

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 17, 2003 in Room 234-N of the Capitol.

All members were present except: Senator Barnett, excused; Senator Atkins, excused; Senator Brumgardt, excused.

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: Karen Hiller, HCCI
Martha Neu Smith, Ks. Mfg. Housing
Barb Conant, KS Trial Lawyers

Others attending: See attached list

Senator Teichman introduced Karen Hiller, Executive Director of Housing and Credit Counseling, Inc. She is an opponent of the bill. (See Attachment 1)
She gave several examples of people this bill might harmful to.

Martha Neu Smith, Executive Director, Kansas Mfg. Housing.
The members of KMHA Oppose **SB 144**. (See attachment)

Barb Conant, Kansas Trial Lawyers Association
Ms. Conant's organization (KTLA) represents consumers and advocates for the safety of families and the preservation of the civil justice system. KTLA opposes **SB 144**. (See attachment)
There are many questions and concerns surrounding the practice of insurance credit scores. We are just beginning to become aware of a practice that seems to defy common sense. Until the process behind the practice is open for public scrutiny, consumers cannot be sure that their best interests are being protected.

Brad Smoot, who appeared before the committee on 02-13-03 was given an opportunity to answer any questions about his testimony. No questions were forthcoming.

Meeting adjourned.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

GUEST LIST

DATE: 2-17-03

NAME	REPRESENTING
Tom Cochran	C/DIA
Don Murphy	Ty
Kwan Hill	Flamingo Credit Corp Inc
Martha Ann Smith	KMHHA
Chris Wilson	KS Building Industry Ass'n
Bill Sneed	State Farm
J. (Mr) Bunton	KID
Jerry Ueese	KID
Kevin Davis	Am. Family Ins.
Bob Covert	KTTA
Karen Amherst	Alliance
LARRY MAGILL	KAIA

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Karen Hiller

2-17-03

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MEMBER

ACCREDITED



COUNCIL ON ACCREDITATION
OF SERVICES FOR FAMILIES
AND CHILDREN, INC.



HUD Comprehensive
Counseling Agency



United Ways of
Greater Topeka, Douglas, Flint Hills
and Riley Counties

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Testimony Re: SB 144
Senate Financial Institutions and Insurance Committee
Housing and Credit Counseling, Inc., Karen Hiller, Executive Director

February 17, 2003

Housing and Credit Counseling, Inc. cannot support SB 144 as proposed and, based on information available, cannot support the use of credit scoring in relation to insurance rates at all. Regulating this practice would be costly to the State and unnecessarily burdensome to Kansas consumers and insurance professionals.

Housing and Credit Counseling, Inc. is a nonprofit human service agency which serves over 10,000 people per year in Kansas. Thank you for an opportunity to "put a face on" the consumers who are adversely affected by the practice of charging higher rates to people who appear credit impaired and to share some facts and questions.

100% of our 3000+ Consumer Credit Counseling clients would likely be included in the 30% of customers group that the industry would charge higher rates. We asked our counselors to put together some examples of who credit-impaired customers might be – and we did not find a list of people who are more likely to file claims. (Sample list attached.)

The insurance industry's claim that studies demonstrating that customers with credit "dings" are greater risks should be challenged.

According to the industry's brochure promoting this practice, the expectation is not that our clients would have more incidents with their homes or care, but simply that they would file claims. Isn't that what insurance is for?

Further, the expectation that this group would file more claims should be challenged. For one thing, if you knew you were being charged a 25% higher premium than others, wouldn't you file all possible claims to get your money's worth? On the other hand, our clients rarely talk about filing insurance claims and when they do it is often in the context of not filing claims because they are beaten down and are afraid that their rates will go up or they will be cancelled.

You need to know what the rate differentials are for credit-impaired consumers. The example we have been given is someone going from a "C" to a "D" rating and having a \$200 per year premium increase. That is a lot of money.

The credit industry itself, supported by studies by Consumer Reports and the Public Interest Research Group, reports that 79% of credit reports contain at

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least some error and 29% contain major erroneous information. The National Credit Reporting Association reported in 2001 that scores from different reporting agencies can vary by 100 points – major! That means that at least 1/3 of insurance consumers who are advised that their rates will be higher due to their credit scores will have to contact their agents, the companies and/or ask for assistance from the State to secure fair rates. Should everyone have to go through that, particularly if there are questions about validity of the process anyway?

The fact that scoring formulas are proposed to be secret is regressive public policy. Because of public pressure, the real estate lending industry, where credit worthiness IS an appropriate factor to consider, has gone to full disclosure and is thriving. The need to evaluate and handle complaints on these secret formulas will cause an undue cost burden on the State of Kansas and an unnecessary burden on Kansas consumers and insurance professionals.

Are insurance companies doing business and thriving in states where the use of credit scoring is banned? We think you will find that they are.

SHOULD THESE PEOPLE PAY HIGHER AUTO AND HOMEOWNERS INSURANCE RATES IN KANSAS BECAUSE OF THEIR CREDIT????

Elderly woman, no living relatives, always paid bills on time – laid up in hospital and nursing facility, no bills paid for 3 months – forty years of timely payments means nothing – and does this mean she is more likely to make an auto or homeowners claim??

Married man, two children, good job, always excellent credit – company downsized, child ill, wife couldn't handle things – over a year, bill payments terrible – things now getting better

Young man, good job, excellent savings, never paid a bill late in his life – discovers that a collections account that does not belong to him is on his report and that his brother was late three times on a debt he had co-signed

Middle-aged woman with two teenagers, divorced, struggling, rents in assisted housing, credit score adversely affected by ex-husband's use of credit, can't get it off her credit report – only car accident she's ever had was when her car was hit while parked

Young person, accumulated credit card debt and student loans in college – first job, reality of responsibilities hits – some missed payments and slow pays – has gone to Consumer Credit Counseling and now has a budget and is paying regularly on a negotiated plan

Elderly woman, no living relatives, always paid bills on time, always healthy – falls in love, runs off with a gentleman from the retirement community, doesn't pay bills for three months – now back and settled down – to consider her insurability in relation to her credit is ludicrous

Others who could be harmed by the credit scoring practice as currently described:

Victims of Identity Fraud

Victims of Credit Card Theft

People who Owe Back Taxes, for whatever reason

People who have no credit (though the bill says they will not be harmed)

*** credit for these scenarios goes to staff counselors at Consumer Credit Counseling Service (CCCS) offices in Topeka and Lawrence – CCCS is a division of Housing and Credit Counseling, Inc. of Topeka**

February 2003



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**TESTIMONY BEFORE THE
SENATE
FINANCIAL INSTITUTIONS AND INSURANCE**

TO: Senator Ruth Teichman, Chairwoman
And Members of the Committee

FROM: Martha Neu Smith, Executive Director

DATE: February 13, 2003

RE: SB 144 – Insurance Credit Scoring

Madam Chair and members of the Committee my name is Martha Neu Smith and I am the executive director of the Kansas Manufactured Housing Association (KMHA). KMHA is a statewide trade association representing all facets of the manufactured housing industry.

Thank you for the opportunity to comment.

The members of KMHA oppose SB 144, but more importantly they oppose the use of insurance credit scoring in Kansas and are asking you to ban the practice. The reasons for our opposition are fairly simple.

First, the fact that there is no way for a consumer to find out what an insurance credit score measures, because the way they are calculated is a "trade secret". Second, the insurance credit score is calculated based on information found on an individual's credit report, which has been known to contain inaccurate information on a regular basis. And third, how can we be sure insurance credit scoring is not being used to discriminate against a certain segment of today's society?

Fundamental to the discussion of auto and homeowners insurance is recognizing the essential nature of these products. Being able to drive means you can commute to a job, go to a grocery store, take your kids to school or the doctor – essentially, driving means you can function in the Kansas economy. Not to mention, Kansas' law requires auto liability insurance.

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Mortgage lenders require homeowners insurance. In addition to paying the note and taxes, homeowners insurance is a requirement for virtually all mortgage agreements. Homeowners insurance is the way families assure themselves they have a place to live should they experience a catastrophic event like a fire or severe storm. More fundamentally, it is the way families protect their single most important asset – their home and the equity they have accumulated in it.

There are only a handful of products and services that have similar importance to families as auto and homeowners insurance. That is why the availability and cost of these products have been the subject of state regulatory oversight for years.

By now I am sure you have heard what insurance credit scoring is all about. An insurance credit score is determined by running information found on your consumer credit report through a secret insurance industry formula. Other entities like banks and mortgage companies also use credit history to determine credit worthiness, but the lending credit score is not the same as an insurance credit score. The insurance industry has created their own way to compute a credit score, and they have kept the formulas top secret. For the consumer this is like being required to play a game, but never given the rules. How can the consumer possibly win?

Not knowing the elements of the formula only makes consumers more suspicious. Claiming confidentiality, the data insurers say justify the use of credit scoring and the factors are not released to the public – the claims of confidentiality undermine consumer confidence. More importantly, for essential kinds of insurance coverage like homeowners and auto insurance, it is unacceptable that insurers hide behind a claim of confidentiality.

The second reason KMHA would like insurance credit scoring banned, is the issue that your score is based on information contained in your individual credit reports that may or may not be accurate. Several organizations have conducted studies and surveys to measure the frequency of credit report errors. The results:

A 1998 study by the Public Interest Research Group called Mistakes Do Happen found that 29% of the credit report reviewed contained serious errors that could clearly result in the denial of credit or other benefits. For this study, “serious” errors would include: accounts that are incorrectly marked “delinquent”; credit reports that contained credit accounts that do not belong to the consumer, and reports listing public records or judgments that belong to someone else.

Consumers Union conducted two surveys on credit reports in which consumers were asked to review their credit reports for accuracy. The 2000 survey found that more than 50% of credit reports contained inaccuracies with the potential to result in a denial, or a higher cost of credit. The errors included mistaken

identities, misapplied charges, uncorrected errors, misleading information, and variation between information reported by the various credit repositories.

The Consumer Federation of America also conducted an analysis and found similar problems with accuracy. What I haven't found is a study by anyone that demonstrates the accuracy and dependability of information contained in credit reports.

Again, another reason KMHA would like insurance credit scoring banned

Third, how can consumers be sure that insurance credit scoring is not being used to discriminate against a segment of society? I realize that SB 144 requires the insurers to file their methodology with the Insurance Department; however, by just examining their methods will not produce proof that insurance credit scoring doesn't discriminate. Only through full disclosure or the constant collection and close examination of data will reveal any flaws in the system.

For example the State of Maryland did a study on the impact of credit scoring on lower-income or minority consumers. The study examined two zip codes, one low-income, higher minority, the other, high income, and low minority.

In examining the credit score distributions of the two areas, not surprisingly, the lower income area had a higher occurrence of lower scores, and fewer higher scores. The study points out the problem that insurance credit scoring creates for those who may already have difficulty affording insurance and supports arguments that insurers use credit scoring as a way to identify higher income customers. (Attached)

Another example of why an insurer filing their methodology is not enough can be seen in what happened in the State of Hawaii. Hawaii essentially prohibits the use of credit information in the underwriting of auto insurance, however, in the April 3 edition of the Honolulu Advertiser, it was announced that seven auto insurers recently agreed to pay more than \$115,000 in fines for illegally using criteria (including credit histories) barred under state law. The announcement followed a department investigation that began in August 2001. The companies fined represent nearly 2/3 of the auto market, and the fines ranged from \$5500 to \$40,000. Fines against four additional companies are still pending resolution, and the department has suggested that it might seek fines for each policy violation if insurers dispute the initial fines.

Clearly filing methodology for the Department's review is not enough. If the practice is not banned how can consumers be sure this isn't the case in Kansas? If the practice is not banned then full disclosure is the only answer.

In closing, I respectfully ask you to ban the practice of insurance credit scoring and take a step to protect Kansas' consumers. As one insurance company's

slogan says "you're in good hands with ...". The citizens of Kansas deserve to know what's in those hands.

Again, thank you for the opportunity to comment.

Attachment

Maryland Department of Insurance Findings

This information is compiled in the Maryland Insurance Department's Use of Credit History by Insurers by Steve B. Larsen in 2002.

I'll let these numbers speak for themselves.

Exhibit D - Demographic Data on Credit Scores, Race, and Income

Zip Code	21210	21217
Median Household Income	\$45,998.00	\$14,813.00

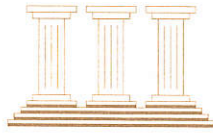
Population Composition

White	12,002	3,665
Minority	265	48,072
Average Insurance Premium	\$972.00	\$1,357.00

Credit Ranges

297-600	7.6%	31.4%
601-700	35.4%	43.6%
701-825 (The "700 Club")	45.7%	18.2%
826-997	11.5%	5.6%

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KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

TO: Members of the Senate Committee on Financial Institutions and Insurance

FROM: Barb Conant
Kansas Trial Lawyers Association

RE: 2003 SB 144/Insurance Credit Score

DATE: Feb. 13, 2003

Chairman Teichman and members of the Senate Committee on Financial Institutions and Insurance, I am Barb Conant, director of public affairs for the Kansas Trial Lawyers Association (KTLA). KTLA is a statewide, nonprofit organization of lawyers who represent consumers and advocate for the safety of families and the preservation of the civil justice system. We appreciate the opportunity to appear before you today in opposition to SB 144.

As advocates for consumers, KTLA monitors national consumer issues as well as those that impact the civil justice system. As legislative and public awareness about the practice of insurance credit scoring has grown, consumer groups and state regulators across the country have sounded alarms about the risks that the practice of insurance credit scoring places on consumers. Those alarms concern the secret process under which credit scores are calculated which leads to discrimination and does not assure consumers that their insurance credit scores are accurate or fairly applied. For those reasons we oppose SB 144.

No one disagrees that credit information is extremely sensitive data. It is a reflection of our reputation, our trustworthiness and deserves our most diligent protection. Most Kansans are not aware that insurance companies are using their data to set the price of their homeowners' and automobile insurance. They probably won't be aware of the practice of credit scoring until they are denied coverage or are faced with a huge increase in their premiums.

If legislation is passed in Kansas to allow the practice of insurance credit scoring, it should provide Kansas with strong consumer protections and should demand public disclosure of insurance credit score formulas and the factors considered in the calculation. SB 144 keeps the process secret, offers minimal consumer protections and does not yet include education requirements.

Currently, consumers are completely in the dark about the underwriting factors used by insurance companies to create a credit score. There is no way to know for sure what insurance credit scores measure because the insurance companies refuse to reveal this information. They claim that the equation is an accurate predictor of your insurance. But how does your credit history predict that you will be involved in an auto accident? How does your credit information predict that your basement will flood or your house will be damaged by hail?

Terry Humphrey, Executive Director

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Since the insurance credit score process is cloaked in secrecy, we cannot be sure that the insurance credit scores are not being used to discriminate against certain groups of people. At particular risk of being harmed by the practice are senior citizens, minorities, small business owners, people with little-to-no credit history, victims of identity theft, people who have been laid off, divorced and those who have had a medical catastrophe. These are individuals who may use cash instead of credit cards, have never taken out a large loan or who have been forced to depend on credit to meet their family's financial needs.

Since the insurance credit score process is cloaked in secrecy, we cannot be sure that the information used is accurate. The U.S. Public Interest Research Group (PIRG), a state-based non-profit, non-partisan, consumer and environmental watchdog group, has studied the accuracy of consumer credit reports. In its most recent report, *Mistakes Do Happen*, PIRG found that 29% of credit reports surveyed contained errors serious enough to cause the denial of credit, insurance, employment or other benefits. Consumers Union, publishers of *Consumer Reports Magazine*, found similar results in its studies.

Since the insurance credit score process is cloaked in secrecy, detecting errors can be difficult at best. When errors are discovered, there should be a process in place for consumers to appeal the decision of the insurance company. SB 144 does not contain an appeals process for consumers.

Since the insurance credit score process is cloaked in secrecy, consumers are uninformed about how their personal information is used, how it relates to the likelihood that they will file a claim or exactly how the credit score affected their insurance premiums. SB 144 only requires an insurance company to disclose to consumers that it **may** use credit information in determining rates. It does not require the insurance company to publicly educate consumers about the practice or its use. More importantly, when a credit score adversely affects a person's premiums there is no requirement that the consumer be given adequate information or educated about its impact.

If legislation is passed in Kansas to allow the practice of insurance credit scoring, it should include strong enforcement mechanisms to assure that the insurance companies comply with Kansas law. Not only does SB 144 not contain enforcement provisions, it expressly denies consumers a private right of action. Enforcement should include requiring insurance companies to make public the models, factors and criteria used in determining the scores. Under SB 144, insurance companies are only required to file that information with the Insurance Commissioner. There is no requirement that the information be analyzed or audited by the Department of Insurance to guarantee that it is being used appropriately and fairly. There are no penalty provisions in SB 144 for companies which do not comply with Kansas law.

There are many questions and concerns surrounding the practice of insurance credit scores. We are just beginning to become aware of a practice that seems to defy common sense. Until the process behind the practice is open for public scrutiny, consumers cannot be sure that their best interests are being protected. SB 144 maintains the secrecy that creates our questions and our distrust about the practice. Until that cloak of secrecy is removed, we cannot be assured that consumers are well protected and that financially vulnerable Kansans are not put at an additional risk. For those reasons, we urge the committee to oppose SB 144.