applicable to lending institutions, credit bureaus, or other
17 credit service organizations that maintain or distribute credit histories on insurance applicants or
18 policyholders."

19

-END-

APPROVED BY COMMITTEE
ON BUSINESS AND LABOR

HOUSE BILL NO. 488

INTRODUCED BY TUSS, FORRESTER, EWER, WENNEMAR, HEAVY RUNNER, MARSHALL, MURDOCK,
DEVANEY, ELLINGSON, MENAHAN, WILSON, PAVLOVICH, KOTTEL, HURDLE, LARSON,
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POLICIES BASED SOLELY ON AN INDIVIDUAL'S CREDIT HISTORY; AND AMENDING SECTION 33-18-210,
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- (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:

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1 (4) This section may not be construed as prohibiting the payment of commissions or other
2 compensation to duly licensed insurance producers or as prohibiting an insurer from allowing or returning
3 lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or
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6 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or
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8 of the risk, unless:

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21 take marital status into account for the purpose of defining persons eligible for dependents' benefits.

22 (8) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a
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30 record that is 3 years old or older.

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

3 (11) (a) For the purposes of this subsection (11), "credit history" means that portion of a credit
4 report or background report that addresses the applicant's or insured's debt payment history or lack of
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7 (b) An insurer writing automobile or homeowner insurance may not refuse to insure, refuse to
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13 the insurance coverage was declined, not renewed, or limited in scope or amount of coverage or benefits;
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15 (iii) upon subsequent request of the individual, the insurer provides the individual with a copy of the
16 credit report at issue within 10 days of receipt of the request.

17 (c) The provisions of this subsection (11) are not intended to conflict with any disclosure provisions
18 of state law or the federal Truth in Lending Act applicable to lending institutions, credit bureaus, or other
19 credit service organizations that maintain or distribute credit histories on insurance applicants or
20 policyholders."

21 -END-

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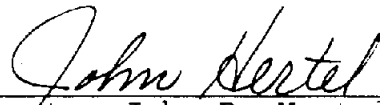
21 -END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 22, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 488 (third reading copy -- blue), respectfully report that HB 488 be amended as follows and as so amended be concurred in.

Signed: 
Senator John R. Hertel, Chair

That such amendments read:

1. Page 3, lines 10 and 11.

Strike: "the credit" on line 10 through "guidelines" on line 11

Insert: "the insurer possesses substantial documentation that credit history is significantly correlated with the types of risks insured or to be insured"

2. Page 3, line 12.

Strike: "the reason"

3. Page 3, line 13.

Following: "benefits"

Insert: "because of credit information relating to the applicant or the insured"

4. Page 3, line 15.

Following: "of the individual,"


Insert: "mailed within 10 days of receipt of the denial, nonrenewal, or limitation,"


5. Page 3, line 16.

Following: "issue"

Insert: " or the name and address of a third party from whom the individual may obtain a copy of the credit report,"

-END-


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

HB488
SENATE
661517SC.SPV

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12 POSSESSES SUBSTANTIAL DOCUMENTATION THAT CREDIT HISTORY IS SIGNIFICANTLY CORRELATED
13 WITH THE TYPES OF RISKS INSURED OR TO BE INSURED;

14 (ii) ~~the insurer or its agent~~ sends written communication to the individual disclosing ~~the reason~~ that
15 the insurance coverage was declined, not renewed, or limited in scope or amount of coverage or benefits
16 BECAUSE OF CREDIT INFORMATION RELATING TO THE APPLICANT OR THE INSURED; and

17 (iii) upon subsequent request of the individual, MAILED WITHIN 10 DAYS OF RECEIPT OF THE
18 DENIAL, NONRENEWAL, OR LIMITATION, the insurer provides the individual with a copy of the credit
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