

1 **USE OF CREDIT RELATED INSTRUMENTS**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: David L. Hogue**

5 **This act modifies the Commerce and Trade Code to enact provisions prohibiting the use**
6 **of credit information for any purposes other than extending credit or conducting a**
7 **criminal background check. The act modifies the Insurance Code to prohibit all uses of**
8 **credit information in connection with motor vehicle insurance.**

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **31A-22-320**, as enacted by Chapter 221, Laws of Utah 2002

12 ENACTS:

13 **13-37-101**, Utah Code Annotated 1953

14 **13-37-102**, Utah Code Annotated 1953

15 **13-37-103**, Utah Code Annotated 1953

16 *Be it enacted by the Legislature of the state of Utah:*

17 Section 1. Section **13-37-101** is enacted to read:

18 **CHAPTER 37. USE OF CREDIT INFORMATION**

19 **13-37-101. Definitions.**

20 As used in this chapter:

21 (1) (a) Except as provided in Subsection (1)(b), "consumer report" is as defined in 15
22 U.S.C. 1681a.

23 (b) "Consumer report" does not include:

24 (i) a motor vehicle record obtained from a state or an agency of a state; or

25 (ii) any information regarding a person's insurance claim history.

26 (2) "Credit information" means:

27 (a) a consumer report;



(b) a credit score;

(c) any information obtained from a consumer report;

(d) any part of a consumer report; or

(e) any part of a credit score.

(3) (a) "Credit score" means a numerical value or a categorization that is:

(i) derived from information in a consumer report;

(ii) derived from a statistical tool or modeling system; and

(iii) developed to predict the likelihood of:

(A) future insurance claims behavior; or

(B) credit behavior.

(b) "Credit score" includes:

(i) a risk predictor; or

(ii) a risk score.

(c) A numerical value or a categorization described in Subsection (3)(a) is a credit score if it is developed to predict the behavior described in Subsection (3)(a)(iii) regardless of whether it is developed to predict other factors in addition to predicting the behavior described in Subsection (3)(a)(iii).

Section 2. Section **13-37-102** is enacted to read:

13-37-102. Restrictions on use of credit information.

(1) Except as provided in Subsection (2), a person may not use another person's credit information for any purpose.

(2) Notwithstanding Subsection (1), a person may use another person's credit information in conjunction with:

(a) an extension of credit, as defined in Section 13-21-2; or

(b) obtaining criminal history record information, as defined in Section 53-10-102.

Section 3. Section **13-37-103** is enacted to read:

13-37-103. Civil action for violation -- Damages -- Costs and attorney fees.

(1) A person whose credit information is used in violation of this chapter may bring an action in any state court of competent jurisdiction against a person that violates this chapter.

(2) In an action under Subsection (1), a person may:

(a) recover the amount of any actual damages caused by the violation of this chapter;

- (b) recover court costs and reasonable attorney fees as determined by the court; and
(c) seek to enjoin conduct in violation of this chapter.

Section 4. Section **31A-22-320** is amended to read:

31A-22-320. Use of credit information.

(1) For purposes of this section:

(a) "Credit information" means:

- (i) a consumer report;
- (ii) a credit score;
- (iii) any information obtained by the insurer from a consumer report;
- (iv) any part of a consumer report; or
- (v) any part of a credit score.

(b) (i) Except as provided in Subsection (1)(b)(ii), "consumer report" is as defined in 15 U.S.C. 1681a.

(ii) "Consumer report" does not include:

- (A) a motor vehicle record obtained from a state or an agency of a state; or
- (B) any information regarding an applicant's or insured's insurance claim history.

(c) (i) "Credit score" means a numerical value or a categorization that is:

- (A) derived from information in a consumer report;
- (B) derived from a statistical tool or modeling system; and
- (C) developed to predict the likelihood of:

- (I) future insurance claims behavior; or
- (II) credit behavior.

(ii) "Credit score" includes:

- (A) a risk predictor; or
- (B) a risk score.

(iii) A numerical value or a categorization described in Subsection (1)(c)(i) is a credit score if it is developed to predict the behavior described in Subsection (1)(c)(i)(C) regardless of whether it is developed to predict other factors in addition to predicting the behavior described in Subsection (1)(c)(i)(C).

(d) "Motor vehicle related insurance policy" means:

- (i) a motor vehicle liability policy;

(ii) a policy that contains uninsured motorist coverage;

(iii) a policy that contains underinsured motorist coverage;

(iv) a policy that contains property damage coverage under this part; or

(v) a policy that contains personal injury coverage under this part.

(2) An insurer that issues a motor vehicle related insurance policy~~[(a) except as provided in Subsection (2)(b);]~~ may not use credit information for ~~[the]~~ any purpose ~~[of determining for the motor vehicle related insurance policy:].~~

~~[(i) renewal;]~~

~~[(ii) nonrenewal;]~~

~~[(iii) termination;]~~

~~[(iv) eligibility;]~~

~~[(v) underwriting; or]~~

~~[(vi) rating; and]~~

~~[(b) notwithstanding Subsection (2)(a), may use credit information for the purpose of:]~~

~~[(i) if risk related factors other than credit information are considered, determining initial underwriting; or]~~

~~[(ii) providing to an insured:]~~

~~[(A) a reduction in rates paid by the insured for the motor vehicle related insurance policy; or]~~

~~[(B) any other discount similar to the reduction in rates described in Subsection (2)(b)(ii)(A).]~~

(3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commissioner may make rules necessary to enforce this section.

Legislative Review Note

as of 1-16-03 1:54 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note**Use of Credit Related Instruments***30-Jan-03***Bill Number HB0216***12:12 PM*

State Impact

No fiscal impact.

Individual and Business Impact

Some insurance companies will have to refile their forms.

Office of the Legislative Fiscal Analyst