

## 1 HOUSE BILL NO. 116

2 INTRODUCED BY PAVLOVICH

3 BY REQUEST OF THE STATE AUDITOR

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING THE USE OF INFORMATION REGARDING CREDIT,  
6 SETTLEMENT PAYMENTS, DAMAGE AWARDS, AND ARBITRATION AWARDS IN PROPERTY AND  
7 CASUALTY INSURANCE UNDERWRITING DETERMINATIONS; AND AMENDING SECTION 33-18-210,  
8 MCA."  
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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12 Section 1. Section 33-18-210, MCA, is amended to read:

13 "33-18-210. **Unfair discrimination and rebates prohibited -- property, casualty, and surety**  
14 **insurances insurance.** (1) A title, property, casualty, or surety insurer or an employee, representative, or  
15 insurance producer of an insurer may not, as an inducement to purchase insurance or after insurance has  
16 been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

17 (a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;  
18 (b) special favor or advantage in the dividends or other benefits to accrue on the policy; or  
19 (c) valuable consideration or inducement not specified in the policy, except to the extent provided  
20 for in an applicable filing with the commissioner as provided by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 favorable aspects of an insured's claims history that is 3 years old or older.

2 (10) (a) An insurer may not refuse to issue, refuse to renew, remove an existing discount on, charge  
 3 points on, or surcharge a private passenger motor vehicle policy because of a claim submitted under the  
 4 insured's policy if the insured was not at fault unless the insured or operator of the insured vehicle:

5 (i) is found to have violated a traffic law or ordinance of the state or a local government in this state  
 6 that the insurer is allowed to consider;

7 (ii) is found negligent or contributorily negligent in a court or by an arbitration proceeding conducted  
 8 under Title 27, chapter 5; or

9 (iii) pays damages to another party, whether by settlement or otherwise.

10 (b) This section may not be construed to permit an insurer to increase a premium in violation of  
 11 Title 33, chapter 15, part 11.

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

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

19 ~~(i) the insurer possesses substantial documentation that credit history is significantly correlated~~  
 20 ~~with the types of risks insured or to be insured;~~

21 ~~(ii) the~~ (c) If an insurer refuses to insure, refuses to continue to insure, charges higher rates, or  
 22 limits the scope or amount of coverage or benefits available to an individual on the basis of the insurer's  
 23 knowledge of credit information about the individual, the insurer ~~sends~~ shall send written communication  
 24 to the individual disclosing that the insurance coverage was declined, not renewed, or limited in scope or  
 25 amount of coverage or benefits because of credit information relating to the applicant or the insured; ~~and,~~

26 ~~(iii) (d) upon subsequent~~ The insurer shall, upon an individual's request of the individual, which must  
 27 be mailed within 10 days of receipt of the denial, nonrenewal, or limitation, that is based on credit  
 28 information, the insurer ~~provides~~ provide the individual, within 10 days of receipt of the request, with a  
 29 copy of the credit ~~report~~ information at issue or the name and address of a third party from whom the  
 30 individual may obtain a copy of the credit ~~report,~~ information within 10 days of receipt of the request.

