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 2-18-03 in Room 234-N of the Capitol.

All members were present except: Senator David Adkins, Excused

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

Conferees appearing before the committee: Barbara Conant
Karen Hiller
Larry McGill
Martha Smith

Others attending: See attached list

Senator Feleciano was introduced to speak on his bill **SB 176**
His preference is to outlaw credit scoring. However, this will not happen, so we need to provide some balance to an issue that is critical to the citizens of this state. I believe that my bill goes a long ways toward doing this. He provided the committee with a comprehensive spread sheet to compare the different models of possible bills for credit scoring.
SB 176 would regulate the use of credit reports and insurance scores by insurance providers.
It would prohibit the use of insurance scores or credit information that is based on an individual's race, color, creed, religion, national origin, age, gender, marital status, occupation or physical or mental impairment. (See attachment 1)

Barb Conant, Kansas Trial Lawyers Association . She spoke in support of **SB 176.** (See attachment 2) KTLA supports legislative efforts that ensure the safety of products and services that Kansans rely on and enjoy. Under **SB 176** the practice of insurance credit scoring is open for regulatory and public scrutiny. KTLA believes that if legislation is passed in Kansas, the process behind the practice of insurance credit scoring must be open for public and regulatory scrutiny and study.

Karen Hiller, Executive Director of Housing and Credit Counseling, Inc. spoke in opposition to **SB 176.** (See attachment 3)

Martha Neu Smith, Executive Director of Kansas Mfg. Housing Assc. , gave testimony on **SB 176** (See attachment 4) She took a neutral position on the bill.

Larry Magill, Kansas Association of Insurance Agents.(See attachment 5) He spoke as a proponent of the bill. Based on the huge response to our fax-back survey in November and the calls and comments of members, they overwhelmingly support seeking reasonable statutory or regulatory control over credit scoring in Kansas.

Bruce White,Vice President of Underwriting for Farmers Alliance Mutual Insurance Company. Spoke as a proponent for **SB 144.** (See attachment 6) He stated that his company is opposed to including farm in this proposed legislation. Farm insurance is labeled as commercial lines insurance in Kansas and by including it in this legislation would blur the distinction between commercial lines and personal lines. The bottom line is that credit-based insurance scoring has been proven to be one of the most effective tools when coupled with underwriting criteria to predict the likelihood of future losses.

Bill Sneed, Legislative Counsel, State Farm Insurance Companies.(See attachment 7, 7a,7b) Written testimony. He testified as a proponent for **SB 144.** He stated that Credit-based insurance scoring uses a variety of factors, not just credit information. It predicts future insurance losses **not lending risks.**

Gary Bates, Kansas Assistive Technology Cooperative (See attachment 8) opponent to **SB 144.**

Mike McGrew , Chairman of the Insurance Credit Scoring Task Force. As chairman, Mr. McGrew is satisfied that **SB 144** of the task force report. It follows the recommendations is a good beginning for regulating insurance credit scoring and providing a healthy insurance market in Kansas. (See attachment 9)

Gina McDonald, Kansas Assoc. Of Centers for Independent Living (KACIL). We are in opposition of **SB 144** . (See attachment 10)

Meeting Adjourned

ADDITIONAL ATTACHMENT: # 11 - BILL YANEK, KS ASSOC. OF REALTORS

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

GUEST LIST

DATE: 2/18/03

NAME	REPRESENTING
Dan Murphy	TK
Ron Gaches	CDIA
Mike McGrew	ICS Task Force
Bill Sneed	State Farm
Karen Hiller	HCCF
[illegible] Wells	KID
[illegible]	KID
[illegible]	KID
BILL YANEK	Kansas Assn of REALTORS
Bill Henry	KCUA
Kevin Davis	Am. Family Ins
Karen Flesch	Myself
Linda [illegible]	Former employee of KS Ins Dept
Cheryl [illegible]	Coventry Health Care
Martha [illegible] Smith	KMHA
[illegible]	Sen. Brungardt
Jennifer Schwartz	ATK
Gary D. Betts	KATCO
[illegible]	Alliance

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

GUEST LIST

DATE: 2-18-03

NAME	REPRESENTING
Brad Bryant	KTLA
Robert E. Miller	Farmers Alliance
Bernie White	Farmers Alliance
Lee Wright	Farmers Ins.
Donald Hanson	Ks Insur Assns / NAII
Brad Smoot	AIA

SEN FI+I
2-18-03
ATTACHMENT 1

SECTIONS (from Feliciano Bill)	FELICIANO	PRAGER	NCOIL
Short Title	Sec. 1 Limitations on Use of Credit Information or Insurance Scoring Act	Sec. 1 Kansas Insurance Scoring Act	Sec. 1 Model Act Regarding Use of Credit Information in Personal Insurance
Purpose; Construction ***Protect consumer** ***create Safeguards** ***enforce safeguards** ***provide Appeal** ***dmgs & sanctions** ***Construe Liberally**	Sec. 2 Absent a complete ban, to prevent insurers from using credit information to accomplish results prohibited by law or to discriminate against consumers; to create and enforce stringent safeguards regarding use of credit information	**None Stated.**	Sec. 2 Regulate use of credit information for personal insurance, to provide consumers with certain protection regarding use of such information

Senate F I & I Committee
Meeting Date: 2-18-01
Attachment No.: 1

Scope ***Apply only to** *** personal** *** family** *** household** ***Non-exclusive list**	<u>Sec. 3</u> 1. Applies to personal, family, household use insurance. 2. Includes, not limited to: private passenger auto, personal inland marine, personal liability, theft, dwelling property, homeowners (including manufactured homes and condos), mobile home, non-commercial dwelling fire, mechanical breakdown, earthquake for personal property or residence.	<u>Sec. 2</u> 1. Applies to personal, family, or household use insurance only and not to commercial. 2. Each policy written individually. 3. No other type of insurance included.	<u>Sec. 3</u> 1. Applies to personal, family, or household use insurance only, meaning private passenger auto, homeowners, motorcycle, mobile home, non-commercial dwelling fire, boat, personal watercraft, snowmobile, recreations vehicle. 2. Each policy underwritten individually. 3. No other type of insurance included.

Definitions * All bills similar	<u>Sec. 4</u> Adverse Action Affiliate Applicant Consumer Consumer Reporting Agency Credit History or Consumer Report Credit Scoring or Insurance Scoring Insured Insurance Score Rating Tier Underwriting	<u>Sec. 3</u> Adverse Action Affiliate Agent Applicant Commissioner Consumer Consumer Reporting Agency Credit Information Credit Report Department Insurance Score Personal Insurance	<u>Sec. 4</u> Adverse Action Affiliate Applicant Consumer Consumer Reporting Agency Credit Information Credit Report Insurance Score

7-1

Use of Consumer Reports or Insurance Scoring	<u>Sec. 5</u> An authorized insurer in KS **cannot**:	<u>Sec. 4</u> An authorized insurer in KS using credit info to underwrite or rate **shall not:**	<u>Sec. 5</u> An authorized insurer in KS using credit info to underwrite or rate **shall not:**
*** limit negative use of credit info**	1. **Similar** to Prager/Model: (a) Can't Use as negative factors on **new** policies: (1) age, sex, demographics, religion, marital status, nationality, absence of credit history, inability to calculate score, lack of credit card, medical collection accounts, multiple credit inquiries regardless the subject matter, non-consumer-initiated inquiries, consumer-initiated inquires.	1. **Similar** to Limits Bill: (a) Can't use as negative factors on **any** policy, including renewals: (1) age, sex, demographics, religion, marital status, nationality, absence of credit history, inability to calculate score, lack of credit card, medical collection accounts, inquiries related to insurance, multiple inquiries for loans, non-consumer-initiated inquiries, consumer-initiated inquires.	1. **Similar** to Limits Bill: (a) Can't use as negative factors on **any** policy, including renewals: (1) age, sex, demographics, religion, marital status, nationality, absence of credit history, inability to calculate score, lack of credit card, medical collection accounts, inquiries related to insurance, multiple inquiries for loans, non-consumer-initiated inquiries, consumer-initiated inquires.
	2. **Differs** from Prager/Model:	2. **Different** from Limits Bill:	2. **Different** from Limits Bill:
***additional factors**	(a) Sec. 5(B): * <u>Can't use as negative factors on new policies:</u> *identity theft victim, *fraud alert status, *impact from divorce, *bad credit of former spouse.	**No such provision**	**No such provision**

[*Use of Consumer Reports or Insurance Scoring*, cont'd]	[<u>Sec. 5, cont'd</u>]	[<u>Sec. 4, cont'd</u>]	[<u>Sec. 5, cont'd</u>]
* **no renewals**	Sec. 5(B)(2) Can't use for renewals.	Sec. 4(i)(A) **mandates credit use to rewrite and re-rate renewals but no more than 2x per year**	Sec. 5(G)(1.) **mandates credit use to rewrite and re-rate renewals** ***at request of consumer or agent*** **but no more than 2x per year**
* **scoring models and criteria –** **– file, make public**	Sec. 5(B) * Insurer Must publicize underwriting/rating models, factors, criteria, guidelines.	Sec. 8. File with commissioner.	Sec. 9. File with commissioner.
	* Commissioner must approve publicized models, factors, criteria, guidelines.	**No such provision**	**No such provision**
	* Publicized models, etc., subject to Open Records Act.	Sec. 8. Filings remain trade secret.	Sec. 9. Filings remain trade secret.

[*Use of Consumer Reports or Insurance Scoring*, cont'd] * **inform applicant or insured of** ***how info used** ***how info affects decision** ***how info relates to likelihood of claims**	[Sec. 5. cont'd] <u>Sec. 5(B)(1.) and (5.)</u> * <u>Insurers using credit info must detail to applicant or insured about how</u> * credit info is used * credit info affects insurer's decisions * credit info/manner of its use relates to/predicts likelihood of claims against insurance.	<u>Sec. 6.</u> Insurer must disclose at time of application that it may use credit info. No requirement to explain how info used, it affects decision, it relates to/predicts claims.	<u>Sec. 7.</u> Insurer must disclose at time of application that it may use credit info. No requirement to explain how info used, it affects decision, it relates to/predicts claims.
* **no selective use of credit info –** **– score all or none** **– equal treatment**	**No allowance for selective use.**	SELECTIVE USE, UNEQUAL <u>TREATMENT, DISCRETION</u> * <u>Sec. 4(i)(C)</u> Gives insurers discretion to get or use credit info on selective basis, **if consistent with insurer guidelines.** Gives insurers discretion to get updated credit info for prior 3 years, **if consistent with insurer guidelines.**	SELECTIVE USE, UNEQUAL <u>TREATMENT, DISCRETION</u> * <u>Sec. 5(G)(3.)</u> Gives insurers discretion to get or use credit info on selective basis, **if consistent with insurer guidelines.** Gives insurers discretion to get updated credit info for prior 3 years, **if consistent with insurer guidelines.**

[*Use of Consumer Reports or Insurance Scoring*, cont'd]	**No allowance for selective use.**	SELECTIVE USE, UNEQUAL TREATMENT, DISCRETION * [Sec. 4(i)(C) cont'd] But don't have to get credit updates if (i) insured is favored (ii) didn't use credit initially (iii) reviewed w/ in 3 yrs using non-credit data, **if consistent w/ guidelines.**	SELECTIVE USE, UNEQUAL TREATMENT, DISCRETION * [Sec. 5(G)(3.) cont'd] But don't have to get credit updates if (i) insured is favored (ii) didn't use credit initially (iii) reviewed w/ in 3 yrs using non-credit data, **if consistent w/ guidelines.**

8-1

Disclosure Notice of Use of Consumer Reports or Insurance Scores	<u>Sec. 6.</u> At application insurers must advise insured or applicant that credit info may be used.	<u>Sec. 6.</u> Insurer must disclose at time of application that it may use credit info, in same medium as application is made.	<u>Sec. 7</u>. Insurer must disclose at time of application that it may use credit info, in same medium as application is made.
*** advise of credit use**	(Act does not allow credit info use for renewals)	**No such prohibition.**	No disclosure needed for renewals to consumer who has received notice initially.
	* Insurers must use obvious, simple, clear language.	**No such provision.**	**No such provision.**
*** insurers make agents comply**	* Insurers must make 3^{rd} party reps give same notice	**Implied, not expressed.**	**Implied, not expressed.**
*** provide factors and characteristics impacting score**	*Upon request, give significant credit info that impacts the applicant/ insured's score - use specific terms	**No such provision.**	**No such provision.**
*** insurer create notice**	* Insurers create notice form	**No such provision.**	**Sample provided.**
*** commissioner must approve notice form**	* Commissioner approves it	**No such provision.**	**No such provision.**

Insurer's Obligations; Adverse Action Notice; Non-Affiliate Compliance **Insurer must:** ***follow credit info correction process pursuant to <u>Fair Credit Reporting Act</u>** **- provide details on agency reporting the info** **- notify applicant/ insured of right to** **– free credit report** **– lodge dispute w/ agency reporting info**	<u>Sec. 7.</u> In event of Adverse Action: **Similar** to Prager/Model: <u>Sec. 7.A.</u> * Insurer must follow Fair Credit Reporting Act, 15 USC 1681m(a) and notify applicant or insured of: – name, address, phone of consumer reporting agency that provided credit info – the right to a free credit report from same reporting agency – the right to lodge dispute with same reporting agency to correct wrong or inaccurate credit info	<u>Sec. 7.</u> **Similar** to Limits Bill: <u>Sec. 7(a)</u> *Insurer must notify consumer of adverse action, pursuant 15 USC 1681m(a). **No specifics given.**	<u>Sec. 8.</u> **Similar** to Limits Bill: <u>Sec. 8(A)</u> *Insurer notify consumer of adverse action, pursuant 15 USC 1681m(a). **No specifics given.**

[*Insurer's Obligations; Adverse Action Notice; Non-Affiliate Compliance*, cont'd]	[Sec. 7 cont'd]	[Sec. 7 cont'd]	[Sec. 8 cont'd]
***Procedure for notice to applicant/insured**	**Similar** to Prager/Model: *insurer must notify consumer of adverse action – in writing, 1st class US Mail – at least 30 days prior to effective date – in triplicate	**Similar/Differs** to Limits Bill: *insurer must notify consumer in clear, specific terms the basis for adverse action **No procedure provided.**	**Similar/Differs** to Limits Bill: *insurer must notify consumer in clear, specific terms the basis for adverse action **No procedure provided.**
***Contents of notice**	*stating – proposed effective date	**No such provision.**	**No such provision.**
	– specific action to be taken, such as - deny, cancel, nonrenew - reduce coverage -increase rates	**No such provision.**	**No such provision.**
– explain reason for adverse action	– **actual** reasons for action **(no generalized terms)**	Give up to 4 factors **influencing** decision.	Give up to 4 factors **influencing** decision.
and rights to -request assigned risk plan -protest adverse action -keep coverage	– consumer's rights to: - coverage under assigned risk plan - protest adverse action (sign two copies of notice and file w/ commissioner) - continued coverage	**No notice of consumer rights.**	**No notice of consumer rights.**

[*Insurer's Obligations; Adverse Action Notice; Non-Affiliate Compliance*, cont'd]	[<u>Sec. 7 cont'd</u>]	[<u>Sec. 7 cont'd</u>]	[<u>Sec. 8 cont'd</u>]
***ensure that non-affiliates who provide credit info comply with this Act**	**Differs** from Prager/Model: Sec. 7(C)	**Differs** from Limits Bill:	**Differs** from Limits Bill:
– advise non-affiliate **– get written assurance of compliance** **– file assurance w/ commissioner**	*insurers must: – advise non-affiliates of this Act – get from them written assurance of their compliance w/ Act – file the assurances w/ commissioner	**No such provisions.**	**No such provisions.**
– publicize filings	*Filed assurances subject to Open Records Act	**No such provisions.**	**No such provisions.**

Appeal Process	Sec. 8	Sec. 5	Sec. 6
* **rewrite/re-rate if consumer corrects inaccurate credit info**	**Similar** to Prager/Model: *If – consumer corrects inaccur. credit info **and** – consumer or reporting agncy notifies insurer, *Then, insurer must – rewrite/re-rate – make needed adjustments *insurer must refund overpayments	**Similar** to Limits Bill: *If – consumer corrects inaccurate credit info **and** – consumer or reporting agency notifies insurer, *Then, insurer must – rewrite/re-rate – make necessary adjustments, **consistent with insurer guidelines.** *insurer must refund overpayments	**Similar** to Limits Bill: *If – consumer corrects inaccurate credit info **and** – consumer or reporting agency notifies insurer, *Then, insurer must – rewrite/re-rate – make necessary adjustments, **consistent with insurer guidelines.** *insurer must refund overpayments
	Differs from Prager/Model:	**Differs** from Limits Bill:	**Differs** from Limits Bill:
***consumer appeal from adverse action to commissioner pursuant to KSA 77-501 *et seq*.** **– procedure**	Sec. 8(A) *protest procedure: – sign two copies of notice – file with commissioner w/in 10 days of getting notice – duly filed protest continues coverage if premium's paid – commissioner to dismiss or hear protest w/in 30 days of filed protest	**No such provisions.**	**No such provisions.**

[*Appeal Process*, cont'd]	[Sec. 8 cont'd]	[Sec. 5 cont'd]	[Sec. 6 cont'd]
***Consumer Appeal (cont'd)** **where commissioner finds:** **– justified action** **- action takes effect** **– unjustified action** **- action disallowed** **- get attorneys fees**	**Differs** from Prager/Model: – if adverse action justified, commissioner must dismiss protest and action takes effect on proposed effective date – if action unjustified, commissioner - must disallow adverse action - may award attorneys fees to insured	**No such provisions.**	**No such provisions.**
Judicial Review of commissioner's findings pursuant to KSA 77-601 *et seq.	* Consumer appeals commissioner findings to the District Court pursuant to KSA 77-601 *et seq.* * **Appeal does not apply for policies in effect for fewer**	**No such provisions.**	**No such provisions.**

1-14

Violations of the Act; Enforcement	<u>Sec. 9</u>	**No Section**	**No Section**
enforce consistent with KSA 50-601 *et seq. **– private cause of action**	*Enforceable consistent with Kansas Consumer Protection Act, KSA 50-601 *et seq.*, by: – applicant or insured – attorney general – insurance commissioner	**No such provisions.** **Expressly denies a private cause of action.**	**No such provisions.** **Expressly denies a private cause of action.**
– damages, penalties, fines, injunctions	*Noncompliance may result in – damages – civil penalties – fines – license suspension – license revocation – injunctive relief	**No such provisions.**	**No such provisions.**
– cumulative relief	* Relief is cumulative to other allowed by law.	**No such provisions.**	**No such provisions.**
	No such provisions.	**Insurers indemnify agents conditionally from specified liability arising from use of credit information.**	**Insurers indemnify agents conditionally from specified liability arising from use of credit information.**

Education	<u>Sec. 10</u>	**No Section**	**No Section**
***Industry justify use of credit info/scoring** **– procedure**	*Commissioner to report to: – Senate President – House Speaker – Minority leadership – by January 25, 2004	**No such provisions.**	**No such provisions.**
– content	*Report must show: – Act's implementation – Act's impact on consumers – Relevance of credit history on insurance risk of loss – which consumers benefit – which consumers suffer – how credit history affects rates – if scoring discriminates against protected classes		
– give empirical data	*Report must provide pertinent facts, stats, and data		

1-16

Reporting Agency Must Not Sell Insurance Policy Information	**No Section** **No such provisions.**	Sec. 10 Prevents reporting agency from selling insurance information, such as policy expiration dates or terms.	Sec. 11 Prevents reporting agency from selling insurance information, such as policy expiration dates or terms.
Severability (all similar)	Sec. 11	Sec. 11	Sec. 12
Effective Date	Sec. 13 July 1, 2003	Sec. 12 Upon publication in statute book. Sec. 2(b) **Applies to policies written/ effective on or after 9 months after effective date.**	Sec. 13 [*insert date*] and **applies to policies written/ effective on or after 9 months after effective date.**

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 176/Insurance Credit Score

DATE: Feb. 18, 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 support of SB 176.

As advocates for consumers, we support legislative efforts that ensure the safety of products and services that Kansans rely on and enjoy. We also support legislation that discourages negligent and careless behavior. For those reasons, we have closely monitored the issue of insurance credit scoring and expressed our concerns regarding the practice before the 2002 Task Force on Credit Scoring.

If legislation is passed in Kansas to allow the practice of insurance credit scoring, KTLA believes that it should provide Kansans with strong consumer protections and should demand public disclosure of insurance credit score formulas and the factors considered in the calculation. For those reasons, we support SB 176.

KTLA believes that absent a complete ban on the use of insurance credit, legislation should require public disclosure of the underwriting criteria and models used in calculating the scores. Unless that information is made public, we cannot be sure that the practice isn't discriminatory. To assure that consumers are protected, legislation should create and enforce stringent safeguards, provide consumers an appeals process and include meaningful consumer education requirements. SB 176 includes all of those provisions.

Under SB 176, the practice of insurance credit scoring is open for regulatory and public scrutiny. This bill requires that insurance credit score underwriting and rating models, the criteria and the guidelines used by the insurance companies be filed and approved by the Kansas Insurance Department. These filings would be subject to the Kansas Open Records Act.

SB 176 offers consumers strong protection by requiring insurance companies to inform applicants as to how credit information is used, how it affects the company's decision in determining rates and how it relates to the likelihood of their filing claims.

Senate F I & I Committee
Meeting Date: 2-18-03
Attachment No.: 2

Terry Humphrey, Executive Director
Fire Station No. 2 • 719 SW Van Buren Street, Suite 100 • Topeka, Ks 66603-3715
E-Mail: triallaw @ ink.org

Other consumer protection provisions within SB 176 include:

- Prohibits insurance credit scores to be used on renewal policies;
- Prohibits the use of discriminatory of negative information on new policies. These factors would include the use of age, sex, religion, demographics, nationality, medical collection accounts, no credit history, multiple credit inquiries or the number of consumer or non-consumer initiated inquiries;
- Prohibits the selective use of credit information by requiring equal treatment of all applicants;
- Protects victims of identity theft and fraud, those persons negatively impacted by divorce or the bad credit of a former spouse;
- Provides consumers an appeals process;
- Provides enforcement mechanisms to assure compliance with Kansas law;
- Provides consumers and agents with information about the practice and how it impacts premiums.

Consumers must be informed that the insurance considers credit information and the factors and characteristics that are impacted by the score. When an adverse action is taken against a consumer, SB 176 requires specific information be provided by the insurance company. The notice must specify the action, explain the actual reason for the action and inform the consumer of their rights to appeal the adverse action to the Insurance Department.

SB provides for strong enforcement safeguards. Under SB 176, enforcement is consistent with the Kansas Consumer Protection Act (K.S.A. 50-601 *et seq.*) and allows consumers a private right of action. Non-compliance with Kansas law may result in damages, civil penalties, fines, license suspension, license revocation or injunctive relief.

To increase public awareness and assurance that the practice is fair and accurate, SB 176 requires the Kansas Insurance Department report the progress and results of implementation to Legislative leadership. That report should include information about the act's implementation, its impact on consumers, the relevance of credit history on insurance risk of loss, identify which consumers benefited from the practice, which consumers were negatively impacted, how credit history affects rates and if the practice discriminated against protected classes. It must give empirical data with pertinent facts and data.

If legislation is passed in Kansas, the process behind the practice of insurance credit scoring must be open for public and regulatory scrutiny and study. Only with that openness can we be sure that the scores are calculated fairly and accurately. SB 176 provides for an open process that offers consumers strong consumer protections, enforcement and stringent safeguards. It further provides consumers an appeals process and include meaningful consumer education requirements.

Thank you for the opportunity to comment on SB 176. We encourage you to protect Kansas consumers by supporting SB 176.

HOUSING & CREDIT COUNSELING, INC.

1195 SW Buchanan
Suite 101
Topeka, Kansas
66604-1183
(785) 234-0217
FAX (785) 234-0237

CONSUMER CREDIT COUNSELING SERVICE

P.O. Box 4369
Topeka, Kansas
66604-0369
(Main Office)
(785) 234-0217

Lawrence, Kansas
(785) 749-4224

Manhattan, Kansas
(785) 539-6666

Emporia, Kansas
(620) 342-7788

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

Email: hcci@hcci-ks.org
Web: hcci-ks.org
(800) 383-0217

Testimony on SB 176
Housing and Credit Counseling, Inc.
Karen A. Hiller, Executive Director
February 17, 2003

Housing and Credit Counseling, Inc.'s position is that SB 176 is a much better bill than SB 144 in terms of protecting consumers in the area of insurance credit scoring, and addresses many of the concerns HCCI raised yesterday regarding SB 144. However, HCCI has to take a position of opposing the bill. There are still concerns with SB 176 that should be addressed if it should pass, and increasingly it seems clear that the use of credit scoring for insurance rating should be banned.

Please refer to our testimony yesterday on SB 144 for details on credit reporting and examples "putting a face on" Kansans who are affected by credit scoring.

Improvements over SB 144 This bill does address many of the issues where consumers have no credit or are innocent, it provides good consumer recourse, and it requires the state and the industry to document that credit scoring is a valid and useful tool.....and to do it by the next legislative session. That is good.

Issues with SB 176

Renewals If credit scoring is to be allowed as a factor in rating, it should be done annually. Consumers who have been credit-impaired are owed the courtesy of an annual opportunity to have their rates become favorable. If credit scores truly are a valid factor, and the consumer is no longer credit-impaired, then the rate should improve immediately, without any action from the consumer. Conversely, if a consumer receives favored rating and retains good credit, he or she has nothing to lose from an annual review. If something has happened to their credit, then they are arguably now high-risk. Most consumers' problems are temporary. If, in fact, the use of credit scoring is valid, the test would have to be applied annually so that the pool of consumers was actuarially sound.

Medical and Divorce .The bill attempts to protect these situations, but cannot.

Medical incidents result in other credit getting behind. Some medical bills may not be easy to identify. The credit industry does not want to put itself in a position of encouraging consumers to favor payment [illegible] bills over medical.

Senate F I & I Committee
Meeting Date: 2-18
Attachment No.: 3

Divorce exemptions would be hard to select. If there was joint credit, is it in or out?

Credit damage stays on a report a long time Credit reports hold information for 7 years after the last date of activity – 10 years would be a reasonable average figure to use. To have to deal with this again and again, on renewals or when shopping.

Extensive research and appeals would be costly to Kansas

<u>Rationale for Banning Credit Scoring</u>

It seems impossible to come up with a system that is accurate and fair. SB 144 seems to be the best effort, yet still the comments above

The data captured in credit reports is often flawed. (Data offered in testimony on SB 144.) It is correctable, but it takes time.

The study correlating credit scores insurance risk is still constantly questioned.

The practice puts an undue burden on people who are already financially challenged.

Estimates are that over 200,000 Kansas consumers would be adversely affected by continued use of credit scoring in the insurance industry.

Realistically, the State of Kansas could expect to have to pay at least $50,000 –100,000 for studies and it could cost in the neighborhood of at least $100,000 per year to handle complaints, hearings,correspondence and consumer education. With the validity of the practice in question, why spend the state's money?

We now have heard that premium rates sometimes double with credit scoring -- a homeowners rate went from 600 to 1200. Ten years at $600 per year....plus another $400 per year on the car insurance -- $10,000 is a big price to pay......

KANSAS MANUFACTURED HOUSING ASSOCIATION

214 SW 6th St., Suite 206
Topeka, KS 66603-3719
785-357-5256
785-357-5257 fax
kmha1@mindspring.com

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 18, 2003

RE: SB 176 – 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.

KMHA would restate that our first choice is to ban the practice of insurance credit scoring, however, if that is not the direction the Committee is willing to take than implementing tight regulations for insurers who use credit scoring will be necessary. KMHA feels SB 176 offers the types of regulations necessary to protect consumers.

One suggestion would be exclude the use of guaranteed business debt, provided it is coded as such.

Thank you for the opportunity to comment.

Senate F I & I Committee FI
Meeting Date: ~~2~~ 2-18-03
Attachment No.: 4

Testimony on Insurance Credit Scoring
Before the Financial Institutions & Insurance Committee
By Larry Magill
Kansas Association of Insurance Agents
February 17, 2003

Thank you Madam Chairman and members of the committee for the opportunity to appear today in support of greater regulation of credit scoring and some aspects of Senate Bill 176. I am Larry Magill representing the Kansas Association of Insurance Agents. We represent 425 independent agencies plus an additional 150 branch locations and approximately 2,500 employees, most of them licensed agents.

We appreciate Senator Feleciano's work in developing a credit scoring proposal of his own and commend him for that. Regulation of credit scoring is an extremely important issue to our members who are put in the untenable position of explaining an insurance credit scoring process that is secret, even from them. Agents are not provided with the information to explain to their customers why their score is what it is and what the customer can do to improve it.

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.

And the rate impact from a "bad" score can be huge. I'm aware of one instance where a person's homeowners insurance went from $718 per year to $2,250 per year. Nothing in this or Senate Bill 144 directly affects the rates other than limiting the impact of certain factors such as thin files, medical expenses, identity theft, dissolution of marriage and other similar types of events. But because of the significant impact on the cost of insurance, the industry is under even more pressure to look at what is being measured and make certain that it fairly analyzes the exposure to loss.

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, 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.

Senate F I & I Committee
Meeting Date: 2-18-03
Attachment No.: 5

KAIA Proposed Changes to SB 176:

The following are areas where we have concerns with the drafting of SB 176:

- **All Lines** As a compromise, we would extend 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 they are corporations. And credit scoring is being done now on farmowners.

- **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 majority of 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.

  We are concerned that lines 20-21 on page 4 might require a signed form from each insured an agent quotes since it calls for a "reasonable means to verify" that the notice has been given. We think the clear obligation in the law and the ability to give the notice the way the transaction has occurred is important. So if it was a phone-in quote, the notice can be given orally.

  We are also not sure if "an explanation of significant characteristics of credit information that impact such applicant's or insured's insurance score" will give the individual the information they need to understand their score and how to improve it.

- **Appeals Process** There should be an exception process where the score can be challenged by the consumer and their agent. Agents want the opportunity to argue on their client's behalf that the "black box" doesn't work for their client because of 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 judgment.

  However, KAIA cannot support the appeal process envisioned in SB 176. We never considered the possibility of involving attorneys or the courts in determining whether a score makes sense or not. We just want to be able to do what we have always done and argue on behalf of our client. We think the law should provide a holdharmless so, if an exception is made, there will not be lawsuits and liability issues brought up. The cost of the appeals process in SB 176 and the legal, adversarial nature of it would be far more costly and destructive than helpful. Formally involving the insurance department in the appeal process would significantly add to the cost of the legislation and, we hope, is not necessary. Of course, the ultimate appeal of any consumer insurance complaint is always to the insurance department.

Further, we are opposed to making the industry subject to the dual regulation of the Insurance Commissioner and the Attorney General under the Consumer Protection Act as in section 8 of the bill. We have the adverse underwriting decisions law, K.S.A. 40-2,112 and would suggest using that as the enforcement vehicle for the credit scoring act.

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

Summary
As with any major piece of legislation where there are multiple approaches, there are strong points in both bills. For example, the definition of adverse action in SB 176 is very broad and comprehensive. We consider that a plus. We simply encourage the Committee to pick a bill and work it.

We appreciate the time the Chair, the Commissioner and the bill sponsor have devoted to this issue this session and feel that a great deal of progress has been made. We would be happy to work with the committee and the industry to craft a bill we can all live with. I'm certain that we won't achieve all our goals but I'm also certain we'll end up with better regulation of credit scoring than we have now. The consumer can only come out the winner.

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

FarmersAlliance
Insuring Rural America Since 1888

Kansas Insurance Score Act

S.B. 144

Before the Financial Institutions and Insurance Committee

February 18, 2003

Madam Chair and Members of the Committee:

My name is Bruce White. I am the Vice President of Underwriting for the Farmers Alliance Mutual Insurance Company. We are a domestic property and casualty insurance company that has been operating in and committed to Kansas since 1888. We also write property and casualty insurance in eight other contiguous states.

Thank you for this opportunity to support the Kansas Insurance Department's proposed legislation on Credit Scoring. I also had the privilege of serving on the insurance credit scoring task force. I was pleased to be part of the discussion and study which helped inform everyone on the task force. I strongly believe that the task force recommendations clearly reflect what is best for the insurance consumers and to help maintain a viable insurance industry.

By now you have heard volumes, as we did on the task force concerning the credit-based insurance scoring argument. I will not burden you with those details today. However, I would like to point out a few statistics from my own organization. My company, Farmers Alliance, contracted with a third party to score over 70,000 of our personal lines customers. The analysis identified that only slightly more than 12,000 (17%) of our customers had credit-based insurance scores that our organization would have considered below average.

As our name implies, we are a major farm insurance writer in Kansas and in other states. We have a concern and are opposed to including farm in this proposed legislation. Farm insurance is labeled as commercial lines insurance in Kansas and by including it in this legislation would blur the distinction between commercial lines and personal lines. We also feel the need to retain the ability to underwrite and financially evaluate large corporate farm accounts. In addition, any personal lines insurance associated with a farm, such as a homeowners or personal automobile policy, would be considered personal lines for our company and therefore would come under the proposed act.

1122 N. Main, P.O. Box 1401 • McPherson, KS 67460
620.241.2200 • fax 620.241.5482
Farmers Alliance Mutual Insurance Company • Alliance Administr
Alliance Insurance Company, Inc. • Blakely Crop Hail

Senate F I & I Committee

Meeting Date: 2-18-03

Attachment No.: 6

We, as a domestic who have been writing property and casualty insurance in Kansas since 1888, have no intentions of leaving this state. But by placing unfair and undue burdens on our ability to evaluate and properly price a risk, creates a situation where we must question how much more business do we want in the state of Kansas.

The whole issue of credit is not new – it's been around for several years and it has been used as an underwriting tool, along with other criteria for many years. It has been mentioned by a number of conferees that the mere intuitive nature of other factors, such as age, gender, MVR reports, etc., are usually understandable, as opposed to the relationship of credit scores. I believe, in the next few days, you will be hearing from an insurance scoring vendor that will articulate the correlation. It simply is another way of sorting out the risk.

The bottom line is that credit-based insurance scoring has been proven to be one of the most effective tools when coupled with underwriting criteria to predict the likelihood of future losses. The combination of the different factors is very powerful and equitable in establishing pricing based upon groups of individuals with similar characteristics. And as I stated before, it creates an opportunity for lower rates or discounts, if you will, to be possible for many consumers. To deny consumers this opportunity by banning the use of, or watering down the amount of discount by placing substantial restrictions on these factors is unfair to consumers who are deserving of a better rate that reflects their reduced likelihood of future loss.

I, again, want to thank you for the opportunity to appear before you. I appreciate very much the opportunity to have been a member of the credit scoring task force and also for the opportunity to discuss this very important issue with the Kansas Insurance Department and other industry representatives.

I'm certain, through hard work and pertinent information, we will come to a decision that will serve insurance consumers, the agents, and the carriers.

I would be glad to answer any questions you might have.

Sincerely,

Bruce White

Bruce White, CPCU, CIC
Vice President, Underwriting

Polsinelli | Shalton | Welte

A Professional Corporation

Memorandum

TO: THE HONORABLE RUTH TEICHMAN, CHAIR
SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

FROM: WILLIAM W. SNEED, LEGISLATIVE COUNSEL
THE STATE FARM INSURANCE COMPANIES

RE: SENATE BILL 144

DATE: FEBRUARY 12, 2003

Madame Chair, Members of the Committee: My name is Bill Sneed and I represent State Farm Insurance Companies ("State Farm"). We appreciate the opportunity to appear in support of SB 144. As you are aware, SB 144 is an attempt to regulate the use of credit information by insurance companies.

Numerous studies by independent analysts, government agencies, credit report vendors and insurers have demonstrated that credit information can be highly predictive of the future risk of loss. Because of some concern, the Legislature created a task force who, during the summer and fall of 2002, studied this issue and again as you are aware, filed a report with this Committee.

As evidence by the report issued by the Task Force, the use of credit information should be continued in the State of Kansas.

Senate Bill 144 is an attempt to provide some regulatory guidelines on the use of credit information by insurance companies.

Although stated in the Task Force Report, we believe it important to reiterate several basic components within this subject matter.

Credit scoring is a misnomer. It implies that underwriting and rating decision are based solely on credit information. Secondly, credit scoring measures lending risk. Lending risk is the probability of late payment or no payment. Credit-based insurance scoring is more descriptive. Credit-based Insurance scoring uses a variety of factors not just credit information. Finally, credit-based insurance scoring predicts future insurance losses not lending risks.

There is a strong correlation between credit-based insurance scoring and loss ratios in both auto and homeowners' insurance. The correlation has been supported by studies commissioned by the Virginia Bureau of Insurance and the Casualty Actuarial Society as well as studies performed by Tillinghast-Towers Perrin and The American Insurance Association.

There is a distinct decline in relative loss ratios as credit-based insurance scores improve. The relationship between credit standing and relative loss ratios is well established-State Farm routinely validates its own models. It recently revalidated its auto insurance underwriting model, based on a sample of more than half a million insured autos. As with previous validations, this one verified that insurance scores are very effective at predicting future auto insurance risk. In their validation study, even after all other risk factors were reflected in the premiums charged, consumers with the lowest range of scores had a loss ration more than double that of the highest scoring group.

Customers should be charged premiums based on their expected losses so that those with lower expected insurance loses should not be required to subsidize those with higher expected insurance losses. By incorporating certain credit and prior claim characteristics into insurance scoring models, insurers can identify consumers who are likely to have better loss experience than their driving or claim histories may suggest. At the same time, insurers can also identify consumers who are likely to have worse loss experience than their driving or claims histories suggest. In this way, insurance scoring helps insurers charge the appropriate premium so that better insurance risks are not required to subsidize risks with higher expected losses.

There has been some discussion as to whether or not the use of credit information by insurance companies should be banned or more strictly restricted than what is found in SB 144. Banning the use of credit information will:

1. Force good drivers and responsible homeowners to subsidize those with poor loss histories by hundreds of millions of dollars each year;

2. Force insurers to exclude a reliable and proven underwriting factor, credit information, from their determination of loss propensity; or,

3. Force insurers to do more extensive underwriting and pricing at the front end and thus curtail the use of binding insurance without extensive examination by the underwriting department.

We appreciate the opportunity to speak in favor of SB 144. We respectfully request that the Committee act favorably on this bill.

Respectfully submitted,

William W. Sneed

William W. Sneed

WWS:pmk

D:\LOBBY\SF SB 144.tes.doc

Polsinelli | Shalton | Welte

A Professional Corporation

Written only

Memorandum

TO: THE HONORABLE RUTH TEICHMAN, CHAIR
SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

FROM: WILLIAM W. SNEED, LEGISLATIVE COUNSEL
THE STATE FARM INSURANCE COMPANIES

RE: SENATE BILL 176

DATE: FEBRUARY 18, 2003

Madame Chair, Members of the Committee: My name is Bill Sneed and I represent State Farm Insurance Companies ("State Farm"). We appreciate the opportunity to appear in opposition to SB 176. As you are aware, SB 176 strictly curtails the use of credit information by insurance companies.

In lieu of reiterating my testimony from Senate Bill 144, I am attaching a copy of that testimony. I believe that it identifies why SB 144 is the preferable alternative to the regulation of credit information by insurance companies.

We appreciate the opportunity to speak regarding of SB 176. We respectfully request that the Committee not act favorably on this bill.

Respectfully submitted,

Will W. Sneed

William W. Sneed

WWS:pmk
Enclosure

\\Texch\data\LOBBY\SF SB 176.tes.doc

atach 7(a)

What is an "inquiry" on a credit record? Is it true that when State Farm determines my Auto Underwriting Score that an inquiry appears on my credit record?

An inquiry is posted on a report every time someone accesses your consumer record. The "inquiry" notation on your credit file is for your protection. It allows you to tell who has made an inquiry into your record. There are several types of inquiries. The only ones State Farm uses in our Auto Underwriting Scores are inquiries that resulted from the consumer applying for credit (for example, a department store charge card, a new bankcard, a car loan, or other financial services). State Farm does not count any insurance inquiries. Multiple inquiries within a 30-day period identified as auto loan or mortgage inquiries are only counted once by State Farm.

An insurance inquiry is coded differently than a credit-related inquiry. A State Farm Auto Underwriting Score is not impacted by insurance inquiries. It's up to the potential credit grantor to decide whether an insurance inquiry should impact a person's credit rating.

Why did the State Farm agent provide me an estimated quote?

When the State Farm agent first quoted an auto insurance rate it was done based on the driving record information you provided for all drivers in your household. The loss history record and Motor Vehicle Record for each driver may have listed different information and/or your Underwriting Score may have affected your rate.

I think I have an excellent credit record. Could this help me obtain State Farm auto insurance or help get a better rate?

Managing your finances well can have a positive impact on many of your personal business dealings, including the purchase of insurance. Remember that your State Farm Auto Underwriting Score is impacted only by a limited number of factors from your credit record and does not predict creditworthiness.

In many states, an excellent State Farm Auto Underwriting Score may be used to give a break to individuals who may have only one blemish on their driving record.

Does the State Farm agent see my credit record?

State Farm agents do not see your Underwriting Score or credit record.

Does anyone else at State Farm read my credit record?

Auto underwriting employees who process your auto insurance application see only an Underwriting Score. Your actual credit record is only available to a small number of State Farm management employees AND is only reviewed if you wish to appeal a decision made by State Farm.

If State Farm declines to offer you insurance or charges you more than the lowest premium based upon the use of your credit information, State Farm will provide you notice in accordance with the federal Fair Credit Reporting Act. You then have the right to request a copy of the credit report from ChoicePoint, the company that provided the information to State Farm. ChoicePoint will also work with you to correct any errors in your record.

I don't think I have a credit record. In fact, I don't use credit cards. Does this mean you can't insure me?

If State Farm is unable to obtain your credit record because you have not established one, we will evaluate your application without regard to credit history to determine if you are eligible for State Farm auto insurance.

State Farm Mutual Automobile Insurance Company
State Farm Fire and Casualty Insurance Company
State Farm County Mutual Insurance Company of Texas

Z-23149
04/2002

Printed in U.S.A.

Bill Sneed

What You May Want To Know About How State Farm® Selects

New Auto Insurance Applicants

FI+I
2-18-03
ATTACHMENT 7a-2

Senate F I & I Committee
Meeting Date: 2-18-03
Attachment No.: 7(a)

State Farm feels it is important to our customers to match our rates to fit what it anticipates each person's expected loss experience to be. Many factors are considered.

This brochure helps to explain how State Farm evaluates drivers and how we determine whom we insure and at what rate.

Here are a few questions asked by some of our new auto insurance customers:

I decided to shop around for auto insurance to see if I was getting the best value. I learned that many other auto insurers not only look at my family's driving record but also my credit history. What does State Farm do?

State Farm looks at each driver's driving record. We look at accidents - especially the ones where drivers may have been found to be at-fault. We also look at traffic convictions, such as the more common ones -- speeding, running a red light or stop sign -- and very serious ones, such as reckless driving or driving while under the influence of alcohol or drugs.

Then, we weigh a person's driving record in combination with an Auto Underwriting Model State Farm has developed to predict the expected future auto insurance losses for customers applying for auto insurance. This Auto Underwriting Model includes certain information from your credit history as one factor in our overall review of an application for auto insurance.

Why does State Farm use my credit history?

Our own studies and independent studies have shown that credit history is a powerful predictor of future auto insurance losses. So, using a person's credit history helps State Farm charge a premium that reflects the claim payments expected to be paid to our customers.

State Farm uses the most predictive factors in a person's credit history along with their driving record to determine the likelihood people applying for coverage will be involved in future losses. Certain information from credit histories combined with information from loss history reports (in those states where we are allowed by law to use loss history reports) are used to develop what we call an Auto Underwriting Model. Drivers receive an Auto Underwriting Score based on the use of this Model.

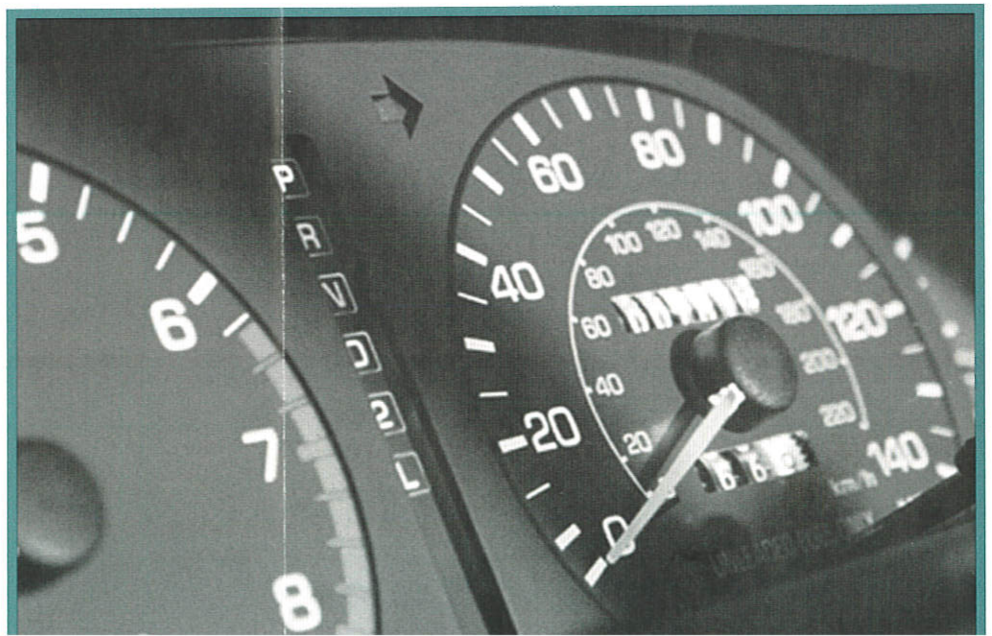
Our Auto Underwriting Model is not designed to predict a person's creditworthiness. It has been developed solely to help predict future auto insurance losses. State Farm's Auto Underwriting Scores are partially derived from SOME of the same information as credit scores, but they don't measure credit risk. The scores derived from our Auto Underwriting Scores help measure insurance risk while credit scores measure credit risk.

What kinds of factors are considered when reviewing a person's credit history? What about income?

Examples of credit factors that we consider in our Auto Underwriting Model include the number of revolving accounts, late payments and collections. Our model weighs these factors according to their predictive value.

Certain factors are NOT used. Our Auto Underwriting Model does not consider income, wealth, location, gender, race, address, or any factors prohibited by law. Also, State Farm does not use any information identified as dealing with delinquent medical or utility bills.

The purpose of our Auto Underwriting Model is to predict future auto losses and not creditworthiness.



Why did the State Farm agent ask for my Social Security number?

Your Social Security number is the most accurate way to obtain the credit information that is used in calculating an Auto Underwriting Score. We treat it as confidential information.

Does State Farm use its Auto Underwriting Model to decline drivers?

State Farm's Auto Underwriting Model is not used by itself to decline auto insurance applicants. However, in combination with an applicant's driving record (including at-fault accidents and driving convictions), Underwriting Scores are used in many states to determine an applicant's overall eligibility for State Farm auto insurance.

If State Farm has declined to insure me or charged me more than the lowest premium based on the use of its Auto Underwriting Model and I want to correct the information included in my credit record or my loss history record (in states where it is used), what could I do?

If State Farm declines to offer you insurance or charges you more than the lowest premium based in whole or part on the use of your credit information, State Farm will provide you notice in accordance with the federal Fair Credit Reporting Act. You then have the right to request a free copy of the credit report from ChoicePoint, the consumer-reporting agency that provided the information to State Farm. ChoicePoint will also work with you to correct any errors in your record.

Here are the steps involved:

1. Reference numbers for both loss history reports and credit reports are provided along with a toll free telephone number or website (www.consumerdisclosure.com) for ChoicePoint, the consumer-reporting agency that State Farm uses. Applicants must call ChoicePoint or access their website to obtain a copy of their reports and to request corrections.
2. A free copy can be obtained by calling the toll free number or accessing their website. ChoicePoint uses an automated phone system and only copies of the reports can be obtained by calling this number. The reference numbers are needed to obtain copies of the report.
3. If applicants feel any information on the reports is incorrect, they can then call a second ChoicePoint toll free number to dispute it.
4. If a correction is made, State Farm will recalculate the applicant's Auto Underwriting Score using the correct information if advised of the correction. The ChoicePoint representatives will not have the State Farm Auto Underwriting Score. They will only have the loss history and credit reports.

Can an applicant request credit information not be used to evaluate them for auto insurance with State Farm?

State Farm requires the same information from all new applicants for auto insurance. Credit, each driver's loss history record, and each driver's Motor Vehicle Record information will be used to evaluate all new applicants. This treats all new applicants equally.

Memorandum

TO: THE HONORABLE RUTH TEICHMAN, CHAIR
SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

FROM: WILLIAM W. SNEED, LEGISLATIVE COUNSEL
THE STATE FARM INSURANCE COMPANIES

RE: SENATE BILL 144

DATE: FEBRUARY 12, 2003

Madame Chair, Members of the Committee: My name is Bill Sneed and I represent State Farm Insurance Companies ("State Farm"). We appreciate the opportunity to appear in support of SB 144. As you are aware, SB 144 is an attempt to regulate the use of credit information by insurance companies.

Numerous studies by independent analysts, government agencies, credit report vendors and insurers have demonstrated that credit information can be highly predictive of the future risk of loss. Because of some concern, the Legislature created a task force who, during the summer and fall of 2002, studied this issue and again as you are aware, filed a report with this Committee.

As evidence by the report issued by the Task Force, the use of credit information should be continued in the State of Kansas.

Senate Bill 144 is an attempt to provide some regulatory guidelines on the use of credit information by insurance companies.

Although stated in the Task Force Report, we believe it important to reiterate several basic components within this subject matter.

Credit scoring is a misnomer. It implies that underwriting and rating decision are based solely on credit information. Secondly, credit scoring measures lending risk. Lending risk is the probability of late payment or no payment. Credit-based insurance scoring is more descriptive. Credit-based Insurance scoring uses a variety of factors not just credit information. Finally, credit-based insurance scoring predicts future insurance losses not lending risks.

There is a strong correlation between credit-based insurance scoring and loss ratios in both auto and homeowners' insurance. The correlation has been supported by studies commissioned by the Virginia Bureau of Insurance and the Casualty Actuarial Society as well as studies performed by Tillinghast-Towers Perrin and The American Insurance Association.

There is a distinct decline in relative loss ratios as credit-based insurance scores improve. The relationship between credit standing and relative loss ratios is well established-State Farm routinely validates its own models. It recently revalidated its auto insurance underwriting model, based on a sample of more than half a million insured autos. As with previous validations, this one verified that insurance scores are very effective at predicting future auto insurance risk. In their validation study, even after all other risk factors were reflected in the premiums charged, consumers with the lowest range of scores had a loss ration more than double that of the highest scoring group.

Customers should be charged premiums based on their expected losses so that those with lower expected insurance loses should not be required to subsidize those with higher expected insurance losses. By incorporating certain credit and prior claim characteristics into insurance scoring models, insurers can identify consumers who are likely to have better loss experience than their driving or claim histories may suggest. At the same time, insurers can also identify consumers who are likely to have worse loss experience than their driving or claims histories suggest. In this way, insurance scoring helps insurers charge the appropriate premium so that better insurance risks are not required to subsidize risks with higher expected losses.

There has been some discussion as to whether or not the use of credit information by insurance companies should be banned or more strictly restricted than what is found in SB 144. Banning the use of credit information will:

1. Force good drivers and responsible homeowners to subsidize those with poor loss histories by hundreds of millions of dollars each year;

2. Force insurers to exclude a reliable and proven underwriting factor, credit information, from their determination of loss propensity; or,

3. Force insurers to do more extensive underwriting and pricing at the front end and thus curtail the use of binding insurance without extensive examination by the underwriting department.

We appreciate the opportunity to speak in favor of SB 144. We respectfully request that the Committee act favorably on this bill.

Respectfully submitted,

William W. Sneed

William W. Sneed

WWS:pmk

D:\LOBBY\SF SB 144.tes.doc

KATCo

Kansas Assistive Techonology Cooperative

Independence Is Priceless...We Help Make It Affordable

Testimony
Senate Committee: Financial Institutions and Insurance
SB 144

Mr. Gary Bates,
Kansas Assistive Technology Cooperative

Dear Madame Chair and members of the Committee. Thank you for the opportunity to appear before you today. I am Gary Bates, a member of the Loan Committee of the Kansas Assistive Technology Cooperative, KATCO whose office is in Emporia. KATCO, is a Big Tent Coalition member, is a statewide, not-for-profit, community-based organization, that guarantees financial loans for the purchase of assistive technology for children and adults with disabilities.

KATCO's business is to review credit applications of individuals interested in purchasing assistive technology equipment such as hearing aids, wheelchair lifts for vehicles, hand controls, and even home modifications. The current values of our loans range from $200.00 to $35,000.00. The following table shows data from our most recent fiscal year.

KATCO FY 2001-2002 Applicants

Number of Applicants	Number Approved	FICO Score Range of Approved Applicants	Median Score of Approved Applicants	Number of Approved Applicants with Score of Zero
63	36	0-754	599	9

This table shows that 25% of the approved applicants for an assistive technology loan had no FICO score. This means that those parties either had little, if any, credit history or, of the credit history they had, their experience was generally negative.

Another interesting programmatic feature is that individuals with scores of 599 or lower are found to have anywhere from 51% to 87% credit delinquencies. However, after two and one half years in making loans with a loan portfolio of nearly $550,000.00, KATCO has experienced three (3) defaults totaling $7,800.00 or les

Senate F I & I Committee

Meeting Date: 2-18-03

Attachment No.: 8

overall loan portfolio. One thing we have learned is that people with disabilities, whose economic difficulties frequently arise from the cost of recurrent medical services, wish to obtain and retain credit worthiness however possible.

Beyond the above referenced program highlights, I would like to respond to several negative, if not faulty, assumptions that buttress the bill under review.

Assumption 1: **The broader and perhaps historical use of credit scores has set a precedent and the utility of such scores to underwrite personal insurance premiums is a logical extension of this practice.**

Rebuttal: Frequent use of scores does not automatically validate its use or subsequent abuse. It merely demonstrates the institutionalization of a business practice that may or may not be efficacious but appears, de facto, to be at least pragmatic. In fact, as the insurance industry as a whole has become more involved in the banking industry, the citizenry has had to capitulate to new federal statutes and regulations that limit due process opportunities with regard to insurability, premium costs, portfolio management, and the like.

Assumption 2: **Proponents posit that new and more direct consumer awareness activities of the use of credit scores will lead to informed consent.**

Rebuttal: Awareness is neither insight nor understanding. I believe proponents are confusing awareness with informed consent. Informed consent is an ethical dimension to any contractual agreement. It assumes one's active involvement in understanding the protections and delimitations of any such participation. Public awareness is perhaps a good start but it is not an endorsement of public policy.

Assumption 3: **Predicitve modeling is a fail-safe process with built-in protections.**

Rebuttal: Though statistics provide valuable information they are but a map of the terrain, not the terrain itself. I have grave concerns when proponents stipulate that the FICO score is only one measure upon which decisions to underwrite are made. Statistically speaking, I ask the following questions to perhaps help us peer into the innocuous black box:

- What weight will FICO scores be given as underwriters use those scores in their regression models?

- What other variables will be used in such a calculation and how does each correlate with "risk?"
- As stipulated in the proposed bill, how will underwriters control for the statistical effect of medical expenses in scores already calculated by outside sources? Meaning, FICO scores are calculated by the availability of credit experiences reported to the three credit reporting entities. As a "packaged" score, how do outsiders, i.e., underwriters, extrapolate the positive or negative effect on such a score and recalculate it so that "medical bills" are not figured into the underwriting equation? If this can be accomplished, then you've changed the entire nature of the score and thus are not using it as it presented in the bill.

On the human side of this discussion, statistics cannot justify theses common experiences:

- Individuals who by nature of their disability must use modified vehicles with lifts, special seating equipment, etc., pay higher premiums to insure our vehicles and that supportive equipment;
- Across the country insured motorists who are deaf or hard of hearing have been and continue to be placed on "high-risk" tiers even when they, as a group, are better drivers, statistically, than people with normal hearing.

Assumption 4: **Risk is being controlled when FICO scores are used to underwrite personal insurance policies.**

Rebuttal: No where I have seen a definition of "risk." Some might hold that this discussion is being taken to the level of the absurd; however, I would like to know who is at risk and from what? More importantly, who will obtain protection through regulatory and statutory language?

Assumption 5: **The higher the risk of the individual the more irresponsible one is.**

Rebuttal: Aside from this being a circular argument, it is a truly disingenuous overgeneralization. High risk, if defined by a poor or low credit score, does not connote apathy. With regard to many persons with disabilities, high risk correlates most highly with just plain bad luck and not volitional behaviors of self-destruction.

Assumption 6: **Kansas has "fairly low rates."**

Rebuttal: Proponents are pleased to make such a statement; however, our rates are low when compared to whom or what?

Assumption 7: **The State of Kansas will serve as the regulatory entity to protect Kansans from misuse or discrimination of industry underwriters.**

Rebuttal: At what expense to the state will this assurance come? Given this lean economic time is this a suitable expense for Kansans to bear? Who then is at greater "risk?"

I am most appreciative of the opportunity to address the committee. As much as the proponents would have us believe in their utilitarian pretext of protecting both the citizenry and the industry, I believe any use of credit scores, though theoretically appealing, is a dangerous prospect. I ask that the bill not move out of this committee. I am pleased to respond to any questions you may have.

February 18, 2003
Testimony Regarding Insurance Credit Scoring
Senate Financial Institutions and Insurance Committee
Michael C. McGrew – Chairman
Insurance Credit Scoring Task Force

Good morning, Madam Chairman and committee members. I am Mike McGrew from Lawrence. Linda DeCoursey, our lead Insurance Department staff person accompanies me today.

I had the honor and privilege of being appointed by Governor Graves as one of the consumer representatives and Chairman of the Insurance Credit Scoring Task Force.

We submitted the ICS Task Force report to this committee, the House Insurance committee and the Department of Insurance at the start of this legislative session in January.

A few disclosures are important at this point.

I am not an employee, owner or stockholder in any insurance agency or insurance company. I have no financial interest or incentive in any particular outcome regarding insurance credit scoring. I received no compensation for my work on the task force, or for my testimony here today. I, like everyone at this meeting today, am a consumer of insurance. But I have had the benefit of learning a great deal about insurance credit scoring during my work on the task force.

Senate F I & I Committee
Meeting Date: 2-18-03
Attachment No.: 9-1

During our 3 months of research and deliberations, the task force worked diligently to reconcile some very different philosophical positions. The recommendations that we made were approved unanimously.

That is not to say that some weren't more enthusiastic in their approval than others, but they were approved unanimously.

Where there were irreconcilable differences of opinion, we indicated so. The report clearly states both positions on those issues that could not be agreed upon.

This was a very democratically drafted report.

Our task force concluded that there is no specific legal authority with regard to insurance credit scoring.
It is important for consumers that direct authority is provided to the Department of Insurance.

Bill SB 144 closely follows our report and provides for such authority.

I have heard that some are not comfortable with the concept of keeping the company credit scoring formulas as trade secret. This issue had much debate in the task force. In the beginning, the insurance companies did not wish to provide the formulas to anyone. Several members demanded that the formulas be opened up for public review.

The compromise that was reached was for companies to file their formulas with the Kansas Insurance Department. The department would have the responsibility to review the formulas for compliance with all applicable state and federal laws. The task force left the details of such review and any penalties for non-compliance to be determined by the legislature and the insurance department.

It was made very evident in the task force meetings that if the formulas were not held as trade secrets and were made public, that many companies would be inclined to withdraw from the Kansas market before they were compelled to reveal what they consider to be strategic competitive information.

The task force also learned that there is a major disconnect between the value that the insurance companies place on credit scoring and the perception of credit scoring in the mind of the public. Even insurance agents have not been well trained to discuss the issue with their customers.

There was a great deal of debate in the task force as to what credit scoring education requirements that should be placed upon the insurance industry.

The Fair Credit Reporting Act includes requirements on notification of the use of credit scoring and requires further information if an adverse action is taken towards a consumer. The task force suggested that the Insurance Department should develop additional standards for written notification. SB 144 addresses this issue as well.

As Chairman of the task force, I am satisfied that SB 144 follows the recommendations of the task force report. It is a good beginning for regulating insurance credit scoring and providing a healthy insurance market in Kansas.

Linda and I would be happy to answer any questions that the committee might have.

Kansas Association of KACIL Centers for Independent Living

Gina McDonald
President/CEO

Senate Financial Institutions and Insurance
Written Testimony in Opposition of SB 144
February 17, 2003

My name is Gina McDonald and I represent the Kansas Association of Centers for Independent Living (KACIL). KACIL represents 13 Centers for Independent Living (CIL's) around the state. Our mission is to advocate for the civil rights of Kansans with disabilities, regardless of age.

CIL's are community based, not for profit organizations that have federal and state requirements that their governing board and a majority of all staff be persons with disabilities.

You have heard a variety of testimony that points to why SB 144 is detrimental to the consumers of auto insurance policies and homeowners insurance.

We are submitting our testimony to voice our opposition on SB 144. If enacted this legislation could likely have an adverse affect on people with disabilities, individuals that our centers serve. People with disabilities tend to have higher out of pocket costs than others. Individuals that have adapted vehicles pay the typical amount of insurance to cover the value of the vehicle, and they also have to pay monthly insurance on the dollar amount that the vehicle was adapted. If any of these consumers have poor credit history, this could likely make the cost of auto insurance out of reach for them.

Many people with disabilities are in poor credit situations due to their disability. They may have large medical bills, or other expenses related to their disability. This legislation would make it much tougher for someone to maintain their auto insurance and go to work, to work themselves out of the tight spot they are in. If an individual could no longer afford their auto insurance, they likely would go without. The last thing we need is an uninsured driver on the roads.

In closing we would ask this committee to oppose SB 144, so that low-income citizens of Kansas (many of whom are people with disabilities) are able to maintain the insurance coverage they require.

If you have any additional questions feel free to contact me.

Thank you for your time.

Gina McDonald, CEO/President
KACIL
(785) 825-2675
ginamcd@aol.com

Senate F I & I Committee
Meeting Date: 2-18-03
Attachment No.: 10

Written only

KANSAS
Association of REALTORS®
SOLD on Service

TO: SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

FROM: BILL YANEK, DIRECTOR OF GOVERNMENTAL RELATIONS

DATE: February 18, 2003

RE: Senate Bill 144 – Credit-Based Insurance Scoring

The Kansas Association of REALTORS® believes that neither the unfettered use of credit-based insurance scoring nor a total ban of the use of credit-based insurance scoring is the best public policy for the State of Kansas.

We believe that Senate Bill 144 achieves a proper balance between protecting consumers from abusive insurance credit scoring practices and allowing insurance companies to exist in a competitive Kansas insurance market. In particular, the bill would prohibit companies from canceling or denying insurance based solely on credit information without considering any other factor applicable to policy underwriting. The bill also provides that an applicant or policyholder cannot be denied coverage or have his or her rates adjusted solely because the individual has no credit card account or has an inadequate credit history, nor may an insurance provider base renewal rates solely on credit information.

The Kansas Association of REALTORS® recommends amending Section 8 of SB 144. Section 8 of SB 144 should be amended to detail the procedures that the Kansas Insurance Department will take when reviewing filed scoring models.

Thank you for the opportunity to provide testimony in support of regulating the use of credit-based insurance scoring.

attachment 2a.

Senate F I & I Committee
Meeting Date: 2-18-03
Attachment No.: 11

785.267.3610 VOICE
800.366.0069 TOLL FREE
785.267.1867 FAX
www.kansasrealtor.com