Approved:_
Date 2-24-03

MINUTES OF THE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE

The meeting was called to order by Chairperson Senator Ruth Teichman at 9:30 a.m. on February 12, 2003 in Room 234-N of the Capitol.
All members were present except:

Committee staff present: Ken Wilke, Office of the Revisor of Statutes
Dr. Bill Wolff, Kansas Legislative Research Department
Marlene Putman, Committee Secretary

Conferees appearing before the committee: Sandy Praeger, Commissioner of Insurance
Larry Magill, Ks Assoc. of Ins. Agents
Ron Gaches (Eric Ellman, CDIA)
Jim Harwood, Farmers Ins.

Others attending: See attached list

Senator Teichman introduced Sandy Praeger, Commissioner of Insurance. She testified in favor of **SB 144** (see attachment 1) She reiterated that the bill will protect Kansas consumers while preserving the personal lines insurance market. At some point we would like to offer some technical corrections that we would like to offer. Today I just want to offer you my testimony. Kansas, like 30 other states is investigating of credit based insurance scoring.
We think that it is important that discriminatory practices, if they exist, be exposed and that a credit score should not be the only factor used in raising rates or denying coverage.

Jim Harwood, President of Farmers Insurance appeared as an opponent for the bill. Farmers strongly supports the use of credit based insurance scoring to augment the other underwriting and rating tools available to an insurance company. (See attachment 2)

Senator Teichman related that one of the things that she learned from being on the Task Force this summer is that there is a difference between Credit Scoring, and Credit Insurance Scoring. This is a big problem with the consumers. They do not understand the difference. Basically Credit Scoring is the scoring that you get from Trans-Union, and Equifax, reflecting how you pay your bills. Credit Insurance Scoring uses this plus other factors such as your MVR, bankrupt procedures, etc. Credit Scoring is only one of the things that is used in Credit Insurance Scoring.

Larry Magill represented the Kansas Association of Insurance Agents of Kansas and the Professional Insurance Agents of Kansas.(see attachment 3). He was a proponent for the bill.

Eric Ellman, Consumer Data Information Association. He participated in the task force hearings earlier this fall. He explained the difference between Credit Scoring, and Insurance Credit Scoring. They measure two different things. A credit score measures credit worthiness. An insurance score measures risk of loss. Credit score measures "are you going to pay this bill?" "Are you going to pay this bill on time?" Insurance score is a future predictor of insurance loss. Is this consumer going to get get in to an accident, and is this consumer going to file a claim? This is the basic difference between the two.
He had several comments on the Federal Credit Reporting Association. When you ask for a credit report through this agency, you get the complete report. In section 10 of this bill turns over a generation of National Credit reporting law on its head by saying you can only get certain parts of the credit report.
He will furnish written testimony upon request.

The committee asked several questions of Mr. Ellman regarding legitimate disputes. Me. Ellman said that Federal Law requires us to resolve all disputes in 30 days. If the dispute is not answered in 30 days, the dispute must be removed from the credit report, and the word of the consumer is taken. More than half of the disputes are resolved in 5 days or less.

Mr Ellman passed out a brochure (see attachment 4) that explains the Credit Reporting Dispute Resolution Process.

Meeting was adjourned.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
GUEST LIST
DATE: ~~2-13-03~~ 2-12-03

NAME	REPRESENTING
Jon King	Leadership Lawrence, Lawrence, KS
Glynn Sheridan	Leadership Lawrence, Law, KS
Mark Warren	Leadership Lawrence Law KS.
David Corliss	"
[illegible]	Health Midwest
[illegible] Welles	Farmers Alliance
Lee Wright	Farmers Ins.
Jim Harwood	"
Kevin Davis	Am. Family Ins
Cathy Lewis	Leadership Lawrence, Law, KS
Bill Sneed	State Farm
Ron Gaches	CDIA
Eric Billman	CDIA
Larry Magill	KAIA
JoAnn Bunten	KID
[illegible]	KID
Jerry [illegible]	KID
[illegible]	KFB
Barbara Conant	KTLA

David Hanson — Ks Insur Assns / NAII
Brad Smoot — AIA

TESTIMONY
ON
SB 144

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
February 12, 2003

Madam Chair and members of the Committee:

Thank you for this opportunity to visit with you on behalf of the Kansas Insurance Department in support of SB 144, a bill regulating use of credit-based insurance scoring. As you know, the Kansas Legislature created a Credit Scoring Task Force, established its membership and set its charge. I want to thank Senators Teichman and Feleciano for their participation on the Task Force and Mike McGrew for chairing the meetings. Former Insurance Commissioner Sebelius' staff assisted the Task Force by arranging conferees, preparing minutes, providing legal advice and drafting the final report. Thank you as well.

The Task Force reviewed mountains of testimony and information, some of it very technical and complex. For many Task Force participants, this was their first exposure to credit reporting, the Fair Credit Reporting Act and the use of credit information in insurance underwriting. From the hearings, we learned that use of credit information in auto and homeowners insurance is widespread and poorly understood by insurance consumers. We learned that insurers give better rates to lower risks and are constantly looking for factors, which will help identify the risk of their insureds so that they can charge the rate corresponding more closely with their risk. We learned that there is a statistically valid correlation between good insurance score based on credit and the lower likelihood of an insurance loss. And while we have grown accustomed to having rates set on the basis of age or sex or good grades or driving records, these factors are not necessarily better indicators of risk than credit information. We're just more familiar with their usage. We learned that as many or more Kansans will see lower rates from the use of credit-based insurance scoring as will receive higher.

Senate F I & I Committee
Meeting Date: 2-12-03
Attachment No.: 1

We also learned that insurance agents are frustrated with the problem of explaining credit scoring to their customers; that insurance consumers do not understand the use of credit information in the setting of insurance rates; that there is great suspicion of how such information is being used by insurers; and that insurers have not adequately explained to their customers and the public how and why credit information is being used.

As a result of these findings, Kansas like some thirty states is investigating regulation of credit-based insurance scoring. Additionally, the National Congress of Insurance Legislators (NCOIL), through a consensus building process, has developed model legislation. The Task Force, NCOIL and KID agree that credit-based insurance scoring should neither be banned nor remain unregulated. (The Task Force concluded that the KID lacks regulatory oversight.) I want to balance the interests of those consumers that benefit from credit-based insurance scoring and those who are concerned or frustrated with its use. I want to keep auto and homeowner insurance available and affordable in Kansas.

Today, Kansas consumers have no state protections from the misuse of credit-based insurance scoring. The bill you have before you, SB 144 contains some technical flaws. We would offer a substitute bill that corrects these problems. With these corrections, the bill will protect Kansas consumers while preserving the personal lines insurance market.

The bill does the following and more:

- Gives the KID jurisdiction over credit-based scoring practices
- Requires notice to consumers when credit scoring is being used and requires an explanation of its use in individual cases
- Requires insurers to file their formulas for using credit-based insurance scoring with the KID for review for unfair discrimination
- Prohibits the use of credit information that is disputed, related to identifiable medical debts or identity theft or information relating to income, gender, address, ethnic group, religion, marital status or nationality of the consumer
- Limits the use of certain credit inquiries and "thin files" where little or no credit history exists

The bill would also require re-rating or underwriting when erroneous credit information is discovered; hold insurance agents harmless and protect the confidentiality of personal credit information.

These are substantial protections for Kansas consumers. They represent most of what advocates for credit-based insurance scoring want. They give the KID real power over the use of credit-based insurance scoring in this state. For some, the bill goes too far. For others, not far enough. And while we can debate various additions or subtractions from the bill we have proposed, we would do our Kansas consumers a disservice to not take this first opportunity to begin the regulation of this practice.

With regard to those items which are still in dispute, let me say that our office will be available to assist in resolving disputed terms. We will be actively interpreting the language of any legislation you pass. We will be collecting real data on the problems of credit-based insurance scoring (something which has not been done thus far) and we will be monitoring the legislative and regulatory activity in other states. We expect to be back here before the legislature to adjust and refine our credit-based insurance scoring law and the needs of Kansans. I would recommend, however, that we begin by enacting the provisions agreed to by our own Task Force. My hope is that you will continue to work towards resolution of the issues still in dispute (and we offer our assistance to the extent that it is needed), but it is important to pass some consumer protections to give our agency the tools to regulate the use of credit scoring. We think that it is especially important that discriminatory practices, if they exist, be exposed and that a credit score should not be the only factor used in raising rates or denying coverage. There must be other relevant factors that contribute to an adverse action.

Thank you, and I'd be happy to respond to any questions.

Sandy Praeger
Commissioner of Insurance

FARMERS

10850 Lowell
Overland Park, Ks. 66210
Bus 913.661.6580
Fax 913.323.6172

February 12, 2003

SB144 Re: Credit Scoring
Testimony by Jim Harwood – Executive Director
Farmers Insurance
February 12, 2003

Madame Chairman and members of the Committee.

My name is Jim Harwood. I am President of the Farmers Insurance Company and the Executive Director for Farmers Insurance in Kansas. We are a property and casualty company that has been operating in and committed to Kansas consumers since 1930. Thank you for this opportunity to appear in support of the Kansas Insurance Department's proposed legislation on credit scoring.

This past fall I had the privilege of serving as a member of the Governor's Task Force on Credit Scoring. I was pleased to be a part of that in-depth study and the valuable discussions which ensued. Farmers believes the conclusion and recommendations reached by the Task Force clearly reflect the best interests for our customers and all insurance consumers.

Farmers strongly supports the use of credit based insurance scoring to augment the other underwriting and rating tools available to an insurance company. Ultimately, as an organization, our goal is to make available a wide range of insurance products and product features that are important in our customers lives at cost that is based on the likelihood of future losses. Credit based insurance scoring models have been proven to have a strong correlation to future losses and, when used in combination with other underwriting factors allow us to more accurately and equitably offer customers the best possible insurance value.

Senate F I & I Committee
Meeting Date: 2-12-03
Attachment No.: 2

Farmers does not use credit based insurance scoring exclusively when evaluating a risk. We consider a multitude of factors including driving record (for auto insurance) and claims history, in addition to a credit based insurance score, when evaluating an applicant. The use of driving records has varied success rates in identifying risks, as each state has its own rules as to what is actually reflected on a motor vehicle report. Accurate loss records are also valuable in helping us place customers within our rating structures.

The most effective tool the industry has, the use of a credit based insurance score, has been shown to appropriate risk characteristics, and is the best predictor of future losses. Once again, the combination of these factors is a powerful tool in equitably establishing pricing based upon groups of individuals with similar characteristics and likelihood of future losses. It should also be noted that credit based insurance scores create the opportunity for substantive discounts or lower rates than would otherwise be possible for the majority of consumers. To deny consumers this opportunity by banning the use of, or watering down the amount of discount by placing substantial restrictions on the use of these scores is unfair to consumers who are deserving of a better rate that reflects their reduced likelihood of future loss.

To date, we have been actively involved with this issue through the Credit Scoring Task Force, discussions with the Insurance Department, industry representatives and agent groups to help construct the bill you have before you. Through the hard work and efforts of these interested parties and the leadership of the Department of Insurance, we believe it is legislation that reflects a balanced approach and appropriately considers all sides of this important consumer issue.

We remain committed to assisting this committee as an information resource for dealing with this and other insurance bills throughout the session.

Thank you for your time. I would be happy to answer any questions.

7-2

Testimony on Insurance Credit Scoring
Before the Financial Institutions & Insurance Committee
By Larry Magill
Kansas Association of Insurance Agents
February 12, 2003

Thank you Madam Chairman and members of the committee for the opportunity to appear today in support of Senate Bill 144. I am Larry Magill representing the Kansas Association of Insurance Agents. KAIA was formed in 1992 by the merger of the Independent Insurance Agents of Kansas and the Professional Insurance Agents of Kansas. We represent 425 independent agencies with 150 branch locations and approximately 2,500 employees, most of them licensed agents. As agents, we are in the forefront of explaining credit scoring to consumers and deflecting their anger in those instances where they learn that they are being charged two and three times what they had been paying because of a credit score.

Last year, KAIA requested introduction of Senate Concurrent Resolution 1623 creating a task force to study credit scoring. We hoped that it would allow meaningful discussion of appropriate regulation of credit scoring among all the stakeholders: the legislature, the Department, agents, insurance companies and consumers during the interim, and it did.

We commend the work of the Credit Scoring Task Force lead by Mike McGrew and with Senators Teichman and Feleciano representing the Senate. The staff of the insurance department did a superb job providing voluntary support for the study and the report is an excellent beginning. Commissioner Praeger's legislative staff, almost all new since the inauguration and with very little time, has pulled together an excellent beginning draft, based on the NCOIL (National Council of Insurance Legislators) model.

NCOIL is not exactly a household name in Kansas for producing insurance legislation and this is probably the first time we have actually worked with one of their drafts. Nevertheless, it gives us a starting point and that is important. NAIC (the National Association of Insurance Commissioners) was moving far too slow on this issue and has decided not to develop a draft.

Why Regulate Credit Scoring?

Consumers understand and accept the relationship between a bad driving record, their MVR, claims, teenage drivers and the other factors historically used by the industry to rate automobile insurance but have a much harder time understanding a "credit score" and its relevance. That is especially true when a bank agrees to lend them hundreds of thousands of dollars to buy a home but an insurance company refuses to insure or treats them as substandard for a score the company can't or won't explain and the consumer doesn't understand. It is particularly confounding to the consumer when the same insurance company rates them as "preferred" for auto insurance but "sub-standard" for homeowners.

Senate F I & I Committee
Meeting Date: 2-12-03
Attachment No.: 3

De facto Rate Deregulation for Personal Lines
Credit scoring and multiple tiered rate structures of insurance companies have allowed some consumers' insurance rates to skyrocket, at times doubling or more, when normal base rate increases would never have been allowed to increase that much. In other words, while base rate increases, those that require prior approval of the Insurance Department, may increase 10 to 15%, an individual consumer's cost can now increase 100% because of their credit score. A member called me last November to tell me that she had a client's homeowners insurance premium increase from $718 per year to $2,250 per year due to their credit score. I believe this particular insurer had recently implemented a 9 tier homeowners rating system.

Plus credit scoring has had another effect on a consumer's ability to shop for insurance. Where agents once could use comparative rating software and rate a consumer with every company they represent, they can't any longer. Each insurer may use a different credit scoring algorithm and credit scoring service and the agent has to individually rate and score the consumer with each carrier. It's a slow, time consuming and expensive process.

This Task Force has not been charged with studying our rate approval process. But it is an interesting by-product of credit scoring and worth noting.

No Issue of Greater Concern to Our Members
Based on the huge response to our fax-back survey in November and the calls and comments of members, no other issue carries as much importance for our members and creates more "heart burn" for them in dealing with their customers. We sent a fax-back survey to our members on November 11th, and within days had over 147 responses from a single request. That is 35% of our membership and a phenomenal response. They overwhelmingly support seeking reasonable statutory or regulatory control over credit scoring in Kansas.

I've been encouraged by the interest shown the issue by legislators who have been contacted by constituents upset over credit scoring. Many of them heard about it while campaigning last fall.

KAIA Survey Results
Attached to my comments is a copy of the survey results. These survey results will likely differ significantly from what insurers and credit scoring companies will tell you happen. But this is the real world.

Note the number of "always" responses to questions 3, 4 & 5. Agents are very frustrated by their inability to explain to the consumer how the scores are determined or how the consumer can correct the problem. It isn't as simple as "don't speed"!

Look at the number who said insurance companies never notify consumers of the fact that a score will be obtained or that their score caused their premium to increase. 67% of our members indicate that insurers only notify consumers that a score will be obtained "some" or "never". 68% indicate that only "some" or "never" is the consumer told that their score resulted in a higher premium. Even given the possibility that agents aren't aware of what companies are telling the agents' clients, this is appalling.

Note the answers to question 12, 60% of the time credit score is "always" or "frequently" the only factor considered.

State Activity Sweeping the Country
Last fall the Kansas Insurance Department provided the NAIC's Compendium of State Laws on Credit Scoring as of May, 2002 and it showed that most states have either passed regulations or laws dealing with credit scoring. It shows that 32 states considered legislation last session and testimony given by the Alliance of American Insurers to the task force indicated that eight states had passed legislation: Arizona, Colorado, Idaho, Maryland, Minnesota, Missouri, Rhode Island and Washington. Roughly 30 states, according to the NAIC, have specific references to credit reports either in statute or regulation now. Kansas is not one of them.

Our National association has monitored results in all 50 states as well and this continues to be the hottest topic discussed at our IIABA State Legislative meetings. One of my handouts is the IIABA's latest summary of state activity on credit scoring done in September. My guess is that legislation would have passed in far more states last session, but our independent agent associations held off making a "full court press" to see what develops from the industry as a compromise.

KAIA Amendments to SB 144

- **All Lines** The legislation should address all lines of insurance. If it is not already occurring, it is only a matter of time before insurers use credit scoring on commercial insurance buyers: doctors, lawyers, accountants, small business owners of all kinds.

  As a compromise our balloon only extends it to farmowners, which is neither all commercial lines nor all personal but a mixture. Farmowners policies cover the home, autos and farming operations but almost all of them are closely held, even if corporations. And credit scoring is being down now on farmowners.

- **"Primarily"** Solely has proven to be pretty ineffective in eliminating virtual complete reliance on credit scores to determine a persons acceptance or the cost of their insurance. Primarily means that credit score cannot determine more than half a persons rate.

- **Adverse Means Paying More Than Lowest Rate** An adverse action, taken as a result of a credit score, must be defined to include charging anything more than the lowest rate available from the insurer, after considering all other rating factors. This would stop insurers from circumventing the definition by adopting a rating plan that starts all applicants at the highest rate and simply discounts from there based on credit. It could be argued under this scheme that only those not discounted from the highest rate are adversely affected.

- **Not Used on Renewals** Insurers should not be allowed to nonrenew or rate up existing business due to a poor credit score. Once they have actually insured the individual, they should use their own claim and payment experience with their customer. When someone has been a customer, in some cases for years, and their insurer suddenly and sometimes dramatically increases their premiums because of a poor credit score, they are particularly incensed.

  As a compromise, we have suggested in the balloon that the companies be allowed to use a credit score once every three years and raise or lower the rates as appropriate.

- **Consumer Requested Review** Consumers who are charged more based on their credit report should be able to request, at least annually, that the insurer run their credit score and lower their premium if it has improved. The insurer should not be allowed to increase the premium based on renewal credit scores as a result of a consumer request.

- **Inform & Explain** Insurers should be required to disclose, on request, the score and why it is what it is. In other words, the factors used to develop the score and how the consumer scored relative to others. A reasonably intelligent consumer should be able to take this information and know how to improve their score. We are not thinking of FairIsaac's four major factors disclosure that just gives "+'s" and "-'s" for such things as number of accounts or balances. It needs to be more informative than it has been up to now.

- **Appeals Process** There should be an exception process where the score is influenced by catastrophic illness or injury, death of a spouse, business debts, or other extenuating circumstances. Since scoring does not look at income or wealth, some strange results can occur that defy logic. Credit scoring is not infallible. Requiring an appeal process gives insurers statutory protection for making exceptions and using judgement.

- **Penalties** Violations of the credit scoring act should be tied to the unfair trade practices act.

Disconnect Between Credit, Income & Wise Choices

In order to make their models blind to economic status, the credit scoring companies have avoided use of a person's income. That causes some doubt about the relevance of credit scoring for the wealthy since they can obviously carry a greater debt load than lower income consumers. Without being able to compare debt to income, how can the models possibly be predictive for higher income consumers? According to FairIsaac's presentation at our annual conference 30% of a person's score is based on their "current level in debt/amounts owed." This would make it the second largest factor in determining a score behind payment history. Obviously, the wealthy is not a particularly politically sensitive group but it does point to one weakness in the systems in our view.

Relevant to an even larger population than the wealthy is the fact that the models don't take into account the value of a home relative to the mortgage amount. A low mortgage balance compared to the home's value is not a plus and yet being a smart consumer and refinancing your home to take advantage of lower interest rates is a minus due to length of credit relationship and loan balance compared to original loan amount. In addition, in this example, you may only owe $100,000 on a $200,000 house but for scoring purposes they will "ding" you for not having paid down much of the re-financed mortgage. Or if you decide to finance your carpet purchase with a Home Depot charge account to obtain an additional 10% savings on a large purchase and then close out the account, they will "ding" you for activity, "ding" you for number of credit accounts, and probably "ding" you for canceling the card once the carpet is paid off.

Another example is someone using a credit card that awards frequent flyer miles. The consumer has a large balance each month relative to their credit limit but pays it off each month. Nevertheless this is a negative because of balance compared to credit limit.

A final example involves a large group of aircraft owners. They pay collectively about $200,000,000 annually to insure their planes and the agency handling the group last year had total bad debt expenses of $18,000, or 0.009%. Yet the company recently canceled a cross-selling homeowners program for this group of consumers because most of them had bad credit scores. Obviously a high income group with correspondingly high debt, but not bad credit risks.

Summary

Throughout this debate you will hear about what some companies are doing but the important thing to keep in mind is that not all insurance companies do most of these things. What we want to talk about is rules for all of us to live by.

We started this process with the hope of working through all these issues and coming to consensus on legislation that wouldn't prohibit credit scoring but would moderate its worst effects. We hope with your help we'll get there. We urge you to adopt our amendments to the bill and pass it out favorably.

We would be happy to respond to questions or provide additional information. Thank you all very much.

KAIA Member Credit Scoring Survey

Dear KAIA Member:

As a result of KAIA's successful lobbying efforts last legislative session, SCR 1623 was passed calling for the creation of a Task Force to study credit scoring and report back to Legislative leaders in January.

The Task Force has met twice, once to organize its work and once to hear from insurance companies, credit bureaus and credit scoring companies. KAIA will offer our input on November 25th at its next hearing where they expect to hear from the public on credit scoring.

Please take a few minutes and complete the enclosed survey and fax it back. Of course, any additional information you want to send along, such as actual examples, would be very helpful. We all know credit scoring can be a huge problem for agents, but just exactly what would you want changed? Here's your chance to tell us.

	Yes	No
Do you think KAIA should propose regulations that control the use of credit scoring for purposes of automobile and homeowners insurance?	**134**	**15**
On average, do you think your lower income clients have as good a credit scores as your higher income clients? Please elaborate: ______	**48**	**99**
Have you felt that people in certain areas of town fall into predictable credit score ranges and therefore insurance price ranges? ______	**73**	**72**

How often have you experienced any of the following:	Always	Frequently	Some	Never
1. Vastly different scores and treatment for the same customer for homeowners and automobile insurance based on credit scores?	4	58	69	16
2. Significantly different scores within a short time period for the same consumer?	0	32	81	29
3. Inability to explain to the consumer why their credit score is what it is?	47	60	34	10
4. Inability to explain to the consumer how they can improve their credit score?	44	49	37	17
5. Inability to explain the credit scoring process to the consumer?	45	51	36	18
6. Insurance Companies notifying consumers of the fact that a score will be obtained?	20	27	56	43
7. Insurance Companies notifying consumers that their score resulted in a higher premium than the consumer would otherwise have qualified for?	7	41	42	58
8. Thin files where consumers lack enough credit history to have as good a score as they would otherwise have?	7	76	57	7
9. Medical problems that caused a poor credit history?	8	32	80	25
10. Delays for your customers to obtain a copy of the information causing the poor credit score once requested by the consumer?	11	28	54	44
11. Errors on your customers credit score or the information used to develop the credit score?	2	19	78	36
12. Instances where the only criteria considered by the insurer was the credit score?	16	75	38	22

If possible, please attach copies of documents that would be helpful in making your points. All personal information should be blacked-out and KAIA will keep any identifiable personal information confidential. **Please fax back to KAIA at 785-232-6817**. Thank you for your help.

Name ______________________ Agency ______________________

Phone ______________________ Email ______________________

SENATE BILL No. 144

By Committee on Financial Institutions and Insurance

2-5

AN ACT concerning insurance; relating to the use of credit scores in issuing certain policies.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known as the Kansas insurance score act.

Sec. 2. (a) This act shall apply only to personal insurance and not to commercial insurance. A personal insurance policy must be individually underwritten for personal, family or household use. No other type of insurance shall be included as personal insurance for the purpose of this act.

For purposes of this act, personal insurance shall include farmowners

~~(b) This act shall apply to all personal insurance policies either written to be effective or renewed on or after nine months from the effective date of this act.~~

Delete

Sec. 3. As used in this act:

(a) "Adverse action" means any of the following in connection with the underwriting of personal insurance:

(1) A denial or cancellation of coverage;

Delete

(2) ~~any change in the charge for~~ anything other than the best possible rate;

(3) a reduction or other adverse or unfavorable change in the terms of coverage of any insurance regardless of whether such insurance is in existence or has been applied for;

(4) a reduction or other adverse or unfavorable change in the terms of the amount of any insurance regardless of whether such insurance is in existence or has been applied for.

(b) "Affiliate" means any company that controls, is controlled by, or is under common control with another company.

(c) "Agent" shall have the meaning ascribed to it in subsection (k) of K.S.A. 2002 Supp. 40-4902, and amendments thereto unless the context requires otherwise.

(d) "Applicant" means an individual who has applied to an insurer to be covered by a personal insurance policy.

(e) "Commissioner" means the commissioner of insurance and any authorized designee of the commissioner.

(f) "Consumer" means an insured whose credit information is used or whose insurance score is calculated in the underwriting or rating of a personal insurance policy. "Consumer" also includes an applicant for a personal insurance policy.

(g) "Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages, in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(h) "Credit information" means any credit-related information derived from a credit report, found on a credit report itself, or provided on an application for personal insurance. Credit information shall not include any information which is not credit-related, regardless of whether such information is contained in a credit report or in an application or is used to calculate an insurance score.

(i) "Credit report" means any written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing or credit capacity which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor to determine personal insurance premiums, eligibility for coverage, or tier placement.

(j) "Department" means the insurance department established by K.S.A. 40-102 and amendments thereto.

(k) "Insurance score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based, in whole or in part, on credit information for the purposes of predicting the future insurance loss exposure of an individual applicant or insured.

(l) "Personal insurance" means private passenger automobile, homeowners, motorcycle, mobile homeowners and non-commercial dwelling fire insurance policies and boat, personal water craft, snowmobile and recreational vehicle policies. For purposes of this act, personal insurance shall include farmowners insurance.

Sec. 4. No insurer authorized to do business in the state of Kansas which uses credit information to underwrite or rate risks, shall:

(a) Use an insurance score that is calculated using income, address, zip code, race, religion, color, sex, disability, national origin, ancestry or marital status of the consumer as a factor.

(b) Without consideration of any other applicable underwriting factor independent of credit information and not expressly prohibited by subsection (a), deny, cancel or refuse to renew any policy of personal insurance ~~solely~~ primarily on the basis of credit information.

(c) Without consideration of any other applicable factor independent of credit information, base an insured's renewal rates for personal insurance ~~solely~~ primarily upon credit information.

(d) Without consideration of any other applicable factor independent of credit information, take an adverse action against a consumer solely because such consumer does not have a credit card account ~~or has an inadequate credit history.~~ delete

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

(1) Treat the consumer as if the applicant or insured had neutral credit information, as defined by the insurer; or

(2) exclude the use of credit information as a factor and use only other underwriting criteria.

(f) Take an allowed adverse action against a consumer based on credit information, unless an insurer obtains and uses a credit report issued or an insurance score calculated within 90 days from the date the personal insurance policy is first written or ~~renewed.~~ notice of renewal is issued

(g) Use credit information unless not later than every 36 months following the last time that the insurer obtained current credit information for the insured, the insurer recalculates the insurance score or obtains an updated credit report.

(h) Use any of the following as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy of personal insurance:

(1) Any credit inquiry not initiated by the consumer or any inquiry requested by the consumer for such consumer's own credit information;

(2) any inquiry relating to insurance coverage, if so identified on a consumer's credit report;

(3) any collection account with a medical industry code, if so identified on the consumer's credit report;

(4) any additional lender inquiry beyond the first such inquiry related to the same loan purpose, if coded by the consumer reporting agency on the consumer's credit report as being from the given loan industry and made within 30 days of one another.

(i) Regardless of the requirements of subsection (g):

(A) At annual renewal the insurer shall re-underwrite and rerate the consumer's personal insurance policy based upon a current credit report or insurance score for such consumer if requested by the consumer. The current credit report or insurance score shall be used if it reduces the consumer's rate but may not be used to increase the rate. An insurer need not recalculate the insurance score or obtain the updated credit report of a consumer more frequently than once in a twelve-month period.

~~(B)~~ ~~The insurer shall have the discretion to obtain current credit information upon any renewal before the 36 months, if consistent with such insurer's underwriting guidelines.~~

Once every 36 months, the insurer may obtain current credit information for the insured ~~or~~ and recalculate the insurance score and may increase or reduce the rate based on the current insurance score, as appropriate

(C) Notwithstanding the requirements of paragraph (1) of subsection (g), no insurer shall be required to obtain current credit information for an insured, if:

(i) The insured is in the most favorably-priced tier of the insurer, within a group of affiliated insurers. However, the insurer shall have the discretion to order such report, if consistent with such insurer's underwriting guidelines;

(ii) credit was not used for underwriting or rating such insured when the policy was initially written. However, the insurer shall have the discretion to use credit for underwriting or rating such insured upon renewal, if consistent with such insurer's underwriting guidelines; or

(iii) The insurer re-evaluates the insured beginning no later than 36 months after inception and thereafter based upon other underwriting or rating factors, excluding credit information.

Sec. 5. (a) If it is determined through the dispute resolution process set forth in the federal fair credit reporting act, 15 USC 1681i(a)(5), ~~as in existence on the effective date of this act~~, that the credit information of a current insured was incorrect or incomplete and if the insurer receives notice of such determination from either the consumer reporting agency or from the insured, the insurer shall re-underwrite and rerate the consumer within 30 days of receiving the notice. After re-underwriting or rerating the insured, the insurer shall make any adjustments necessary, consistent with such insurer's underwriting and rating guidelines.

delete (allows current version to apply)

(b) If an insurer determines that the insured has overpaid premium, the insurer shall refund to the insured the amount of overpayment calculated back to the shorter of either the last 12 months of coverage or the actual policy period.

Sec. 6. If an insurer writing personal insurance uses credit information in underwriting or rating a consumer, the insurer or its agent shall disclose that it may obtain credit information in connection with such application. The disclosure shall be made either on the insurance application or at the time the insurance application is taken. Such disclosure shall be either written or provided to an applicant in the same medium as the application for insurance.

Sec. 7. (a) If an insurer takes an adverse action based upon credit information, the insurer shall provide written notification to the consumer ~~a notice~~ that:

delete (redundant)

(1) An adverse action has been taken, in accordance with the requirements of the federal fair credit reporting act as set forth in, 15 USC 1681m(a) ~~as in existence on the effective date of this act,~~ and

delete (allows current version to apply)

(2) explains the reason for the such adverse action.

(b) Each reason must be provided in sufficiently clear and specific language so that a person can identify the basis for the insurer's decision to take such adverse action.

(c) The notification required by this section shall include a description of ~~up to four~~ factors that ~~were the primary~~ influences of the adverse

account for a majority of the

the

action. The use of generalized terms such as "poor credit history," "poor credit rating," or "poor insurance score" shall be deemed not to comply with requirements of this section.

a ~~reasonably~~ consumer should be able to understand why this insurance score is what it is and how they can improve ~~positively affect~~ it.

(d)

Sec. 8. Each insurer that uses insurance scores to underwrite and rate risks shall file such insurer's scoring models or other scoring processes with the insurance department. A third party may file such third party's scoring models or other scoring processes used on behalf of an insurer with the insurance department. Any filing that includes insurance scoring may include loss experience justifying the use of credit information. Any filing relating to credit information shall be considered to be a trade secret under the open record act.

Sec. 9. (a) An insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of an agent who obtains or uses credit information or insurance scores, or both, for an insurer.

(b) The provisions of subsection (a) shall not be available whenever the agent fails to:

(1) Follow the instructions of or procedures established by the insurer; and

(2) comply with any applicable law or regulation.

(c) Nothing in this section shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this section.

Sec. 10. (a) No consumer reporting agency shall provide or sell data or lists that include any information, in whole or in part, which was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. Such information includes, but is not limited to:

(1) The expiration date of an insurance policy or any other information that may identify any time period during which a consumer's insurance may expire; and

(2) the terms and conditions of the consumer's insurance coverage.

(b) The restrictions provided in subsection (a) of this section do not apply to:

(1) Any data or list the consumer reporting agency supplies to the insurance agent from whom information was received;

(2) the insurer for whom such agent acted; or

(3) such insurer's affiliates or holding companies.

(c) Nothing in this section shall be construed to prohibit or restrict any insurer from obtaining a claims history report or a motor vehicle report.

Sec. 11. (a) If any provision of this act is declared invalid due to an interpretation of or a future change in the federal fair credit reporting act, the remaining portions of the act shall be deemed to be severable and shall remain in full force and effect.

(b) If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec 12 (Unfair Trade Secrets Act Applies)

Sec. ~~12~~13 This act shall take effect and be in force from and after its publication in the statute book.

Helpful Terms

The following terms are helpful in understanding the dispute resolution procedures flowchart:

- **Credit Reporting Agency.** A credit reporting agency (also known as a credit bureau) is a company that maintains consumer credit information. The three main credit reporting systems in the United States are Equifax, Experian, and Trans Union. There are many local credit bureaus, as well—you may find your local bureau in the phone book. Credit reporting agencies provide credit information to banks, credit card companies, lenders, or others when you apply for credit. Credit reporting agencies do not determine whether you will be granted credit or at what interest rate; they merely provide the information necessary to enable a credit grantor to make a lending decision.

- **Data Furnisher.** A data furnisher is a person or company that provides your credit data to a consumer reporting agency (also known as a credit bureau). A data furnisher can be a credit card company or a bank that services your mortgage, car loan, student loan, or other loan. A data furnisher can also be a collection agency or a court clerk that provides information on liens, judgments, and bankruptcies.

- **Credit Grantor.** A company or person that grants credit, such as a bank or retailer.

To Request a Copy of Your Credit Report

- **Equifax** 1-800-685-1111
- **Experian** 1-888-397-3742
- **Trans Union** 1-800-888-4213
- Consult a phone book for your local credit bureau.

T… t of receiving pre-approved credit card offers, ca… 8-5-OPT-OUT.

2000 Consumer Education Awards
National Association of Consumer Agency Administrators
WINNER
Print Media–Private Sector Category

Associated Credit Bureaus
1090 Vermont Avenue, NW
Suite 200
Washington, DC 20005

The Credit Reporting Dispute Resolution Process

The federal Fair Credit Reporting Act (FCRA) governs credit reporting agencies, also known as credit bureaus, as well as credit grantors and data furnishers. If you dispute the accuracy of any piece of information in a credit report, you can dispute that information directly with a credit reporting agency. Once a dispute is received by a credit reporting agency, the credit reporting agency and the data furnisher must follow certain procedures to reinvestigate that dispute in a set period of time.

The flowchart on the inside of this brochure is designed to help you better understand the dispute resolution process and contains definitions of important terms that will better aid the reading of the flowchart. This brochure contains helpful hints for avoiding a common credit scam—credit repair. Finally, this brochure will direct you to two important resources where you can go for further information about credit reporting.

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attachment 4

Associated Credit Bureaus

Associated Credit Bureaus

Associated Credit Bureaus (ACB) is the national trade association that represents credit reporting and mortgage reporting companies, as well as residential and employment screening companies and collections agencies.

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ATTACHMENT 4

For more information:

Associated Credit Bureaus
1090 Vermont Avenue, NW, Suite 200
Washington, DC 20005
(202) 371-0910
http://www.acb-credit.com

Federal Trade Commission
601 Pennsylvania Avenue, NW
Washington, DC 20580
(202) 326-2222
http://www.ftc.gov

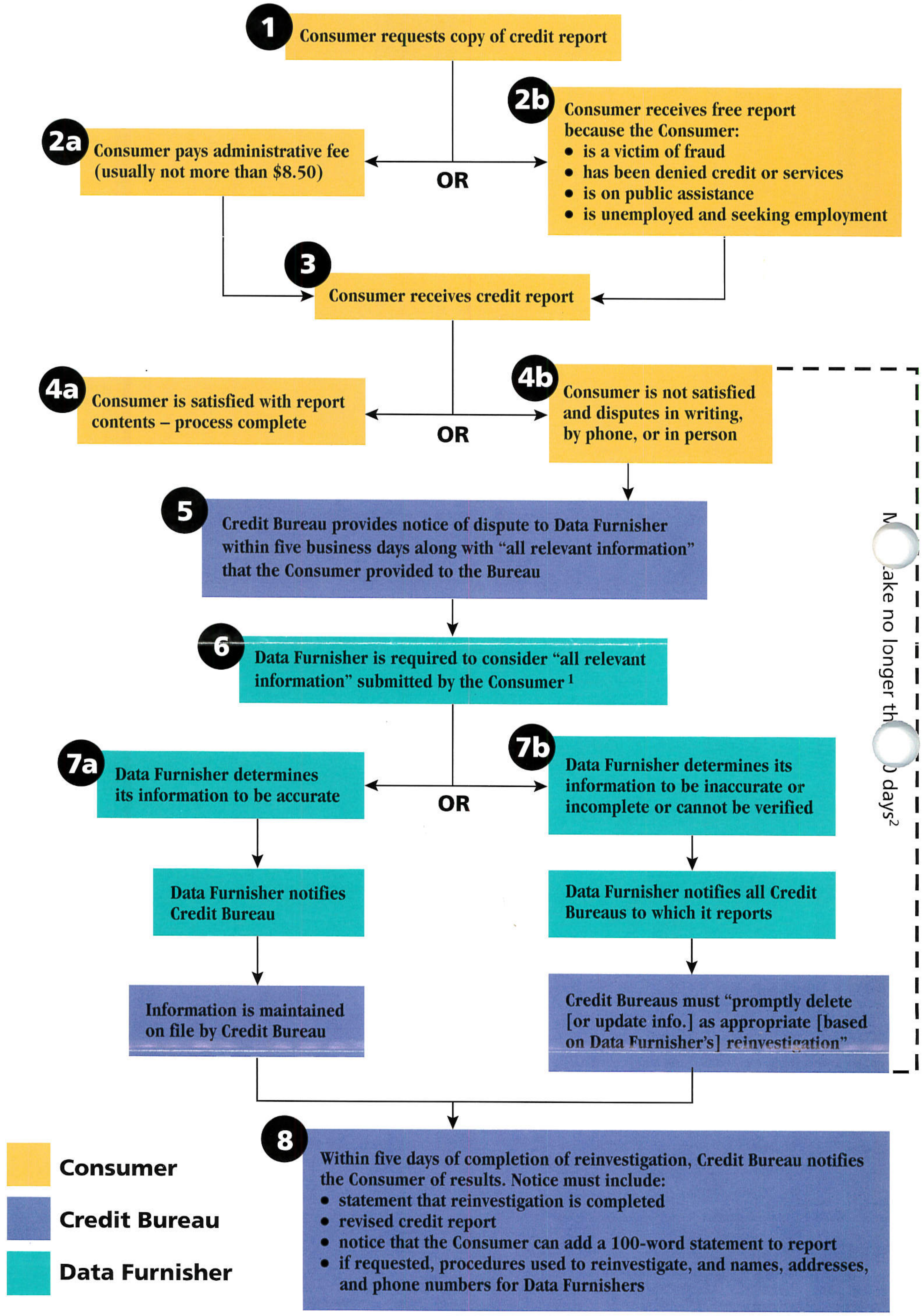
Beware of Credit Repair Scams

If you wish to dispute an item on your credit report with a credit reporting agency, you are entitled to do so for free. A credit reporting agency will reinvestigate the dispute for free and, if applicable, issue you a revised credit report for free.

Credit repair organizations often promise to remove accurate information for a fee. But the Federal Trade Commission says, "the truth is, they can't deliver . . . Everything a credit repair clinic can do for you legally, you can do for yourself at little or no cost."

If you choose to use a credit repair agency, the organization must comply with the Credit Repair Organizations Act and must issue a disclosure document and a written contract to you. Further, they cannot request a fee in advance of services rendered. Finally, because the FTC says that "self help may be the best help," you should consider checking with the FTC before you use a credit repair organization.

Summary of Procedures for Disputing the Accuracy of a Credit Report



[1] Federal law prohibits Data Furnishers from reporting information to a Credit Bureau if the Data Furnisher has actual knowledge of the inaccuracy of the information. Federal law further prohibits Data Furnishers from providing disputed information to Credit Bureaus unless it also notifies the Bureaus that such ation is in dispute.

[2] The s cannot take more than 45 days when the Consumer forwards additional information to the Credit Bureau. 4-2