

ALASKA LEGISLATURE COMMITTEE FILES

2003-2004

8072

11025 HOUSE STATE AFFAIRS

	Unstandardized Coefficients	Standard Error Of Coefficient	Standardized Coefficients	T-Statistic	Range Of Values	Sig.
Income	1.017	0.283	0.127	3.590	1-7	0.000
Age at Rating-Squared	0.006	0.002	0.619	3.190	256->8281	0.001
Age at Rating	-0.354	0.178	-0.387	-1.992	16-91	0.047
Constant	25.822	3.922		6.584		0.000

*Bolded entries in the first and last columns indicate statistically significant variables.

Calculation of Change in Rates

Note: Each percentage point below maximum translates to 1.333 percentage points relative to the average rate, which is 75% of the maximum.

	Coefficient (Change Per One Unit Of The Factor)	Shift As Measured In Number Of Income Groups		Conversion Factor From Percent Of Maximum To Percent Of Average	Change In Premium Expressed As Percent Of Average
Income	1.017	3.000	3.050	1.333	-4.1%

Example of Combined Regression for Both Income and Ethnicity, Age-Adjusted

	Linear Regression
Sample N	767
R Square	0.101
Adjusted R Square	0.093

	Unstandardized Coefficients	Standard Error of Coefficient	Standardized Coefficients	T-Statistic	Range of Values	Sig.
Income	0.944	0.283	0.118	3.337		0.001
Age at Rating-Squared	0.006	0.002	0.620	3.228		0.001
Age at Rating	-0.361	0.176	-0.395	-2.050		0.041
African American	-3.783	3.101	-0.042	-1.220		0.223
Hispanic	-2.244	1.983	-0.039	-1.132		0.258
Asian/Pacific Islander	4.550	1.903	0.083	2.390		0.017
Native American	-10.798	3.127	-0.120	-3.453		0.001
Constant	26.439	3.912		6.758		0.000

*Bolded entries in the first and last columns indicate statistically significant variables.

Calculation of Change in Rates

Note: Each percentage point below maximum translates to 1.333 percentage points relative to the average rate, which is 75% of the maximum.

	Coefficient (Change Per One Unit Of The Factor)	Shift As Measured In Number Of Income Groups		Conversion Factor From Percent Of Maximum To Percent Of Average	Change In Premium Expressed As Percent Of Average
Income	0.944	3.000	2.831	1.333	-3.8%

	Coefficient	Conversion Factor From Percent Of Maximum To Percent Of Average	Change In Premium Expressed As Percent Of Average
Asian/Pacific Islander	4.550	1.333	6.1%
Native American	-10.790	1.333	-14.4%

FIRM 2 REGRESSION FOR HAVING A CREDIT SCORE OF ZERO DUE TO INADEQUATE CREDIT HISTORY

Ethnicity

Evidence That Correlations With Ethnicity Are Not Statistically Significant At This Sample Size

Note: The dependent variable is the categorical outcome of having a credit score of zero. Coding 1= having a score of zero.

	Logistic Regression
Sample N	957
Cox & Snell R Square	0.020
Nagelkerke R Square	0.039

	Raw Coefficient	Standard Error	Wald Statistic	Range Of Values	Significance	Exponentiated Coefficient
Age less than 30	0.740	0.240	9.472	0-1	0.002	2.096
African American	0.897	0.582	2.378	0-1	0.123	2.453
Hispanic	0.675	0.376	3.213	0-1	0.073	1.963
Asian/Pacific Islander	0.520	0.389	1.787	0-1	0.181	1.682
Native American	-5.194	9.385	0.306	0-1	0.580	0.006
Multi-Ethnic	-0.036	1.074	0.001	0-1	0.973	0.964
Constant	-2.247	0.125	321.619		0.000	0.106

Income

Note: The dependent variable is the categorical outcome of having a credit score of zero. Coding 1= having a score of zero.

	Logistic Regression
Sample N	883
Cox & Snell R Square	0.067
Nagelkerke R Square	0.129

	Raw Coefficient	Standard Error	Wald Statistic	Range of Values	Significance	Exponentiated Coefficient
Income Less Than \$20,000	2.073	0.291	50.923	0-1	0.000	7.952
Income \$20,000 To \$35,000	0.851	0.321	7.534	0-1	0.006	2.413
Income \$75,000 To \$100,000	0.926	0.468	3.921	0-1	0.048	2.524
Constant	-3.023	0.241	156.876		0.000	0.049

*Bolded entries in the last two columns indicate statistically significant variables.

Notes:

The statistically significant results for the \$75,000-\$100,000 income category are anomalous, and no explanation has been suggested.

Age adjustment was not significant in this particular model: in other versions, an adjustment for age under 30 was significant, but inclusion of this adjustment does not substantially change the income effects.

	Typical Probability	Probability Expressed As Odds Ratio Relative To 1	Exponentiated Coefficient	Odds Ratio With Characteristic (Relative To 1)	New Odds Ratio Expressed As Probability
Income Less Than \$20,000	28.0%	0.389	7.952	3.092	75.6%
Income \$20,000 To \$35,000	28.0%	0.389	2.413	0.938	48.4%

APPENDIX E

FIRM 3 REGRESSION FOR ASSIGNMENT TO HIGH OR LOW RISK INSURANCE POOL

Ethnicity and Income

CAUTION: Risk pool assignment is based on a combination of credit factors and traditional auto insurance factors such as driving and insurance history. The outcomes analyzed in this regression may partly or entirely result from factors other than credit history.

Combined Ethnicity and Income Regression, Age-Adjusted

Note: The dependent variable is the categorical outcome of being placed in the high risk/high cost pool. Coding 1= hi pool.

	Logistic Regression
Sample N	862
Cox & Snell R Square	0.111
Nagelkerke R Square	0.151

	Raw Coefficient	Standard Error	Wald Statistic	Range of Values	Significance	Exponentiated Coefficient
African American	0.931	0.409	5.181	0-1	0.023	2.537
Hispanic	1.316	0.296	19.810	0-1	0.000	3.728
Asian/Pacific Islander	-0.155	0.265	0.341	0-1	0.559	0.856
Native American	-0.527	0.690	0.584	0-1	0.445	0.590
Multi-Ethnic	-0.087	0.670	0.017	0-1	0.896	0.916
Age at Rating	-0.027	0.005	25.904	18-86	0.000	0.974
Income Group	-0.268	0.054	24.646	0-1	0.000	0.765
Constant	1.168	0.243	23.137		0.000	3.216

Bolded entries in the last two columns indicate statistically significant variables.

Calculation Of Odds And Probability Shifts For Examples

Notes:

Odds ratios for ethnicity are relative to odds for whites.

Odds ratios for income apply to shifting between any two income levels up or down the income scale. The regression coefficients are expressed for movement up the scale. For movement down the income scale, exponentiated coefficients invert (1 divided by the exponentiated coefficient).

	Typical Probability	Probability Expressed As Odds Ratio Relative To 1	Exponentiated Coefficient	Odds Ratio With Characteristic (Relative To 1)	New Odds Ratio Expressed As Probability
African American	37.0%	0.587	2.537	1.490	59.8%
Hispanic	37.0%	0.587	3.728	2.190	68.6%

	Typical Probability	Probability Expressed As Odds Ratio Relative To 1	Exponentiated Coefficient	Change Measured In Number Of Income Categories	Exponentiated Coefficient For That Number Of Units Of Change	Odds Ratio After Shift In Characteristic (Relative To 1)	New Odds Ratio Expressed As Probability
Income- Upwards	37.0%	0.587	0.765	2.000	0.585	0.343	25.6%
Income- Downwards	37.0%	0.587	1.308	2.000	1.711	1.005	50.1%

FIRM 3 REGRESSION FOR SCORE IN LOW RISK INSURANCE POOL

Ethnicity

Note: The dependent variable is rating tiers 1 through five. Tier number five has the highest premiums.

	Linear Regression
Sample N	579
R Square	0.096
Adjusted R Square	0.088

	Unstandardized Coefficients	Standard Error of Coefficient	Standardized Coefficients	T-statistic	Range of Values	Sig.
African American	0.454	0.298	0.061	1.523	0-1	0.128
Hispanic	0.539	0.246	0.088	2.195	0-1	0.029
Asian/Pacific Islander	-0.110	0.157	-0.028	-0.701	0-1	0.484
Native American	0.271	0.370	0.029	0.731	0-1	0.465
Age at Rating	-0.021	0.003	-0.288	-7.169	19-86	0.000
Constant	3.296	0.139		23.710		0.000

*Bolded entries in the last two columns indicate statistically significant variables.

Calculation of Change in Rates

Note: For each rating tier, premiums rise by about 6% of maximum rates, or about 7.3% of average rates

	Coefficient	Premium Increase Per Tier	Percentage Premium Increase
Hispanic	0.539	0.073	3.9%

Income

There are no significant results correlating income with tier classification in the risk pool.

FIRM 3 REGRESSION FOR SCORE IN HIGH RISK INSURANCE POOL

Ethnicity

Note: The dependent variable is rating tiers one through five. Tier number five has the highest premiums.

	Linear Regression
Sample N	341
R Square	0.070
Adjusted R Square	0.056

	Unstandardized Coefficients	Standard Error Of Coefficient	Standardized Coefficients	T-Statistic	Range Of Values	Sig.
African American	0.773	0.291	0.141	2.655	0-1	0.008
Hispanic	0.121	0.178	0.036	0.678	0-1	0.498
Asian/Pacific Islander	0.000	0.226	0.000	0.002	0-1	0.998
Native American	1.170	0.570	0.109	2.051	0-1	0.041
Age at Rating	-0.016	0.004	-0.189	-3.539	18-84	0.000
Constant	2.994	0.178		16.780		0.000

*Bolded entries in the last two columns indicate statistically significant variables.

Calculation of Change in Rates

Note: For each rating tier, premiums rise by about 6% of maximum rates, or about 7.3% of average rates

	Coefficient	Premium Increase Per Tier	Percentage Premium Increase
African American	0.772660487	0.073	5.64%
Native American	1.170093545	0.073	8.54%

Ethnicity and Income Combined

Note: The dependent variable is rating tiers one through five. Tier number five has the highest premiums.

Linear Regression	
Sample N	325
R Square	0.080
Adjusted R Square	0.063

	Unstandardized Coefficients	Standard Error Of Coefficient	Standardized Coefficients	T-Statistic	Range Of Values	Sig.
African American	0.850	0.302	0.153	2.814	0-1	0.005
Hispanic	0.075	0.185	0.022	0.407	0-1	0.684
Asian/Pacific Islander	-0.035	0.232	-0.008	-0.152	0-1	0.879
Native American	1.218	0.660	0.100	1.847	0-1	0.066
Age at Rating	-0.015	0.005	-0.177	-3.201	18-84	0.002
Income less than \$20,000	0.289	0.139	0.115	2.082	0-1	0.038
Constant	2.877	0.197		14.603		0.000

*Bolded entries in the last two columns indicate statistically significant variables.

Calculation Of Change In Rates For Examples Used In The Report

Note: For each rating tier, premiums rise by about 6% of maximum rates, or about 7.3% of average rates

	Coefficient	Premium Increase Per Tier	Percentage Premium Increase
African American	0.850	0.073	6.20%
Native American	1.218	0.073	8.89%
Income Less Than \$20,000	0.289244437	0.073	2.11%

APPENDIX F

GLOSSARY OF TERMS

Overall Terms and Definitions

Constant – Both linear and logistic regressions include statistics for “constant” factors. They are include here for sake of completeness in description of the regressions, and not because they have policy implications. They can be thought of as the score or probability that is estimated for the starting or reference combination of characteristics, the one to which the shifts indicated by all the other factors are relative. Constant terms are required in order to calculate the estimated probability for a specific combination of characteristics.

Dependent Variable – The dependent variable is the outcome for which correlated factors are to be identified and quantified in the regression model.

Income Group – In all of the surveys, income information was collected by the categories below. Although these categories are not of perfectly equal size, it was treated as a linear variable in analysis. Use of both Age and Age-Squared factors should have permitted the regression to correctly identify patterns of correlation with income in spite of the fact that the group intervals widened as income rose.

- 1 Under \$20,000
- 2 \$20,000 to less than \$35,000
- 3 \$35,000 to less than \$50,000
- 4 \$50,000 to less than \$75,000
- 5 \$75,000 to less than \$100,000
- 6 \$100,000 to less than \$150,000
- 7 \$150,000 and above

Sample N – The number of policyholder records that were usable for that analysis: they belonged to the group being analyzed and had no missing values for the variables used.

Significance – The probability that the pattern represented by the coefficient for this factor really doesn't exist in the overall population, but is due to random chance producing a sample that has a pattern. This report used the criterion that only results with probabilities of error of 5% or less were considered statistically significant. This corresponds to a value of .05 in the Significance columns of the coefficient tables.

Standard Error – The interval plus or minus around any estimate which defines the area we are 95% confident includes the true value.

Linear Regression Terms

Linear Regression – This is a method for quantifying the simultaneous strength of association of several factors with an outcome which can be quantified on a numerical scale. The most common linear method, Ordinary Least Squares (OLS), was used.

R Square, Adjusted R Square – These are the two standard measures of the explanatory power of a Linear Regression. They both are on a zero-to-one scale, and give different mathematical approximations of what percentage of the variance in the outcome the model explains. In comparing the power or accuracy of regressions, R squares from different formulas should not be contrasted with each other: compare unadjusted scores to unadjusted scores, and adjusted scores to adjusted scores.

Standardized Coefficient – This is a measure of the overall significance of a factor in the model. Neither significance statistics nor the magnitude of an unstandardized coefficient are unambiguous measures of the significance of a factor in the explanatory power of a regression. For example, a factor may have a large effect (coefficient) and be highly significant, but have little overall significance because it is present in only a few cases, and therefore contributes only a small amount to overall accuracy.

T-Statistic – Another standard measure of statistical significance.

Unstandardized Coefficients – This expresses the strength of the correlation, scaled so that it corresponds to the scale on which the factor was measured. It can be directly multiplied times units of the factor in order to estimate how the dependent variable varies with a given variation in the factor. For categorical factors, such as being male, the unstandardized coefficient is the average difference the factor is associated with, adjusted for other factors in the model.

Logistic Regression Terms

Exponentiated Coefficient – Exponentiated logistic coefficients represent the shift in odds ratios correlated with a one-unit change in a correlated factor. To apply an exponentiated coefficient, express the probability of the outcome in the absence of that characteristic in terms of the odds in favor of the outcome, and multiply the numerator of the odds ratio to calculate how that factor shifts odds.

A shift by more than one unit in one of these factors is not additive, but has a power form. For example, if the exponentiated coefficient for age is 0.9, the coefficient for being three years older is 0.9 cubed, or $0.9 \times 0.9 \times 0.9$.

As an example, take a case in which the regression sets a variable "female=1" for being female, so lacking that factor indicates being male. If the odds that males will have a credit score of zero are 1-to-4, and the exponentiated coefficient for females is 0.5, then the odds for females are .5-to-4, or 1-to-8.

Any probability that can be expressed as a percentage, can also be expressed as an odds ratio: 75% is 3-to-1, 50% 1-to-1, and 10% is 1-to-9 in favor. Note that these are odds, or odds ratios, not probabilities or proportions. Odds of 1-to-4 is "one out of five" or a 20% probability. Odds of 1-to-8 is "one out of nine" or an 11.1% probability. Odds that a coin will land heads-up are 1-to-1, and odds that a person was born on a Monday are 1-to-6.

Raw Coefficient – These are the mathematical coefficients as generated by the regression model. They have a direct mathematical relationship to the Exponentiated Coefficients, as described above.

Logistic Regression – This is a method for quantifying the simultaneous strength of association of multiple factors with an outcome that is “categorical” – that is, it cannot be quantified on a numerical scale. Categorical outcomes are either true or false, there are no intermediate values. The strength of a factor’s association with a categorical outcome is described in terms of how it is associated with the probability or likelihood of that outcome.

Nagelkerke R Square, Cox & Snell R Square – These are two standard measures of the explanatory power of a Logistic regression. They both are on a zero-to-one scale, and give different mathematical approximations of what percentage of the variance in the outcome the model explains. The “percentage of variance explained” is not as straightforward a concept in dealing with categorical dependent variables. In comparing the power or accuracy of regressions, R squares from different formulas should not be contrasted with each other: compare a Nagelkerke with a Nagelkerke, and a Cox & Snell score with a Cox & Snell score.

Wald Statistic – This is a measure of the overall strength of a factor in the model. Neither significance statistics nor the magnitude of a raw coefficient are unambiguous measures of the significance of a factor in the overall power of a regression. For example, a factor may have a large effect (coefficient) and be highly significant, but have little overall significance because it is present in only a few cases, and therefore improves overall accuracy only a small amount.

Logistic Regression – This is a method for quantifying the simultaneous strength of association of multiple factors with an outcome that is “categorical” – that is, it cannot be quantified on a numerical scale. Categorical outcomes are either true or false, there are no intermediate values. The strength of a factor’s association with a categorical outcome is described in terms of how it is associated with the probability or likelihood of that outcome.

Nagelkerke R Square, Cox & Snell R Square – These are two standard measures of the explanatory power of a Logistic regression. They both are on a zero-to-one scale, and give different mathematical approximations of what percentage of the variance in the outcome the model explains. The “percentage of variance explained” is not as straightforward a concept in dealing with categorical dependent variables. In comparing the power or accuracy of regressions, R squares from different formulas should not be contrasted with each other: compare a Nagelkerke with a Nagelkerke, and a Cox & Snell score with a Cox & Snell score.

Wald Statistic – This is a measure of the overall strength of a factor in the model. Neither significance statistics nor the magnitude of a raw coefficient are unambiguous measures of the significance of a factor in the overall power of a regression. For example, a factor may have a large effect (coefficient) and be highly significant, but have little overall significance because it is present in only a few cases, and therefore improves overall accuracy only a small amount.

APPENDIX G

TELEPHONE SURVEY – LONG VERSION

Q.1 Record Source : Which list is this from ?

	(7)
Cancelled Policy Holders ..	1
Current Policy Holders	2

Q.2 Hello. I'm calling on behalf of the Office of the State Insurance Commissioner. I want to assure you this is not a sales call. May I please speak with _____ (the policy holder)?

	(8)
Yes ..	1
No	2

Q.3 Am I speaking with the Policy Holder, Someone who can speak for the policy holder, or neither ?

	(9)
Policy holder	1
Someone who can speak for the policyholder ..	2
Neither	3

[IF THE ANSWER TO QUESTION 3 IS 1 OR 2, THEN SKIP TO QUESTION 9]

Q.4 Can I speak with the policyholder ?

	(10)
Yes ..	1
No	2

[IF THE ANSWER TO QUESTION 4 IS 1, THEN SKIP TO QUESTION 9]

Q.5 (If No) "Is someone else available who could speak for the policyholder about his/her/your auto insurance?"

	(11)
Yes ..	1
No	2

[IF THE ANSWER TO QUESTION 5 IS 2-3, THEN SKIP TO QUESTION 35]

Q.6 (If Yes) – Who is that person?

_____ (5-105)

Q.7 Can we speak to them or should we call back at another time?

(12)
Speak1
Call Back ..2

[IF THE ANSWER TO QUESTION 7 IS NOT 2, THEN SKIP TO QUESTION 9]

Q.8 When would be a good time to call back ?

(106-206)

[IF THE ANSWER TO QUESTION 7 IS 2, THEN SKIP TO QUESTION 35]

Q.9 The Insurance Commissioner recently sent a letter asking for your help in investigating auto insurance cancellations. I'd like to ask you several questions that will help him determine if certain practices should be prohibited. This will take no more than 7 minutes of your time. Your answers will be kept strictly confidential, and combined with other responses to protect your identity. Your responses will not be revealed to your insurance company or to anyone else. (record call disposition)

(5-6)
Call Back-Appointment 01
Call Back NO-appointment .. 02
Respondent not available 03
Refusal to participate 04
-- 05
Communication Barrier 06
Continue Survey 07
-- 08
-- 09
-- 10

[IF THE ANSWER TO QUESTION 9 IS NOT 7, THEN SKIP TO QUESTION 35]

Q.10 (Record gender - ask if respondent is not policyholder or name is ambiguous)

(13)
Male 1
Female .. 2

[IF THE ANSWER TO QUESTION 1 IS NOT 1, THEN SKIP TO QUESTION 12]

Q.11 Firm 1 reported that they cancelled or declined to renew your auto insurance within the last year, is this correct?

(14)
Yes1
No2
Don't know ..3

[IF THE ANSWER IS 2-3, THEN SKIP TO QUESTION 27]

[IF THE ANSWER TO QUESTION 1 IS NOT 2, THEN SKIP TO QUESTION 13]

Q.12 Firm 1 reported that you have auto insurance with them, is this correct?

(15)
Yes1
No2
Don't know ..3

[IF THE ANSWER IS NOT 1, THEN SKIP TO QUESTION 35]

[IF THE ANSWER TO QUESTION 1 IS 2, THEN SKIP TO QUESTION 27]

Q.13 Did you receive a letter from the insurance company explaining why you (they) were denied auto insurance?

(16)
Yes1
No2
Don't know ..3

[IF THE ANSWER TO QUESTION 13 IS NOT 1, THEN SKIP TO QUESTION 15]

Q.14 Did the letter adequately explain why you (they) were denied auto insurance?

(17)
Yes1
No2
Don't know ..3

Q.15 On a scale of 1 to 10 (with 1 being not difficult at all and 10 being extremely difficult) how difficult has it been for you (or policyholder) to find new auto insurance coverage?

Difficulty _____ (42-43)

Q.16 How many insurance companies did you (or policyholder) have to contact? _____

Number of companies (0 for Don't Know). _____ (19-20)

Q.17 Were you (or policyholder) able to obtain replacement coverage?

(21)
Yes1
No2
Waiting to hear if approved .. 3
Don't know 4

[IF THE ANSWER IS 3, THEN SKIP TO QUESTION 25]

Q.18 Was there a period of time between the expiration of your former policy and the replacement policy?

(22)
Yes1
No2
Don't know ..3

Q.19 How much more or less do you (or policyholder) pay per month for this coverage compared to the previous coverage? (INTERVIEWER - IF RESPONDENT GIVES A 6 MONTH OR ANNUAL PREMIUM AMOUNT, CONVERT TO MONTHLY AMOUNT)

Amount (negative for less, 0 for same, blank for don't _____) (23-27)

Q.20 Is the auto insurance coverage on the new policy different from the coverage on the old policy?

(34)
Yes1
No2
Don't know ..3

Q.21 Does the new policy cover more drivers, fewer drivers, or the same number of drivers as the old policy?

(35)
Fewer1
Same2
More3
Don't know ..4

Q.22 Does the new policy cover more, fewer or the same number of vehicles?

(36)
Fewer1
Same2
More3
Don't know ..4

Q.23 Is the deductible on the new policy lower, higher, or the same?

(37)
Lower1
Same2
Higher3
Don't know ..4

Q.24 Is the collision coverage the same on the new policy?

(38)
Yes1
No2
Didn't have collision on previous policy...3
Don't know4

Q.25 Can you tell me what company you (or policyholder) are now insured with? (Do Not Read, check the one that applies)

(40-41)
Not currently insured 01
Pemco 02
Safeco 03
Allstate 04
State Farm 05

Geico	06
Progressive	07
American Express	08
Nations	09
Other (please specify)	10
Insure Quest	11
Oregon Mutual	12
Financial Indemity	13
Farmers	14
Hartford	15
Nationwide	16
Uniguard	17
National	18
Diaryland	19
Valley Insurance	20
Grange	21
Allied	22
Amica	23
Metropolitian Life	24
GMAC	25
CNA	26
Unitrin	27
Omni	28
Quest	29
United	30
Kemper	31
American Commerce	32
Windsor	33
USAA	34
AIG	35
Lunatrend	36
QBE Insurance Group	37
AAA	38
Owsley Insurance	39
Viking	40
Simon Financial Group	41
JBR	42
Encompass	43
General	44
Vancouver Insurance	45
Horace Mann	46
County Company Insurance ..	47
E Surance	48
Mutual Of Omaha	49
Interquest	50
DON'T KNOW/REFUSED.....	99

Q.26 OTHER : Can you tell me what company you (or policyholder) are now insured with? (Do Not Read, check the one that applies)

(207-307)

Q.27 Can you please tell me if you (or policyholder) are...

(60)	
Married	1
Single	2
Divorced	3
Widowed	4
Seperated	5
Other (please specify) ..	6

Q.28 OTHER: Can you please tell me if you (or policyholder) are...

(308-358)

Q.29 Is your (or policyholder's) age:

(61)
Under 161
16 - 242
25 - 343
35 - 444
45 - 545
55 - 646
65 - 747
75 and older ..8
Refuse9

Q.30 How do (does) you (or policyholder) identify your (policyholder's) race or ethnicity:
(INTERVIEWER - DO NOT READ THE LIST. ACCEPT MULTIPLE ANSWERS)

(64-83)
Black/ African American 01
Spanish/ Hispanic/Latino 02
Mexican, Mexican Am., Chicano, Puerto Rican, Cuban .. 03
Other Spanish/ Hispanic/Latino (Please specify) 04
White/Caucasian 05
American Indian or Alaska Native (Please specify) 06
Native Hawaiian, Guamanian or Chamorro, Samoan 07
Other Pacific Islander (Please specify) 08
Asian Indian 09
Chinese 10
Filipino 11
Japanese 12
Korean 13
Vietnamese 14
Other Asian (Please specify). 15
Other race (Please specify) 16
Multiracial 17
Refuse 18
Native American 20

Q.31 OTHER : How do (does) you (or policyholder) identify your (policyholder's) race or ethnicity:

(359-409)

Q.32 Which of the following income categories applies to your (or policyholder's) individual total annual income for 2000?

(84)
Under \$20,0001
\$20,000 - \$34,9992
\$35,000 - \$49,9993
\$50,000 - \$74,9994
\$75,000 - \$99,9995
\$100,000-149,9996
\$150,000 and above ..7
Refuse8

Q.33 Would you like to receive a report from the Insurance Commissioner about the outcome of our research?

(85)
Yes ..1
No2

[IF THE ANSWER TO QUESTION 33 IS NOT 1, THEN SKIP TO QUESTION 35]

Q.34 Name and Address

_____ (410-510)

Q.35 That is all the questions I have for you. Thank you for taking the time to participate in this research. (Interviewer ID#)

APPENDIX H

TELEPHONE SURVEY – SHORT VERSION

Q.1 Record Source : Which list is this from ?

(7)
Cancelled Policy Holders ..1
Current Policy Holders2

Q.2 Hello. I'm calling on behalf of the Office of the State Insurance Commissioner. I want to assure you this is not a sales call. May I please speak with _____ (the policy holder)?

(8)
Yes ..1
No2

Q.3 Am I speaking with the Policy Holder, Someone who can speak for the policy holder, or neither ?

(9)
Policy holder 1
Someone who can speak for the policyholder .. 2
Neither 3

[IF THE ANSWER TO QUESTION 3 IS 1 OR 2, THEN SKIP TO QUESTION 9]

Q.4 Can I speak with the policyholder ?

(10)
Yes ..1
No2

[IF THE ANSWER TO QUESTION 4 IS 1, THEN SKIP TO QUESTION 9]

Q.5 (If No) "Is someone else available who could speak for the policyholder about his/her/your auto insurance?"

(11)
Yes ..1
No2

[IF THE ANSWER TO QUESTION 5 IS 2-3, THEN SKIP TO QUESTION 35]

Q.6 (If Yes) – Who is that person?

_____ (5-105)

Q.7 Can we speak to them or should we call back at another time?

(12)
 Speak1
 Call Back ..2

[IF THE ANSWER TO QUESTION 7 IS NOT 2, THEN SKIP TO QUESTION 9]

Q.8 When would be a good time to call back ?

_____ (106-206)

[IF THE ANSWER TO QUESTION 7 IS 2, THEN SKIP TO QUESTION 35]

Q.9 The Insurance Commissioner recently sent a letter asking for your help in investigating auto insurance cancellations. I'd like to ask you several questions that will help him determine if certain practices should be prohibited. This will take no more than 7 minutes of your time. Your answers will be kept strictly confidential, and combined with other responses to protect your identity. Your responses will not be revealed to your insurance company or to anyone else. (record call disposition)

(5-6)
 Call Back-Appointment 01
 Call Back NO-appointment .. 02
 Respondent not available 03
 Refusal to participate 04
 -- 05
 Communication Barrier 06
 Continue Survey 07
 -- 08
 -- 09
 -- 10

[IF THE ANSWER TO QUESTION 9 IS NOT 7, THEN SKIP TO QUESTION 35]

Q.10 (Record gender - ask if respondent is not policyholder or name is ambiguous)

(13)
 Male 1
 Female ..2

[IF THE ANSWER TO QUESTION 1 IS NOT 1, THEN SKIP TO QUESTION 12]

Q.11 Can you please tell me if you (or policyholder) are...

(60)
 Married1
 Single2
 Divorced3
 Widowed4
 Separated5
 Other (please specify) ..6

Q.12 OTHER: Can you please tell me if you (or policyholder) are...

Q.13 Is your (or policyholder's) age:

- (61)
- Under 16 1
- 16 - 24 2
- 25 - 34 3
- 35 - 44 4
- 45 - 54 5
- 55 - 64 6
- 65 - 74 7
- 75 and older ..8
- Refuse 9

Q.14 How do (does) you (or policyholder) identify your (policyholder's) race or ethnicity:
(INTERVIEWER - DO NOT READ THE LIST. ACCEPT MULTIPLE ANSWERS)

- (64-83)
- Black/ African American 01
- Spanish/ Hispanic/Latino 02
- Mexican, Mexican Am., Chicano, Puerto Rican, Cuban .. 03
- Other Spanish/ Hispanic/Latino (Please specify) 04
- White/Caucasian 05
- American Indian or Alaska Native (Please specify) 06
- Native Hawaiian, Guamanian or Chamorro, Samoan 07
- Other Pacific Islander (Please specify) 08
- Asia : Indian 09
- Chinese 10
- Filipino 11
- Japanese 12
- Korean 13
- Vietnamese 14
- Other Asian (Please specify) 15
- Other race (Please specify) 16
- Multiracial 17
- Refuse 18
- Native American 20

Q.15 OTHER : How do (does) you (or policyholder) identify your (policyholder's) race or ethnicity:

(359-409)

Q.16 Which of the following income categories applies to your (or policyholder's) individual total annual income for 2000?

- (84)
- Under \$20,000 1
- \$20,000 - \$34,9992
- \$35,000 - \$49,9993
- \$50,000 - \$74,9994
- \$75,000 - \$99,9995
- \$100,000-149,9996
- \$150,000 and above ..7
- Refuse8

Q.17 Would you like to receive a report from the Insurance Commissioner about the outcome of our research?

(85)
Yes ..1
No2

[IF THE ANSWER TO QUESTION 33 IS NOT 1, THEN SKIP TO QUESTION 35]

Q.18 Name and Address

_____ (410-510)

Q.19 That is all the questions I have for you. Thank you for taking the time to participate in this research. (Interviewer ID#)

Comparison of CS for SB 320 22-LS1462\T 4/30/02 with Washington legislation and NCOIL

CS for SB 320	Washington Legislation	CS for HB395	NCOIL
UNDERWRITING			
<p>An insurer may not use credit scoring unless the insurer obtains permission from the applicant (<i>not clear what happens when the consumer says no. Does the insurer have to offer coverage using other underwriting factors only or can the insurer refuse coverage?</i>)</p>			<p>Section 7: insurer or agent shall disclose on the application or at time application is taken that credit information may be obtained (<i>disclosure language should clearly state whether or not the insurer is using credit, not just that the insurer may use credit</i>)</p>
<p>Adverse action based on credit history requires written notification and explanation to the applicant or insured. It must inform the consumer of their right to a free copy of the credit report and request reconsideration of the adverse action if there are errors. Requires information on how credit scores can be improved. (<i>Add language that the explanation must be clear and specific</i>)</p>	<p>Similar but does not require information on how to improve credit score.</p>	<p>p.1, 5-12 Similar to SB 320 but does not require information on how to improve credit score</p>	<p>Section 8: if adverse action is taken the insurer shall provide notification in accordance with FCRA. Provide consumer with reason for adverse action in clear and specific language including up to 4 primary factors influencing the adverse action decision. Standard language from third party vendors are deemed to comply with this requirement. (<i>the standard language is not clear and specific and it is difficult to explicitly identify what caused the adverse action from the third party language</i>)</p>

<p>The insurer shall provide the consumer with the opportunity to identify errors and to request reconsideration of the adverse action.</p>			
	<p>An insurer shall not cancel or nonrenew coverage based in whole or in part on credit history.</p>	<p>p.1, 13-14; p.2, 1-2 An insurer may not cancel or fail to renew coverage based in whole or in part on credit history.</p>	<p>Section 5.B: An insurer shall not cancel or nonrenew solely on the basis of credit information without consideration of other applicable underwriting factors independent of credit information. <i>(AS 21.36.210 already includes very restricted reasons for canceling a personal lines policy. Including cancellation for credit and other underwriting factors may be broadening the protections already available in AK laws. Also, "solely" is problematic language. Any trivial reason, along with credit, could be used to cancel or nonrenew)</i></p>
<p>Credit history may be used to deny coverage only in combination with other substantive underwriting factors.</p>	<p>Credit history may be used to deny coverage only in combination with other substantive underwriting factors.</p>	<p>p.2, 3-9 Same</p>	<p>Section 5.B: An insurer shall not deny coverage solely on the basis of credit information without consideration of other applicable underwriting factors independent of credit information. <i>(Similar effect as SB 320 but "solely" should be deleted)</i></p>

<p>An application may be rejected within the first 60 days. <i>(Similar to existing provisions in AS 21.36.210. AAG's advice is to eliminate this section as it duplicates existing statute.)</i></p>	<p>Same</p>	<p>p.2, 10-12 Same</p>	
<p>An insurer may not deny coverage based in whole or in part on the absence of credit history or the inability to determine credit history if the insurer has received accurate and complete information.</p>	<p>Same</p>	<p>p.2, 13-17 Same</p>	<p>Section 5.E: an insurer shall not consider absence of credit information or inability to calculate a credit score unless one of the following occurs: 1. Treat consumer as approved by director; 2. Treat consumer as if the credit was neutral; or 3. Exclude credit and use only other underwriting criteria. <i>(option 1 appears to make NCOIL a little weaker than SB320)</i></p>
	<p>An insurer may not deny coverage based on the number of credit inquiries; medical information; initial purchase of vehicle or house</p>	<p>p. 2, 18-26 Same</p>	<p>Section 5.H: An insurer may not use as a negative factor in underwriting credit inquiries not initiated by the consumer or inquiries requested by the consumer for his or her own credit information; inquiries relating to insurance coverage; medical accounts; multiple lender inquiries from home mortgage industry or auto lending industry made within a 30-day period (1 inquiry may be used). <i>(Can they be used to benefit consumer?)</i></p>

	An insurer may not deny coverage based on a particular type of credit card	Same	Section 5.D: An insurer may not take adverse action solely because consumer does not have a credit card account. (<i>"Solely" is still an issue</i>)
	Prohibits denying coverage based on the total available line of credit but allows the total amount of outstanding debt to total line of credit	p.2, 27 Prohibits denying coverage based on the total available line of credit.	
			Section 5.A: An insurer shall not use a credit score that uses income, gender, address, zip code, ethnicity, religion, marital status or nationality as a factor.
			Section 9: Requires filing of model used for underwriting. Allows 3 rd party to file on behalf of insurers. Provides for confidentiality of model.
If disputed credit history is used to determine eligibility for coverage, the insurer shall reissue or rerate the policy retroactive to the effective date if the consumer resolves the dispute under the FCRA process and notifies the insurer the dispute has been resolved.	Same	Same	Section 6: If through FCRA dispute resolution process it is determined incorrect information was used, the insurer shall re-underwrite the consumer within 30 days. (<i>A stronger dispute resolution process that includes the insurer, not just the credit reporting agency should be considered. The FCRA process is sometimes difficult and lengthy.</i>)

<p><i>(A stronger dispute resolution process that includes the insurer, not just the credit reporting agency should be considered. The FCRA process is sometimes difficult and lengthy.)</i></p>			
			<p>Section 5.F: An insurer may not take adverse action in underwriting unless credit report is issued or score is calculated within 90 days from the date the policy is written or renewed.</p>
			<p>Section 5.G: An insurer shall not use credit information for underwriting unless not later than 36 months following the last time credit information was obtained, the insurer recalculates the score or updates the credit report.</p>
			<p>Section 5.G: At request of consumer or agent, the insurer shall re-underwrite the consumer based upon current credit information; insurer may use credit on any renewal before 36 months. An insurer does not need to use current credit information if 1) the consumer is being treated as approved by director; 2) the insured is in the</p>

			most favorably priced tier; 3) credit was not used when policy was initially written; or 4) policy is re-underwritten no later than 36 months based on other underwriting factors excluding credit information.
Adverse action is defined by FCRA as well as explicit language identifying types of adverse actions.	Same	Same	Adverse action is explicitly defined. Definition does not refer to FCRA.
RATING			
Requires filing of credit scoring model at the director's request. <i>(We will ask for the model. Removing the optional provision will speed up the review process.)</i>	Similar, but filing of model is mandatory.	Same as Washington	Section 9: Requires filing of model used for rating.
Requires filing data supporting the validity of the model.			
Makes model confidential	Same	Same	Section 9: Provides for confidentiality of model.
Allows the insurer to disclose the filed information.			
Prohibits the use of gender, race, nationality or religion; and unfair discrimination			Section 5.A: An insurer shall not use a credit score that uses income, gender, address, zip code, ethnicity, religion, marital status or nationality as a factor.

Prohibits credit history that results in unfair discrimination (<i>Already prohibited in AS 21.39.030</i>)			
			Section 5.C: An insurer may not base a renewal rate solely upon credit information without considering other factors independent of credit. (<i>What does "solely" mean? If there are other factors but the only one the consumer does not meet is credit, is that decision solely based on credit?</i>)
Allows the absence of credit history or inability to determine the consumer's credit history in calculating premiums or rates if the insurer files actuarial data.	Same	Same	Section 5.E: an insurer shall not consider absence of credit information or inability to calculate a credit score unless one of the following occurs: 1. Treat consumer as approved by director; 2. Treat consumer as if the credit was neutral; or 3. Exclude credit and use only other underwriting criteria.
Prohibits using the number of marketing promotional or insurance inquiries	Prohibits the use of the number of credit inquiries.	Same as Washington	Section 5.H: An insurer may not use as a negative factor in rating credit inquiries not initiated by the consumer or inquiries requested by the consumer for his or her own credit information; inquiries relating to insurance coverage (<i>Appears to allow the</i>

			<i>use if they have a positive effect on the consumer)</i>
Prohibits credit history based on collection accounts identified with a medical code	Same	Same	Section 5.H.3: An insurer may not use as a negative factor in rating collection accounts with a medical industry code. <i>(This appears to allow medical accounts if they will have a positive effect on the consumer)</i>
Allows the use of inquiries related to auto or mortgage financing, but all inquiries in a 30-day period must be considered one inquiry			Section 5.H.4, 5: An insurer may not use multiple lender inquiries from the home mortgage industry or auto lending industry made within 30 days of one another (1 inquiry may be used).
	Prohibits the use of the initial purchase of a vehicle or house and particular type of credit card	Same as Washington	
Prohibits the use of the consumer's total available line of credit but does allow the amount of debt in relation to the total line of credit.	Same	Same	
			Section 5.F: An insurer may not take adverse action in rating unless credit report is issued or score is calculated within 90 days from the date the policy is written or renewed.

			Section 5.G: An insurer shall not use credit information for rating unless not later than 36 months following the last time credit information was obtained, the insurer recalculates the score or updates the credit report.
			Section 5.G: At request of consumer or agent, the insurer shall re-rate the consumer based upon current credit information; insurer may use credit on any renewal rate before 36 months. An insurer does not need to use current credit information if 1) the consumer is being treated as approved by director; 2) the insured is in the most favorably priced tier; 3) credit was not used when policy was initially written; or 4) policy is re-underwritten no later than 36 months based on other underwriting factors excluding credit information.
If a consumer is charged higher premiums due to disputed credit history, the insurer shall re-rate the policy retroactive to the effective date of the policy if the consumer resolves the dispute under the	Same	Same	Section 6: If through FCRA dispute resolution process it is determined that incorrect information has been used, the insurer shall re-rate the policy within 30 days. Any overpayment shall be calculated back to the shorter of either the last 12 months or the actual

<p>FCRA process and notifies the insurer that the dispute has been resolved. <i>(A stronger dispute resolution process that involves the insurer should be considered. Some insurers go back further than the current policy)</i></p>			<p>policy period. <i>(A stronger dispute resolution process that involves the insurer should be considered. The FCRA process is sometimes lengthy and difficult. Some insurers goes back further than the current policy)</i></p>
<p>MISCELLANEOUS PROVISIONS</p>			
<p>Requires a report to the legislature related to the use of credit history</p>	<p>Requires a report to the legislature related to the use of credit history.</p>	<p>Requires a report to the legislature related to the use of credit history</p>	
			<p>Section 10: Provides for indemnification of producers.</p>
			<p>Section 11: Prohibits selling data or lists based on information obtained in conjunction with insurance inquiries</p>
<p>Adds flood insurance to definition of personal insurance</p>		<p>Same as CS 320</p>	

Statement of the Progressive Group Regarding the Use of Credit in Auto Insurance Underwriting

The Progressive group (Progressive) is the largest writer of private passenger auto insurance through independent agents and the fourth largest auto insurer in the country. Progressive does business in 48 states (not in Massachusetts or New Jersey) and is represented by more than 30,000 independent agencies throughout the country.

Using credit as an underwriting factor has allowed Progressive - and our agents - to offer more accurate and lower rates to more people. Since Progressive began using credit, we have been able to offer standard and preferred rate levels to many consumers who otherwise would have been eligible only for nonstandard rates. Frequently, consumers unable to meet traditional underwriting guidelines (i.e. prior insurance) are able to get a better rate because credit is a component of the underwriting process. Progressive never uses credit to reject a consumer or to cancel or raise the rates of an existing policyholder.

Progressive has worked hard to use credit responsibly and to make the process of using it as transparent to agents as possible so that their workflow is not interrupted. Nevertheless, the use of credit for insurance underwriting purposes is undergoing scrutiny in a number of states. Progressive urges independent agents to work with us to assure that the responsible use of credit is not jeopardized. It is a valuable tool that has helped agents write - and retain - more business.

A Few Key Facts

- Credit has been proven to be a very powerful and independent predictor of future loss. The use of credit provides an additional predictive factor, one not offered by other variables. This is supported by Progressive data and research undertaken by a number of groups including *Fair, Isaac*. In addition, a 1999 study by the Virginia Bureau of Insurance indicated that "... in every case where insurers have proposed to use credit scoring as a rating factor and have been able to provide sufficient data to the Bureau's actuaries, the use of credit scoring has been found to be statistically correlated to losses."
- Many direct and captive companies use credit to prescreen mailing lists. If the use of credit were to be eliminated or unreasonably restricted at the state level, the federal Fair Credit Reporting Act (FCRA) would still permit these companies to prescreen lists for solicitation. This would give these companies a competitive advantage over independent agents by allowing them to specifically target - and write - more profitable, higher retention business.
- Credit scores focus mainly on a person's bill-paying behavior. If a consumer has been responsible in his or her use of credit, it will reflect positively on the score. Further, credit reports do not contain any information on income, race, color, creed, physical handicap or disability.
- Mortgage vendors and insurance companies use different scoring algorithms and a credit score that a mortgage company uses is not the same thing as an "insurance score or financial responsibility score" used by insurance companies.
- The use of credit as one underwriting variable allows insurance companies - and agents - to offer more accurate and oftentimes lower rates to more consumers. Restricting its use would cause auto insurance rates to increase for many consumers.

Implementing Proactive Business Practices on the Use of Credit

Progressive believes that it is important for companies to exercise leadership in tailoring their use of credit to respond to the concerns that have been raised by consumers, agents and regulators.

Progressive has already implemented these policies and procedures on the use of credit:

- Credit history is not used to cancel, non-renew or refuse to insure someone. Offering to write a policy in an affiliated company with identical coverage and terms is not considered a refusal to insure, cancellation, or non-renewal.
- Credit information that is disputed by the consumer with the credit-reporting agency is not considered in the insurance scoring algorithm.
- Disclosure to persons seeking a quote that credit information is obtained as part of the underwriting process. In the case of business written by independent agents, the agent is asked to make this disclosure. The disclosure is given in writing or in the same medium as the application.
- Insurance inquiry information and non-consumer initiated inquiries are not used as a component of the insurance scoring algorithm.
- An individual's personally identifiable credit information is not disclosed to any third party, including independent agents.
- At the request of an applicant or insured, a recalculation of premium is undertaken upon notice by a credit-reporting agency that the credit information provided was inaccurate or incomplete.
- An applicant or insured who suffers an adverse action or underwriting decision as a result of the use of credit information is advised of the means by which he or she may obtain a free copy of his or her credit report.
- Reason codes that explain how credit information adversely affected an applicant or insured's underwriting are provided at the applicant or insured's request.
- Credit is confirmed as part of initial underwriting to become a Progressive policyholder. In some states, once a customer has been with Progressive for two years, we may review the policy in order to determine if you are eligible for a lower rate. In these cases, we do confirm credit again as well as reviewing the entire risk (i.e., pulling MVR reports). If the customer is eligible for a lower rate, we will offer it to the consumer. We will not move the policy to a higher rate unless required to do so by law.
- The decision to request a credit report or use an insurance credit score will be reasonably related to Progressive's business and will not be made based in whole or in part upon race, color, creed, marital status, sex, national origin, religion, place of residency, blindness or any other physical handicap or disability.
- Progressive will not request a credit report or use an insurance score for any arbitrary, capricious, or unfairly discriminatory reason.

Progressive believes in and is actively work towards the following to further respond to concerns that have been raised with industry practices.

- A new, easy to understand, credit model that we will openly share with consumers, agents, customers, regulators, legislators and the media. Among other things, the model will:
 - a. Eliminate from consideration medical debts and personally guaranteed business debts
 - b. Further segment the population of consumers with insufficient or no credit history, based on objective criteria (e.g. insured age), to more accurately match the price of coverage to the underlying cost.

- Where required or encouraged by state regulators, we will file the scoring algorithm and not request trade secret protection.
- A credit assistance team, with a toll-free phone number to Progressive, for consumers and agents to call to assist them with concerns about the credit process. The team will be able to:
 - a. Provide a personalized report to applicants describing how their score on each of the variables considered in the credit-scoring algorithm compares to the average. The report will include a more informative and useful explanation that we're able to give today on how their credit information may have adversely affected underwriting.
 - b. Provide reasonable credit exceptions based upon prior credit history for persons whose credit information is unduly influenced by extraordinary life events (i.e., catastrophic injury, death of a spouse, business loss etc.).
 - c. Upon request, facilitate the process whereby a consumer interacts with the credit-reporting agency in order to request corrections. While we cannot contact the agency directly on behalf of the consumer, we will educate and advise them on the process, what to expect, etc.

Reasonable Regulation Regarding the Use of Credit

The responsible use of credit in underwriting is good for consumers and independent agents. Progressive believes that existing laws and regulations already provide state insurance departments with reasonable regulatory authority with respect to the use of credit in underwriting. We are hopeful that states will give the industry the opportunity to implement new policies and procedures that respond to the concerns that have been raised before considering further regulation. However, Progressive will support reasonable state guidelines that reflect the practices outlined above.

Counterproductive Regulation

Certain regulations, if implemented, would destroy the ability to use credit in the underwriting process. The result would be less accurate pricing and the loss of more competitive rates for the two-thirds of Progressive customers who benefit today from the use of credit. In addition, direct and captive companies could continue to use credit to prescreen mailings under provisions in the FCRA and thus would have a competitive advantage over the agency companies.

We ask agents to join us in opposing the following types of regulation:

- An outright prohibition of the use of credit in underwriting.
- Burdensome operational requirements for the use of credit information such as requiring written consent or written disclosures before credit information can be obtained, requiring that reasons for adverse action be provided to each customer (instead of at the request of a customer), and any other provisions that would make it impossible to efficiently conduct our business or provide consumers with information about our use of credit.
- Prohibitions against using specific types of credit information with respect to the calculation or completion of a credit score, i.e., numbers of late pays (limited exceptions for medical debts or items in dispute are acceptable).
- Requirements that insurers evaluate the accuracy of credit information in response to objections or concerns raised by an insured. Rather, companies should have the ability to implement reasonable business practices such as the toll-free number and ombudsman role previously mentioned to handle consumer concerns.
- Requirements that "no hit" or "thin files" be treated as neutral or average credit.
- Prescribed limits or caps on credit score based rates or tier differentials.

While the use of credit in underwriting and rating is expressly permitted under the Fair Credit Reporting Act (FCRA), Progressive is committed to working with state legislators and regulators to find common ground that results in reasonable regulation of the use of credit. We invite independent agents to join us.

T H E

TRANS UNION

C R E D I T
R E P O R T

TRAINING GUIDE

 **TRANS UNION**

TRANS UNION CREDIT REPORT FIELDS

1 INQUIRY INFORMATION

Subscriber inquiry information is displayed at the top of the report. On every Trans Union Credit Report the inquiring subscriber's Trans Union-assigned code, name, market area where the file resides within the Trans Union system, date the file was created, and inquiry date and time (central time zone) of the inquiry are displayed.

2 DEMOGRAPHIC INFORMATION

Helps you verify consumer identification by providing:

- Consumer's name, plus any known aliases.
- Current address and date reported.
- Up to two previous addresses, date reported on first previous address.
- Social security number.
- If available, date of birth, telephone number and most current employer, one previous employer, including addresses, position, income and date employment was verified, reported and/or hired.

SPECIAL MESSAGES

Highlights specific credit file conditions that may include:

- Suspected fraud, as indicated by TRANS ALERT or HAWK.
- Presence of consumer statement.
- No subject found.
- 1 • A TRANS ALERT message appears when the input address, SSN or surname does not match what is on file; or when a minimum of four inquiries have been made against the file within the last 60 days.
- 4 • HAWK messages (optional) appear if address, phone number or SSN have been used in suspected fraudulent activity; or if the information is inappropriate on an application, such as a commercial or institutional address; or if the SSN has not been issued by the Social Security Administration or is that of a deceased person as reported by the Social Security Administration.

MODEL PROFILE

Displays unbiased predictive scores to project a consumer's future credit risk. Other scores available estimate income, project recovery dollars and predict insurance risk.

- 3 • Risk score factors are displayed numerically or in text. Up to four factors are disclosed with EMPIRICA, NEW DELPHI, PATROL and ASSIST. These factors are displayed in order based on their relative impact on the final score.
- 1 • ***ALERT*** appears after model profile heading when MOP 7 or greater, a negative public record or a collection is present on the file.
- 7 • *** NEW DELPHI *** predicts the likelihood of an applicant becoming bankrupt within the next 12 months.

CREDIT SUMMARY

Provides a "snapshot" of all activity on the consumer's credit report.

- Available as an option covering either total file history or 12-month file history.
- "Total File History" or "12 Month History" will print in the upper right hand corner of the credit summary depending on the option chosen.

From left to right, headers in the first row read as follows:

- 8 Total number of public records.
- 3 Total number of collection accounts; accounts with a Kinds-Of-Business (KOB) code of "Y".
- 15 Total number of accounts with a current manner of payment (MOP) 2 or greater.
- 11 HISTORICAL NEGATIVE: Derived from the payment pattern field. Displayed in tt-iii format.
tt=Total number of accounts with an historical MOP 2 or greater.
iii=Total number of times MOP 2 or greater ratings have historically occurred. Excludes current MOP.
- 12 Total number of trades. TRD value is the sum of RVL, INST, MTG and OPN values.
- 13 Total number of revolving and/or check credit accounts (Account types "R" and "C").
- 14 Total number of installment accounts (Account type "I").
- 15 Total number of mortgage accounts (Account type "M").
- 16 Total number of open accounts (Account type "O").
- 17 Total number of inquiries.

From left to right, headers on the second row read as follows:

- 18 Highest amount ever owed on an account.
- 19 Maximum credit amount approved by credit grantor.
- 20 Balance owed as of the date verified.
- 21 Amount past due as of the date verified or closed.
- 22 From the "TERMS" field on the account; subscriber-reported monthly payment.
- 23 Percent of credit available for revolving, check credit and open accounts. Field is calculated by subtracting balance from credit limit divided by credit limit.
- 24 Totals for second row headers are included for: Revolving, Installment, (Mortgage, Open and Closed with Balance accounts not shown on sample report).

*Note: Fields with dollar amounts will display K=Thousands, M=Millions.

25 PUBLIC RECORD

Public record information is maintained on a consumer's file in compliance with the Fair Credit Reporting Act (FCRA). This information is obtained from county, state and federal courts and provides notification of:

- Civil judgements or tax liens reported for the consumer over the past 7 years.
- Bankruptcies the consumer has filed during the past 10 years.
- Public record information includes the source, type of public record, date the public record was reported to the credit bureau, any liabilities, the ECOA designator; (see the "codes page" that follows for more details) court location, any assets and the date the public record was paid (if applicable). Also lists the docket number, the plaintiff and attorney involved in the case.

CREDIT REPORT

GOI duncan,elizabeth*2 9932,,woodbine,,chicago,il,60693*5 001-01-0418**

TRANS UNION CREDIT REPORT

① <FOR> <SUB NAME> <MKT SUB> <INFILE> <DATE> <TIME>
 (1) D248 ABC DEPT STORE 06 CH 4/74 2/15/97 09:36CT

<SUBJECT> <SSN> <BIRTH DATE>
 ② DUNCAN, ELIZABETH 002-02-2222 2/53
 <ALSO KNOWN AS> <TELEPHONE>
 COOK, ELIZABETH 555-5555

<CURRENT ADDRESS> <DATE RPTD>
 9932 WOODBINE, #9B CHICAGO IL. 60693 1/96

<FORMER ADDRESS> <DATE RPTD>
 10 N. CAMINO, OAKLAND CA. 94583 4/94

<CURRENT EMPLOYER AND ADDRESS> <POSITION> <INCOME> <VERE> <RPTD> <HIRE>
 MARRIOTT HOTELS CONCIERGE
 8638 GRAND, ANYTOWN IL. 32500Y 3/96 3/96 3/93

SPECIAL MESSAGES

- ③ ***TRANS-ALERT: INPUT SSN DOES NOT MATCH FILE SSN***
- ④ ***HAWK-ALERT: INPUT SSN ISSUED: 1936 - 1950; ST: NH
 FILE SSN NOT ISSUED BY SOCIAL SECURITY ADMINISTRATION***

MODEL PROFILE

- ⑦ ***NEW DELPHI ALERT: SCORE ⑥-775: 26, 03, 06, 25 ***

CREDIT SUMMARY

TOTAL FILE HISTORY

⑧ PR=1 ⑨ COL=1 ⑩ NEG=1 ⑪ HSTNEG=1-6 ⑫ TRD=2 ⑬ RVL=1 ⑭ INST=1 ⑮ MTG=0 ⑯ OPN=0 ⑰ INQ=2
 ⑱ HIGH CRED ⑲ CRED LIM ⑳ BALANCE ㉑ PAST DUE ㉒ MONTHLY PAY AVAILABLE

REVOLVING:	\$500	\$1000	\$100	\$	\$20	⑳90%
INSTALLMENT:	\$16.0K	\$	\$12.4K	\$1974	\$282	
⑳ TOTALS:	\$16.5K	\$1000	\$12.5K	\$1974	\$302	

PUBLIC RECORDS

SOURCE	DATE	LIAB	ECOA	ASSETS	DOCKET#
TYPE			COURT	LOC	PLAINTIFF/ATTORNEY
Z 4932059	10/95R	\$13.0K	C	\$0	93B38521
CHAPTER 11 BANKRUPTCY			CHICAGO, IL		R. SMITH/D. WINSLOW

COLLECTIONS

SUBNAME	SUBCODE	ECOA	OPENED	CLOSED	\$PLACED	CREDITOR	MOP
ACCOUNT#			VERIFIED		BALANCE	REMARKS	
ADVANCED COL	Y 999C004	I	5/93	5/93F	\$2500	ABC BANK	09P
12345			4/96A		\$1000	MAKING PAYMENTS	

TRADES

① SUBNAME	② SUBCODE	③ OPENED	④ HIGHCRED	⑤ TERMS	⑥ MAXDELO	⑦ PAYPAT	1-12	⑧ MOP
⑨ ACCOUNT#		⑩ VERIFIED	⑪ CREDLIM	⑫ PASTDUE	⑬ AMT-MOP	⑭ PAYPAT	13-24	
⑮ ECOA	⑯ COLLATRL/LOANTYP	⑰ CLSD/PD	⑱ BALANCE	⑲ REMARKS		⑳ MO	30/60/90	
AMERICAN BK B	6661001	10/94	\$16.0K	60M282	1/96	545543211111		I05
9876543210		4/96V		\$1974	\$1974	05 11111111		
I	AUTOMOBILE		\$12.4K	*CONTACT SUBSCRIBER		19V	1/ 1/ 5	
FILENES	D 3847002	8/91	\$500	MIN20		111111111111		R01
2212345678		3/96V	\$1000			111111111111		
C	/CREDITCARD		\$100			24V	0/ 0/ 0	

INQUIRIES

DATE	SUBCODE	SUBNAME	DATE	SUBCODE	SUBNAME
4/17/96	DCH248	ABC DEPT STORE	3/7/96	BPH9999	TEST BANK

⑳ END OF CREDIT REPORT - SERVICED BY :
 TRANS UNION NNN-NNN-NNNN
 PO BOX 390, SPRINGFIELD, PA. 19064

TRANS UNION CREDIT REPORT FIELDS

25 COLLECTIONS

Identifies consumer accounts that have been transferred to a professional debt-collecting firm.

Collection information includes the name of the collection agency providing information, consumer's account number with the collection agency, collector's Kinds-of-Business designator and Trans Union assigned reporting subscriber number (all collection agency subcodes begin with a "Y"), the ECOA designator (see the "codes page" that follows for more details), date the amount was charged off by the original creditor, date the information was verified along with an indicator code (see the "codes page" that follows for more details), date the item was turned over to a collection agency, original dollar amount of collection, the balance owed as of date verified or closed, name of the original creditor, and an explanation of current account status as reported by the collection agency.

TRADES

Provides an on-going historical and current record of the consumer's buying and payment activities.

- Trades are available sorted by most derogatory followed by date verified or vice-versa.
- Payment pattern is available displaying either 12 or 24 months.

Trade information includes the following:

- 27 Abbreviated name of credit grantor with whom consumer has an account.
- 28 Consumer's account number with the credit grantor.
- 29 ECOA indicates responsibility for paying the account; (see the "codes page" that follows for more details).
- 30 Credit Grantor's Kinds-Of-Business designator and Trans Union-assigned reporting subscriber number (see the "codes page" that follows for more details).
- 31 Collateral for an installment loan or type of loan.
- 32 Date the account was opened.
- 33 Date of last activity on the account; (see the "codes page" that follows for more details).
- 34 Date an account was closed or paid out.
- 35 Highest amount ever owed by the consumer on that account.
- 36 Maximum amount of credit approved by credit grantor.
- 37 Balance owed as of date verified or closed.
- 38 Number of payments, payment frequency, and dollar amount agreed upon.
- 39 Amount past due as of date verified or closed.
- 40 Explanation of dispute or account credit condition, as reported by the credit grantor.
- 41 Date on which the maximum level of delinquency for that account occurred.
- 42 Dollar amount of consumer's maximum delinquency and the manner of payment rating at the time.
- 43 Manner of payment (MOP) for the 12 most recent months. Payment pattern reads from the left to right, with the most recent verified entry on the left of the first line. The pattern then works its way back in time. There are six different characters that may appear in the payment pattern. These are MOP values 1 through 5 and X, which are those reported by the credit grantor. The X is inserted by Trans Union if the following conditions occur:
 - Automated data was not received from the credit grantor for that month.

- The account is reported as disputed by the consumer. In this case, an X is placed in the left-hand (most recent) position and the three next most recent values are changed to an X. This is done to ensure full compliance with the Fair Credit Billing Act.

- Any MOP other than 1 through 5 was received; for example, 00, UR or UC.
- 44 Manner of payment for the 12 months preceding those reported under PAYPAT 1-12. (See 43 for explanation.)
 - 45 4 - column display; describing payment history.
 - MO=Number of months reviewed
 - 30 = Number of times over 30 days late
 - 60 = Number of times over 60 days late
 - 90 = Number of times over 90 days late
 - 46 Type of account (R, I, M, O, C) and manner of payment code at which the account is currently reported; (see the "codes page" that follows for more details).

47 INQUIRIES

Displays which companies have viewed the consumer's credit file over the last 2 years. Includes date the inquiry occurred, inquiring subscriber's Trans Union-assigned account number and name.

- Available in a one or two column display.
- If two column, inquiries are displayed either left to right or top to bottom, by date.

48 "REPORT SERVICED BY"

Identifies the Trans Union bureau owning or servicing the credit report. This information directs consumers to the appropriate location.

FIELDS NOT DISPLAYED IN SAMPLE REPORT

CONSUMER STATEMENT, when provided, will appear at the bottom of the report.

MISCELLANEOUS STATEMENTS may appear at the end of the report to provide relevant information that does not meet criteria for inclusion in other sections.

LOOK™ identifies subscriber's name, complete address and telephone number if available for quicker, easier referral.

OPTIONAL MODELS AVAILABLE

EMPIRICA® predicts the likelihood of an applicant becoming delinquent within the next 24 months.

NEW DELPHI™ predicts the likelihood of an applicant becoming bankrupt within the next 12 months.

REWARD™ rank orders delinquent accounts by estimated repayment dollars within 6 months.

TIE® estimates individual consumer income.

PATROL™ measures the likelihood of a consumer carrying required collateral insurance.

ASSIST™ rank orders insurance consumers on the basis of the predicted loss ratio for a score range group.

**THE FOLLOWING IS A SAMPLE REPORT
DISPLAYING A 12 MONTH PAYMENT PATTERN.**

SPECIAL MESSAGES

TRANS-ALERT: INPUT SSN DOES NOT MATCH FILE SSN
 ***HAWK-ALERT: INPUT SSN ISSUED: 1936 - 1950; ST: NH
 FILE SSN NOT ISSUED BY SOCIAL SECURITY ADMINISTRATION***

MODEL PROFILE * * * ALERT
 NEW DELPHI ALERT: SCORE +775: 26, 03, 06, 25 *

CREDIT SUMMARY * * * TOTAL FILE HISTORY
 PR=1 COL=1 NEG=1 HSTNEG=1-6 TRD=2 RVL=1 INST=1 MTG=0 OPN=0 INQ=2
 HIGH CRED CRED LIM BALANCE PAST DUE MNTHLY PAY AVAILABLE
 REVOLVING: \$500 \$1000 \$100 \$ \$20 90%
 INSTALLMENT: \$16.0K \$ \$12.4K \$1974 \$282
 TOTALS: \$16.5K \$1000 \$12.5K \$1974 \$302

PUBLIC RECORDS

SOURCE	DATE	LIAB	ECOA	ASSETS	DOCKET#
TYPE			COURT LOC		PLAINTIFF/ATTORNEY
Z 4932059	10/95R	\$13.0K	C	\$0	93B38521
CHAPTER 11	BANKRUPTCY		CHICAGO, IL		R. SMITH/D. WINSLOW

COLLECTIONS

SUBNAME	SUBCODE	ECOA	OPENED	CLOSED	\$PLACED	CREDITOR	MOP
ACCOUNT#			VERIFIED		BALANCE	REMARKS	
ADVANCED COL Y 999C004		I	5/93	5/93F	\$2500	ABC BANK	09P
12345			4/96A		\$1000	MAKING PAYMENTS	

TRADES
 ① SUBNAME ④ SUBCODE ⑤ HIGHCRED ⑧ CREDLIM ⑪ BALANCE ⑬ PASTDUE ⑮ PAYPAT 1-12 MOP
 ② ACCOUNT# ⑦ OPENED ⑨ VERIFIED CLSD/PD TERMS ⑫ MAXDELQNCY
 ③ ECOA COLLATRL/LOANTYP ⑩ REMARKS ⑭ MO 30/60/90

AMERICAN BK B 6661001 \$16.0K \$12.4K \$1974 543323211111 I05
 9876543210 5/94 12/95A 60M282 12/95 \$1974 05
 I NISSAN MAXIMA CONTACT SUBSCRIBER 19V 2/ 3/ 2

FILENES D 3847002 \$500 \$1000 \$100 111111111111 R01
 2212345678 4/91 12/95A MIN 20
 C /CREDIT CARD 48V 0/ 0/ 0

INQUIRIES

DATE	SUBCODE	SUBNAME	DATE	SUBCODE	SUBNAME
4/17/96	DCH248	ABC DEPT STORE	3/7/96	BPH9999	TEST BANK

END OF CREDIT REPORT - SERVICED BY:
 TRANS UNION NNN-NNN-NNNN
 PO BOX 390, SPRINGFIELD, FA. 19064

When the 12-month payment pattern option is selected instead of the 24-month pattern, the headers in the trade section display in a slightly different format.

- ① Abbreviated name of credit grantor with whom consumer has account.
- ② Consumer's account number with the credit grantor.
- ③ ECOA indicates responsibility for paying the account; (see the "codes page" that follows for more details).
- ④ Credit grantor's Kinds-Of-Business designator and TRANS UNION-assigned reporting subscriber number; (see the "codes page" that follows for more details.)
- ⑤ Collateral for an installment loan or type of loan.
- ⑥ Highest amount ever owed by the consumer on that account.
- ⑦ Date the account was opened.
- ⑧ Maximum amount of credit approved by credit grantor.
- ⑨ Date of last activity on the account; (see the "codes page" that follows for more details).

- ⑩ Explanation of dispute or account credit condition, as reported from the credit grantor.
- ⑪ Balance owed as of date verified or closed.
- ⑫ Date an account was closed or paid out.
- ⑬ Amount past due as of date verified or closed.
- ⑭ Number of payments, payment frequency, and dollar amount agreed upon.
- ⑮ Manner of payment for the last 12 months.
- ⑯ Date on which the maximum level of delinquency for that account occurred, dollar amount of maximum delinquency and the MOP Rating at that time.
- ⑰ 4 - column display; describing payment history.
 MO=Number of months reviewed
 30 = Number of times over 30 days late
 60 = Number of times over 60 days late
 90 = Number of times over 90 days late
- ⑱ Type of account (R, I, M, O, C) and manner of payment code at which the account is currently reported; (see the "codes page" that follows for more details).

Trans Union Credit Report Codes

ECOA INQUIRY AND ACCOUNT DESIGNATORS

- A Authorized user of shared account
- C Joint contractual liability
- I Individual account for sole use of customer
- M Account for which subject is liable, but co-signer has liability if the maker defaults
- P Participant in shared account which cannot be distinguished as C or A
- S Account for which subject is co-signer and becomes liable if maker defaults
- T Relationship with account terminated
- U Undesignated
- X Deceased

TYPE OF ACCOUNT

- O Open Account (30, 60 or 90 days)
- R Revolving or Option
- I Installment
- M Mortgage
- C Check credit (line of credit)

A CONFIDENTIAL REPORT—FOR INTERNAL USE ONLY

The information contained herein is intended for the exclusive use of the inquirer based upon his representation that the inquiry is for a legitimate permissible purpose as defined in the Fair Credit Reporting Act. All information has been obtained from sources reasonably believed to be reliable, but the accuracy of which is not guaranteed. The inquirer agrees to indemnify and hold harmless the reporting bureau from any damages arising out of any improper use of this information, and it is furnished in reliance on that indemnity. The inquirer agrees to hold all information contained herein in strict confidence, and not to reveal it to any one, including the subject of the report except as required by state law.

DATE INDICATORS

- A Automated
- C Closed
- D Declined
- F Repossessed/Written Off/Collection
- I Indirect
- M Manually Frozen
- N No Record
- P Paid Out
- R Reported
- S Slow Answering
- T Temporarily Frozen
- V Verified
- X No Reply

MOP CURRENT MANNER OF PAYMENT

- 00 Not rated, to new to rate, or approved but not used
- 01 Pays as agreed
- 02 30-59 days past the due date
- 03 60-89 days past the due date
- 04 90-119 days past the due date
- 05 120 days or more past the due date
- 07 Paying or paid under Wage Earner Plan or similar arrangement
- 08 Repossession
- 8A Voluntary repossession
- 8D Legal repossession
- 8P Paying or paid account with MOP 08
- 8R Repossession; redeemed
- 09 Charged off to bad debt
- 9B Collection account
- 9P Paying or paid account with MOP 09 or 9B
- UC Unclassified
- UR Unrated

KINDS OF BUSINESS CLASSIFICATION

- A AUTOMOTIVE
- B BANKS AND S&L
- C CLOTHING
- D DEPARTMENT, VARIETY AND OTHER RETAIL
- E EMPLOYMENT
- F FINANCE, PERSONAL
- G GROCERIES
- H HOME FURNISHINGS
- I INSURANCE
- J JEWELRY, CAMERAS AND COMPUTERS
- K CONTRACTORS
- L LUMBER, BUILDING MATERIAL, HARDWARE
- M MEDICAL & RELATED HEALTH
- N CREDIT CARD AND TRAVEL/ ENTERTAINMENT COMPANIES
- O OIL COMPANIES
- P PERSONAL SERVICES OTHER THAN MEDICAL
- Q FINANCE COMPANIES, OTHER THAN PERSONAL FINANCE COMPANIES
- R REAL ESTATE AND PUBLIC ACCOMMODATIONS
- S SPORTING GOODS
- T FARM AND GARDEN SUPPLIERS
- U UTILITIES AND FUEL
- V GOVERNMENT
- W WHOLESALE
- X ADVERTISING
- Y COLLECTION
- Z MISCELLANEOUS

Your local Trans Union credit bureau is:

TRANS UNION
Solutions From The Company That Listens

555 West Adams Street
Chicago, Illinois 60661-3601
www.transunion.com



TransUnion ASSIST[®] 2.0 Scoring Factors

Positive Characteristics

Code		Code	
001	Favorable amount owed on accounts (+)	023	Favorable time since most recent installment loan established (+)
002	No recent delinquency (+)	024	Favorable number of accounts with large high credit amounts (+)
003	Presence of revolving credit accounts (+)	025	Proportion of loan balances to installment loan amounts is favorable (+)
004	Favorable number of accounts with outstanding balances (+)	026	Favorable number of real estate accounts (+)
005	Favorable number of finance accounts (+)	027	Favorable number of new or existing finance company accounts (+)
006	Favorable number of recent credit checks (+)	028	No delinquency ever on installment loans (+)
007	Favorable number of new accounts (+)	029	Favorable percentage of open revolving accounts to all other accounts (+)
008	Proportion of revolving balances to revolving credit limits is favorable (+)	030	Favorable number of accounts (+)
009	Favorable amount owed on revolving accounts (+)	031	No delinquency on open revolving accounts (+)
010	Favorable length of revolving credit history (+)	032	Favorable length of time since most recent finance company account opened (+)
011	No past delinquency or favorable length of time since last delinquency (+)	033	Favorable number of accounts (+)
012	Favorable length of credit history (+)	034	Favorable time since most recent retail account opened or none present (+)
013	No current or past delinquencies (+)	035	No finance company accounts or no recently active finance company accounts (+)
015	Minimal or no past due balances (+)	036	Favorable number of recently active accounts (+)
017	Absence of collection accounts (+)	037	Favorable number of revolving or open accounts (+)
018	Favorable number of revolving accounts with balances (+)	038	Favorable number of adverse public records (+)
019	Favorable time since last credit check (+)	039	Favorable number of accounts currently paid as agreed (+)
020	Favorable time since most recent account established (+)	040	Favorable time since last collection (+)
021	Favorable number of installment loan accounts (+)	041	Favorable time since last adverse public record (+)
022	Favorable number of installment loan accounts with outstanding balances (+)		

Negative Characteristics

Code	
051	Excessive or unknown amount owed on accounts (-)
052	Recent delinquency (-)
053	Absence of revolving credit accounts (-)
054	Too many accounts with balances (-)
055	Too many finance company accounts (-)
056	Too many recent credit checks (-)
057	Too many new accounts (-)
058	Proportion of revolving balances to revolving credit limits is too high or there are no revolving credit accounts (-)
059	Excessive amount owed on revolving accounts (-)
060	Insufficient length of revolving credit history (-)
061	Delinquency date too recent (or date unknown) (-)
062	Insufficient length of credit history (-)
063	Delinquency (-)
065	Past due balances (-)
067	Presence of collection accounts (-)
068	Too many revolving accounts with balances (-)
069	Date of last credit check too recent or unknown (-)
070	Insufficient time since most recent account established (-)
071	Unfavorable number of installment loan accounts (-)
072	Too many installment loan accounts with outstanding balances (-)

Code	
073	Insufficient time since most recent installment loan established (-)
074	Too many accounts with high credit amounts (-)
075	Proportion of loan balances to installment loan amounts is too high (-)
076	Unfavorable number of real estate accounts (-)
077	Too many new or existing finance company accounts (-)
078	Prior installment loan delinquency or no installment loans present (-)
079	Unfavorable percentage of open revolving accounts to all other accounts (-)
080	Presence of delinquency, public record or collection (-)
081	Delinquency on open revolving accounts (-)
082	Finance company account opened recently (-)
083	Unfavorable number of accounts (-)
084	Unfavorable length of time since most recent retail account opened (-)
085	Too many recent active finance company accounts (-)
086	Unfavorable number of recently active accounts (-)
087	Unfavorable number of revolving or open accounts (-)
088	Unfavorable number of adverse public records (-)
089	Unfavorable number of accounts currently paid as agreed (-)
090	Recent collection (-)
091	Recent adverse public record (-)

ASSIST[®] ALERT message occurs when a credit file contains one or more of the following: previous bankruptcy, derogatory public record, collection activity or an MOP of 7 or higher.

ASSIST NOT SCORED: DECEASED message occurs when the subject's Social Security number matches the Social Security Administration's deceased Social Security number file.

ASSIST NOT SCORED: INSUFFICIENT CREDIT message occurs when a credit file does not contain a tradeline reported for at least six months and a tradeline within the last six months.



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555 West Adams
Chicago, Illinois 60661
www.transunioninsurance.com

A member of the Marmon Group of companies

INS002 08/02

2001 ALASKA PROPERTY AND CASUALTY MARKET SHARE

3/29
Duty

03 - FARMOWNERS MULTIPLE PERIL (\$000)

COMPANY NAME	PERCENT OF MARKET	DIRECT PREMIUMS WRITTEN
Clarendon Natl Ins Co	57.38	491
Country Mut Ins Co	37.26	319
Umialik Ins Co	3.06	26
Markel Ins Co	1.83	16
Insurance Co of North Amer	0.47	4
<hr/>		
TOTAL FOR TOP 5 RANKED INSURERS	100.00	857
TOTAL FOR ALL 8 INSURERS WRITING THIS LINE	100.00	857

04 - HOMEOWNERS MULTIPLE PERIL (\$000)

COMPANY NAME	PERCENT OF MARKET	DIRECT PREMIUMS WRITTEN
State Farm Fire and Cas Co	34.44	26,839
Allstate Ins Co	29.35	22,871
Safeco Ins Co of Amer	5.85	4,559
United Services Auto Assoc	5.69	4,431
Horace Mann Ins Co	4.48	3,490
Umialik Ins Co	4.34	3,384
Foremost Ins Co	2.63	2,046
USAA Cas Ins Co	2.19	1,706
Country Mut Ins Co	2.08	1,620
Vesta Ins Corp	2.07	1,614
American Manufacturers Mut Ins Co	1.58	1,232
Nationwide Mut Fire Ins Co	1.42	1,106
Allstate Ind Co	0.95	739
Hartford Ins Co of The Midwest	0.75	587
Armed Forces Ins Exchange	0.29	228
Associated Ind Corp	0.29	223
General Ins Co of Amer	0.22	168
State Farm General Ins Co	0.20	160
Foremost Property & Cas Ins Co	0.19	146
Firemans Fund Ins Co	0.16	124
<hr/>		
TOTAL FOR TOP 20 RANKED INSURERS	99.17	77,274
TOTAL FOR ALL 57 INSURERS WRITING THIS LINE	100.00	77,921

2001 ALASKA PROPERTY AND CASUALTY MARKET SHARE

19.1 - 19.2 - PRIVATE PASSENGER AUTO NO-FAULT AND LIABILITY (\$000)

COMPANY NAME	PERCENT OF MARKET	DIRECT PREMIUMS WRITTEN
State Farm Mut Auto Ins Co	23.19	38,817
Allstate Ins Co	19.24	32,209
United Services Auto Assoc	5.45	9,118
Allstate Ind Co	3.77	6,311
Leader Ins Co	3.72	6,229
State Farm Fire and Cas Co	3.70	6,186
Progressive Specialty Ins Co	3.58	5,997
Geico General Ins Co	3.22	5,383
Government Employees Ins Co	2.95	4,941
USAA Cas Ins Co	2.80	4,692
Geico Cas Co	2.50	4,186
Geico Ind Co	2.38	3,985
AAA Mountain West Ins	2.26	3,780
Progressive Northwestern Ins Co	1.97	3,302
Safeco Ins Co of IL	1.86	3,117
Progressive Cas Ins Co	1.75	2,935
Integon Ind Corp	1.42	2,369
Nationwide Mut Ins Co	1.41	2,365
Hartford Ins Co of The Midwest	1.38	2,306
Nationwide Mut Fire Ins Co	1.18	1,983
<hr/>		
TOTAL FOR TOP 20 RANKED INSURERS	89.75	150,212
TOTAL FOR ALL 98 INSURERS WRITING THIS LINE	100.00	167,368

19.3 - 19.4 COMMERCIAL AUTO NO-FAULT AND LIABILITY (\$000)

COMPANY NAME	PERCENT OF MARKET	DIRECT PREMIUMS WRITTEN
Alaska Nat Ins Co	17.52	5,499
National Cas Co	6.54	2,054
State Farm Mut Auto Ins Co	5.75	1,805
Allstate Ins Co	4.97	1,560
Progressive Cas Ins Co	4.88	1,531
National Ind Co	3.07	965
Employers Ins of Wausau	2.31	726
American Equity Ins Co	2.26	710
Zurich American Ins Co	2.26	709
Umialik Ins Co	2.05	644
Assurance Co of Amer	1.98	622
Lumbermens Mut Cas Co	1.87	588
Northern Ins Co of NY	1.82	572
St Paul Fire & Marine Ins Co	1.68	525
US Fidelity & Guaranty Co	1.59	499
Empire Fire & Marine Ins Co	1.53	480
Pacific Employers Ins Co	1.48	463
American Cas Co of Reading PA	1.47	462
Columbia Ins Co	1.47	460
Transcontinental Ins Co	1.46	460
<hr/>		
TOTAL FOR TOP 20 RANKED INSURERS	67.97	21,335
TOTAL FOR ALL 195 INSURERS WRITING THIS LINE	100.00	31,387

ANSWERS

to Your Questions About Insurance Bureau Scores

[1] WHAT IS AN INSURANCE BUREAU SCORE?

An Insurance Bureau Score is a snapshot of a consumer's insurance risk picture at a particular point in time based on credit report information. Insurers use Insurance Bureau Scores along with motor vehicle records, loss reports or application information to evaluate new and renewal auto and homeowner insurance policies. It helps them decide, "If we accept this applicant or renew this policy, will we likely be exposed to more losses than our collected premiums will allow us to handle?"

Insurance Bureau Scores are based solely on information in consumer credit reports. The scores are dynamic, changing as new information is added to a consumer's credit report. Insurers will typically ask for a current score when they receive a new application for insurance so they have the most recent information available.

[2] WHERE DO INSURANCE BUREAU SCORES COME FROM?

Insurance Bureau Scores are based on information from consumer credit reports that insurers get from the three major credit reporting agencies: Equifax, Experian (formerly known as TRW) and TransUnion. Information used in scoring includes:

- ▶ Outstanding debt
- ▶ Length of credit history
- ▶ Late payments, collections, bankruptcies
- ▶ New applications for credit
- ▶ Types of credit in use

[3] WHAT'S NOT INCLUDED IN AN INSURANCE BUREAU SCORE?

Insurance Bureau Scores do not use the following information:

- ▶ Ethnic group
- ▶ Religion
- ▶ Gender
- ▶ Familial Status
- ▶ Handicap
- ▶ Nationality
- ▶ Age
- ▶ Marital Status
- ▶ Income
- ▶ Address

[4] WHY DO INSURANCE COMPANIES USE INSURANCE BUREAU SCORES?

Insurance companies use scores to help them issue new and renewal insurance policies. Insurance Bureau Scores provide an objective, accurate and consistent tool that insurers use with other applicant information to better anticipate claims, while streamlining the decision process so they can issue policies more efficiently. By better anticipating claims, insurers can better control risk, enabling them to offer insurance coverage to more consumers at a fairer cost.

[5] HOW DO YOU KNOW IT WORKS?

Independent tests by insurance companies and a major consulting firm compared Insurance Bureau Scores against the claims history of policyholders. The tests demonstrated that the scores do predict the likelihood of claims.

[6] HOW CAN I FIND OUT MY SCORE?

While you can get copies of your credit reports from credit reporting agencies, only insurance companies can get Insurance Bureau Scores. However, your insurance company or its agent can tell you the main reasons behind your score.

Keep in mind that your score is one of many pieces of information an underwriter uses to review a policy. Factors like motor vehicle reports and application information also impact an insurer's decision. Also, remember that the score changes as new information is added to your credit report.

Your score will improve over time through a pattern of responsible credit use.

An Insurance Bureau Score is a snapshot of your insurance risk picture at a particular point in time based on credit report information.

Review your credit reports once a year and report any errors to the credit reporting agencies.

Insurance Bureau Scores provide underwriters an objective, accurate and consistent tool that, used with other underwriting information, helps them issue new and renewal insurance policies.

ANSWERS to Your Questions About Insurance Bureau Scores



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[7] HOW CAN I IMPROVE MY SCORE?

An Insurance Bureau Score is a snapshot of your insurance risk picture based on information in your credit report that reflects your credit payment patterns over time, with more emphasis on recent information. To improve a score, you should:

- ▶ Pay bills on time. Delinquent payments and collections can have a major negative impact on a score.
- ▶ Keep balances low on unsecured revolving debt like credit cards. High outstanding debt can affect a score.
- ▶ Apply for and open new credit accounts only as needed.

You can increase your score over time by using credit responsibly. It's also a good idea to periodically obtain a copy of your credit reports from the three major credit reporting agencies to check for any inaccuracies.

[8] WHAT IF I AM TURNED DOWN FOR INSURANCE?

If consumer credit information played a role in an insurer's decision to decline your insurance policy, the federal Fair Credit Reporting Act (FCRA) requires that the insurer tell you, and give you the name of the credit reporting agency that provided the information. In these situations, you are entitled by law to receive a free copy of your credit report to review, in order to help you understand how to better manage your credit or to challenge any errors that might appear on your report.

[9] WHAT IF THE INFORMATION IN MY CREDIT REPORT IS WRONG?

If you find errors in your credit report, you should report the errors to the credit reporting agency. By law, the credit reporting agency must investigate and respond to your request within 30 days. If you are in the process of applying for an insurance policy, you should immediately notify your insurance company about any incorrect information in your report. Small errors may have little or no effect on the score. If there are significant errors, the insurance company may choose to disregard the score and rely more on other underwriting information to make a decision on your application.

Make sure the information in your credit report is correct by reviewing your credit report from each credit reporting agency at least once a year. Call these numbers to order a copy (*a fee may be required*):

Equifax: 800 685 1111

TransUnion: 800 888 4213

Experian (formerly TRW): 888 397 3742

SCORING FACTS AND FALLACIES

F/I FALLACY: *With scoring, computers are making the underwriting decisions.*

FACT: Computers don't make underwriting decisions, people do. While a computer does calculate an Insurance Bureau Score, the score is only one of several pieces of information that underwriters use to help make a decision on new and renewal policies. Some insurance companies use scores to help them decide when to ask for more information from the applicant.

F/I FALLACY: *A poor score will haunt me forever.*

FACT: Just the opposite is true. An Insurance Bureau Score is a snapshot of your insurance risk picture at a particular point in time. Your score changes as new information is added to your credit reporting agency file. Over time, your score changes gradually as you change the way you handle your credit responsibilities. Because recent credit information is more predictive than older information, past credit problems will impact your score less as time passes. Insurance companies typically request a current score when you submit a new application so they have the most recent information available.

F/I FALLACY: *Insurance Bureau Scores are unfair to minorities.*

FACT: Insurance Bureau Scores do not consider ethnic group, religion, gender, marital status, nationality, age, income or address. Only credit-related information is included.

Insurance Bureau Scores have proven to be an accurate and consistent measure of insurance risk for all people who have some credit history. In other words, at a given score both non-minority and minority applicants present an equal level of insurance risk, or the likelihood of future insurance claims.

F/I FALLACY: *Scoring is an invasion of my privacy.*

FACT: Insurance companies have used consumer credit information to assist in their underwriting decisions since the FCRA was enacted in 1970. An Insurance Bureau Score is simply a number that provides an objective and consistent summary of that credit information. In fact, by using scores, some insurance companies don't need to ask for as much information on their application forms.

F/I FALLACY: *My Insurance Bureau Score will be hurt if I contact several insurance companies who each access my credit report.*

FACT: Insurance company requests or "inquiries" are not considered by Insurance Bureau Scores and will not affect your score.

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7/29

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February 20, 2003

FEB 24 2003

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By Electronic Mail

The Honorable Bruce Weyhrauch, Chairman
State Affairs Committee
House of Representatives
Alaska State Capitol
Room 102
Juneau, AK 99801-1182

Re: Alaska House Bills 5 and 47

Dear Representative Weyhrauch:

I am a partner in the law firm of Morrison & Foerster LLP, and have been a partner in this firm since 1976. My specialty is financial services and consumer protection law. More importantly for purposes of this letter, I have worked extensively on privacy-related issues, including questions under the federal Fair Credit Reporting Act ("FCRA"), for more than 25 years. In fact, I am the author of the leading legal treatise on this subject, *The Law of Financial Privacy*.

If enacted, Alaska House Bills 5 and 47 would prohibit an insurer or underwriter from basing a standard, rate, or rating plan, in whole or in part, directly or indirectly, on a person's credit rating or credit score. House Bill 47 addresses automobile, homeowner's, and boat insurance, while House Bill 5 does not contain these references. For purposes of this letter, I assume that the reference to a person's credit rating or credit score in House Bills 5 and 47 would include a rating or score derived from information in a "consumer report," as that term is used in the FCRA. That is, I assume these bills would prohibit an insurer or underwriter from basing a standard, rate, or rating plan on a consumer's credit rating or credit score, when that rating or score is derived from information in a consumer report.

Several provisions in the FCRA clearly contemplate that insurance companies may use consumer reports (including credit scores) in connection with insurance

MORRISON & FOERSTER LLP

The Honorable Bruce Weyhrauch

February 20, 2003

Page Two

underwriting. In general, the FCRA provides that a person may obtain and use a consumer report for any "permissible purpose" provided for under the law. In particular, the FCRA states that a person may obtain and use a consumer report "in connection with the underwriting of insurance involving the consumer."¹ In addition to obtaining a consumer report in connection with insurance underwriting, the FCRA provides that an insurance company may obtain a consumer report in connection with insurance transactions that are not initiated by the consumer, so-called "prescreened" or "preapproved" transactions.² If a consumer report is used in connection with a prescreened transaction, the FCRA requires that a "firm offer of insurance" be provided to consumers who meet the criteria used to select consumers, along with certain disclosures.³

Based on my extensive knowledge and experience in this area, I have the following comments on the impact of the FCRA on House Bills 5 and 47, and, in particular, on efforts to restrict the use of consumer credit report information in insurance underwriting or rating decisions. The FCRA clearly contemplates that insurance companies may obtain consumer reports (including credit scores) in connection with the underwriting of insurance transactions. In fact, the Federal Trade Commission Commentary on the FCRA makes it clear that a person may obtain a consumer report in connection with the underwriting of insurance without the consumer's permission or even over the objection of the consumer.⁴ To the extent a state prohibits an insurer from obtaining or using a consumer report (including a credit score) in connection with the underwriting of insurance, the FCRA likely would preclude the enforcement of that state restriction.

More specifically, the FCRA, by its terms, generally prevails over inconsistent state laws, and directly preempts certain types of state laws.⁵ In particular, the FCRA clearly would preempt any state law that purports to prohibit the use of consumer report information to underwrite or select consumers for prescreened or preapproved offers of insurance, such as certain direct mail offers and telephone solicitations.⁶ Specifically, the FCRA provides that "[n]o requirement or prohibition may be imposed under the

¹ 15 U.S.C. §§ 1681b(a)(3)(C), 1681b(f).

² 15 U.S.C. § 1681b(c).

³ 15 U.S.C. §§ 1681b(c), 1681m(d).

⁴ 16 C.F.R. pt. 600, App., § 605--*General*, 2.

⁵ 15 U.S.C. § 1681t(a).

⁶ 15 U.S.C. §§ 1681t(b)(1)(A), 1681t(b)(1)(D).

MORRISON & FOERSTER LLP

The Honorable Bruce Weyhrauch
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laws of any State" with respect to prescreenings of consumer reports.⁷ In addition, it is quite likely that the FCRA also would preempt a state law that purports to prohibit the use of consumer report information for underwriting consumer insurance applications, as well as prescreened solicitations.

In this regard, it is implausible that Congress would have given insurance companies greater latitude in using credit history information to underwrite insurance for consumers who have *not* applied for insurance (*i.e.*, recipients of prescreened offers of insurance), than to underwrite insurance for consumers who have actually completed and submitted applications for such insurance, or who are currently insurance policyholders. The establishment of more restrictive rules on the use of credit history information for insurance applicants or existing policyholders than those permitted under the FCRA for prescreened insurance offers would have the anomalous effect of encouraging insurance companies to use credit history information to underwrite people who have never applied for insurance because those insurance companies might be precluded from using that same credit history information for insurance underwriting purposes after those same individuals submit applications for the same insurance. Congress could not possibly have intended such a result.

Therefore, the FCRA clearly would preempt any state law that purports to limit the use of consumer report information to make prescreened insurance offers, whether such offers are extended by mail or by telephone. Also, I believe that the FCRA would prevail over an attempt to preclude the use of consumer report information when making an underwriting or rating decision in connection with applications for new insurance coverage or renewals of existing insurance policies. Thus, the FCRA clearly would preempt House Bills 5 and 47 with respect to the use of credit information to make prescreened insurance offers, whether such offers are extended by mail or by telephone. Also, I believe that the FCRA would prevail over an attempt to use House Bills 5 and 47 to preclude the use of credit rating or scoring information to underwrite or rate insurance, including whether or not to issue a policy for insurance sold within the state.

Should you have any questions regarding the scope of the FCRA, or its preemptive effect on state law, I would be pleased to discuss them with you.

Sincerely yours,

⁷ 15 U.S.C. §§ 1681t(b)(1)(A), 1681t(b)(1)(D).

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The Honorable Bruce Weyhrauch
February 20, 2003
Page Four

L. Richard Fischer
Morrison & Foerster LLP

Alaska State Legislature
House of Representatives

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Representative Harry Crawford
East Anchorage District 21

E-mail: Representative Harry Crawford@legis.state.ak.us

March 3, 2003

L. Richard Fischer
Morrison & Foerster, LLP
Via e-mail: lfischer@mofo.com

Re: Alaska House Bills 5 and 47

Dear Mr. Fisher:

Thank you for your e-mail letter of February 20, 2003, in which you give your legal opinion regarding proposed regulation of the use of credit scoring in Alaska. I have a few questions I hope you can answer.

1. You state several times that a "consumer report" includes credit scores, and you frequently use the term "consumer report" in a context where "credit score" is actually the appropriate term. On what authority do you base your conclusion that the term "credit report", as used in the Fair Credit Reporting Act, extends to and includes credit scores?
2. Can you explain why you think the FCRA, which first became effective in 1970, "clearly contemplated" that insurance companies would use credit scores, which were not developed until 25 years later? Is there legal authority for your position?
3. You state, "the FCRA clearly would preempt House Bills 5 and 47 with respect to the use of credit information" [my emphasis]. HB 5 and HB47 do not, however, attempt to limit the use of credit information; they only limit the use of credit scores derived from that information. Is it your position that the term "credit information" also includes credit scores? If so, on what authority do you base that conclusion?

L. Richard Fisher
March 3, 2003

Via e-mail
Page 2

4. On page 2 of your letter, you state: "In fact, the Federal Trade Commission Commentary on the FCRA makes it clear that a person may obtain a consumer report in connection with the underwriting of insurance"
 - a. Isn't it true that the commentary addresses consumer reports, not credit scores?
 - b. Isn't it also true that the commentary has no actual force of law?
5. Several states have passed legislation prohibiting or regulating the use of credit scores. Is your firm engaged in any litigation challenging such legislation? If so, who are your clients in that litigation?
6. Your letter to Alaska legislators appears unsolicited, although I note you are an attorney in a firm with more than 1,000 lawyers and whose legal practice, according to your website, encompasses every major area of commercial law, including insurance. At whose request did you write this letter?

Thank you for your time. I look forward to your response.

Sincerely,

Representative Harry T. Crawford, Jr.

HTC/cag

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March 25, 2003

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By Electronic Mail

The Honorable Harry Crawford
House of Representatives
Alaska State Capitol
Room 426
Juneau, AK 99801-1182

Re: Alaska House Bills 5 and 47

Dear Representative Crawford:

Thank you for your letter of March 4, 2003, in which you raised several questions about my letter of February 20, 2003, and Alaska House Bills 5 and 47, which would prohibit an insurer or underwriter from basing a standard, rate, or rating plan, in whole or in part, directly or indirectly, on a person's credit rating or credit score. I am pleased to respond to your questions. For ease of reference, I have included your questions below, in italics, followed by my responses.

You state several times that a "consumer report" includes credit scores, and you frequently use the term "consumer report" in a context where "credit score" is actually the appropriate term. On what authority do you base your conclusion that the term "credit report", as used in the Fair Credit Reporting Act, extends to and includes credit scores?

As I stated in my February 20 letter, I assume the reference to a person's credit rating or credit score in Alaska House Bills 5 and 47 includes a rating or score derived from information in a "consumer report" from a "consumer reporting agency," such as a credit bureau, as those terms are used in the federal Fair Credit Reporting Act ("FCRA"). That is, for purposes of my analysis of Alaska House Bills 5 and 47, I assume that a person's credit rating or credit score is based on information in a consumer report from a credit bureau.

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March 25, 2003
Page Two

The definition of "consumer report" in the FCRA is very broad. Consumer report means any communication of information by a consumer reporting agency "bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part" to establish a consumer's eligibility for credit, insurance and other specified purposes.¹

While it is possible that one could make an argument that a mere credit score is not itself a consumer report even if it is derived from information in a consumer report, such as a consumer's credit bureau file, since a score alone is less intrusive than a full credit bureau report, I believe that a credit score would be deemed by a court considering the issue to be a consumer report, when it is based on data which, itself, is a consumer report. It is implausible that a credit score, which is based on information in a consumer report, would not, itself, be deemed a consumer report. That is, because a credit score bears on a consumer's creditworthiness or similar credit factors, is based on consumer report data, and is used for credit and insurance eligibility decisions, I believe that a credit score is a consumer report.

This view is supported by a recent court decision that considered whether a credit score is a consumer report when that score is based on information obtained from a consumer's credit report. In *Scharpf v. AIG Marketing, Inc.*,² the district court evaluated whether an insurance company had a permissible purpose to obtain a consumer report in connection with the underwriting of insurance. In *Scharpf*, the insurance company obtained only a credit score from a consumer reporting agency, not a full consumer report.³ The court held that the company had a permissible purpose to obtain a consumer report under the circumstances of the case; more importantly, for purposes of this letter, the *Scharpf* decision stands for the proposition that a credit score is, itself, a consumer report, when it is derived from creditworthiness information in a consumer's credit report.⁴

In addition to the *Scharpf* decision, the Federal Trade Commission ("FTC") has addressed a similar issue. The FTC has, since 1970, been entrusted with enforcing the

¹ 15 U.S.C. § 1681a(d)(1).

² No. 3:00-CV-614(H), 2003 U.S. Dist. LEXIS 1482 (W.D. Ky. Jan. 30, 2003).

³ *Id.* at *3.

⁴ In addition to the *Scharpf* decision, at least one other court has assumed that a credit score is a consumer report under the FCRA. See *Kvalheim v. CheckFree Corp.*, No. 99-0135-RV-C, 2000 U.S. Dist. LEXIS 1959 (S.D. Ala. Feb. 18, 2000).

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FCRA, and has issued interpretations and orders regarding the scope of and the obligations imposed under the FCRA. With respect to FCRA interpretations, the FTC Commentary on the FCRA provides that "credit guides" that rate how well consumers pay their bills, are a series of consumer reports because they contain information used to establish a consumer's eligibility for credit.⁵ Although credit guides are not traditional consumer reports, they do rate how well consumers pay their bills and, thus, credit guides are viewed by the FTC as consumer reports. Because a credit score, like a credit guide, provides information about a consumer's creditworthiness, a credit score would be deemed a consumer report.

Can you explain why you think the FCRA, which first became effective in 1970, "clearly contemplated" that insurance companies would use credit scores, which were not developed until 25 years later? Is there legal authority for your position?

The statement in my letter that "the FCRA clearly contemplates that insurance companies may use consumer reports (including credit scores) in connection with insurance underwriting" was not intended to imply that insurance companies have been using credit scores since 1970. The statement was intended to point out that the FCRA recognizes that insurance companies have a permissible purpose to use consumer reports. In particular, since 1970, when the FCRA was enacted, it has expressly provided that consumer reporting agencies may furnish consumer reports to a person that intends to use the information in connection with the underwriting of insurance involving the consumer.⁶ The FCRA also has expressly provided since 1970 that if a person denies insurance for personal, family, or household purposes, based on information contained in a consumer report, the person must provide an "adverse action" notice to the consumer.⁷ Thus, since its enactment, the FCRA has clearly contemplated that insurance companies would be able to use consumer reports in connection with the underwriting of insurance.

As discussed above, since a credit score would be deemed a consumer report under the FCRA, I believe that the FCRA also contemplates that insurance companies may use any type of consumer report, including a credit score. The fact that insurance companies have not used credit scores since 1970 does not change the fact that insurers

⁵ See 16 C.F.R. pt. 600, app., § 603(d)4.B.

⁶ Pub. L. No. 90-321, Title VI, § 604(3)(C), as added Pub. L. No. 91-508, Title VI, § 601, 1970 U.S.C.C.A.N. 1301, 1319.

⁷ Pub. L. No. 90-321, Title VI, § 615(a), as added Pub. L. No. 91-508, Title VI, § 601, 1970 U.S.C.C.A.N. 1301, 1324.

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are permitted to obtain consumer reports (including credit scores) under the FCRA for use in connection with their underwriting activities.

You state, "the FCRA clearly would preempt House Bills 5 and 47 with respect to the use of credit information" [my emphasis]. HB 5 and HB 47 do not, however, attempt to limit the use of credit information; they only limit the use of credit scores derived from that information. Is it your position that the term "credit information" also includes credit scores? If so, on what authority do you base that conclusion?

I believe that the FCRA would preempt House Bills 5 and 47 with respect to the use of credit information, including credit scores that are derived from consumer report information, to make prescreened insurance offers. In particular, I believe that a limit on the use of credit scores constitutes a limit on the use of credit information because credit scores are derived from credit information contained in consumer reports. The use of the term "credit information" in the above quote reflects my view that the FCRA would preempt any state law that purports to prohibit the use of consumer report information, which would include credit scores derived from consumer report information, to underwrite consumers for prescreened or preapproved offers of insurance. Because credit scores are derived from and based on "credit information" contained in consumer reports, I believe limiting the use of credit scores would be preempted by the FCRA.

In addition, it is quite likely that the FCRA would preempt a state law that purports to prohibit the use of consumer report information for underwriting consumer insurance applications, as well as prescreened solicitations. In this regard, it is implausible that Congress would have given insurance companies greater latitude in using credit history information to underwrite insurance for consumers who have *not* applied for insurance (*i.e.*, recipients of prescreened offers of insurance), than to underwrite insurance for consumers who have actually completed and submitted applications for such insurance, or who are currently insurance policyholders. The establishment of more restrictive rules on the use of credit history information for insurance applicants or existing policyholders than those permitted under the FCRA for prescreened insurance offers would have the anomalous effect of encouraging insurance companies to use credit history information to underwrite people who have never applied for insurance, because those insurance companies might be precluded from using that same credit history information for insurance underwriting purposes after those same individuals submit applications for the same insurance. Congress could not possibly have intended such a result.

MORRISON & FOERSTER LLP

The Honorable Harry Crawford
March 25, 2003
Page Five

On page 2 of your letter, you state: "In fact, the Federal Trade Commission Commentary on the FCRA makes it clear that a person may obtain a consumer report in connection with the underwriting of insurance"

*Isn't it true that the commentary addresses consumer reports, not credit scores?
Isn't it also true that the commentary has no actual force of law?*

The FTC Commentary does not expressly state that a "credit score" is a consumer report. However, for many years FTC staff have orally stated, in response to individual questions and in public statements, that a credit score is a consumer report if it is derived from information in a consumer report.⁸ Thus, I believe that the FTC would treat a credit score as a consumer report when that score is derived from information in a consumer report and used for eligibility purposes.

With regard to your question about whether the FTC Commentary has the force of law, the FTC has stated that its Commentary "does not have the force or effect of regulations or statutory provisions," but represents how the FTC will construe the FCRA in its enforcement and other activities.⁹ Courts have frequently referred to the FTC's Commentary in reviewing issues arising under the FCRA and often have deferred to the FTC's Commentary positions because the FTC has been entrusted to administer the FCRA.¹⁰ In addition, the fact that the FTC is entrusted with this enforcement responsibility, coupled with the fact that the FTC published its Commentary for public comment before adopting a final Commentary, would likely result in a court providing deference to the FTC views on matters addressed in the Commentary, particularly where the court finds the FTC's position to be persuasive.¹¹

Several states have passed legislation prohibiting or regulating the use of credit scores. Is your firm engaged in any litigation challenging such legislation? If so, who are your clients in that litigation?

The firm is not engaged in any litigation challenging state laws prohibiting or regulating the use of credit scores. Nevertheless, we have advised several insurance

⁸ If helpful, I would be happy to provide the name and telephone number of FTC staff who can confirm this view.

⁹ 16 C.F.R. pt. 600, app., intro.

¹⁰ See, for example, *Estiverne v. Sak's Fifth Avenue and JBS*, 9 F.3d 1171 (5th Cir. 1993). See also *Wilting v. Progressive County Mutual Insurance Co.*, 227 F.3d 474 (5th Cir. 2000).

¹¹ See *United States v. Mead Corp.*, 533 U.S. 218 (2001) (addressing deference due to agency interpretations and opinions).

MORRISON & FOERSTER LLP

The Honorable Harry Crawford
March 25, 2003
Page Six

companies on the application of the FCRA to their operations. In addition, we have advised state legislators and state regulatory agencies about the federal FCRA and its impact on state laws, such as the use of credit scores.

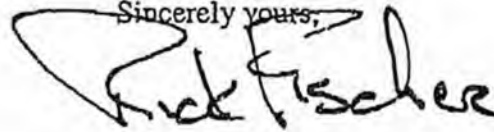
Your letter to Alaska legislators appears unsolicited, although I note you are an attorney in a firm with more than 1,000 lawyers and whose legal practice, according to your website, encompasses every major area of commercial law, including insurance. At whose request did you write this letter?

The letter was sent at the request of Progressive Casualty Insurance Company.

* * * * *

Should you have any additional questions about the FCRA, I would be pleased to discuss them with you.

Sincerely yours,



L. Richard Fischer
Morrison & Foerster LLP

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

CIVIL ACTION NO. 3:00-CV-614(H)

KATHLEEN SCHARPF

PLAINTIFF

V.

AIG MARKETING, INC., et al.

DEFENDANTS

MEMORANDUM OPINION

Plaintiff Kathleen Scharpf has filed a ten-count complaint alleging that, in obtaining her consumer report, Defendants AIG Marketing, Inc. ("AIG"), MBNA Insurance Agency ("MBNA"), and "Unknown Persons," violated the Fair Credit Reporting Act, 15 U.S.C. §1681 *et seq.*, invaded her privacy in violation of Kentucky common law, and engaged in an unlawful civil conspiracy.¹ The centerpiece to Plaintiff's FCRA allegations has been her contention that AIG lacked a "permissible purpose" to obtain her credit report. The cross motions for summary judgment focused on this issue. This Court limited the parties' discovery efforts to "the issue of the applicability to the defendants' conduct of the 'underwriting exception' to liability under the Act." While this may not be the only dispositive legal issue, for the reasons set forth below, Plaintiff's motion for summary judgment on this narrow issue is denied. Further discovery, however, could support the allegations contained in the complaint. Therefore, the Court will not

¹ Plaintiff has made eight claims related to the FCRA. Specifically, Count One alleges AIG negligently failed to comply with the FCRA's requirements. 15 U.S.C. § 1681o. Count Two alleges AIG willfully violated the FCRA. 15 U.S.C. § 1681n. Count Three alleges that AIG obtained her consumer report under false pretenses in violation of 15 U.S.C. § 1681q. Counts Four, Five, Six, Seven, and Nine allege that "Unknown Persons" who were "employees of AIG and/or MBNA" should be held personally liable for participating in the process by which her consumer report was obtained and used by AIG.

dismiss all of Plaintiff's underlying claims.

I.

The Court is presented with a narrow question related to the legality of what transpired during an August 1999 phone conversation between Plaintiff and AIG. The facts are best considered in two parts at this stage, looking briefly at the AIG-MBNA call transfer program, and then considering the phone conversation in issue.

This case arises out of a telemarketing relationship. AIG and MBNA are business partners and operate the MBNA Call Transfer Program.² In practice, according to Steven F. Wardzinski, president of the Sponsored Business Division of AIG, the Program operates as follows. While speaking by telephone to an MBNA representative about her credit card account, the MBNA account holder is typically asked if she would like to receive a "free, no obligation quote" for automobile insurance. If the consumer accepts the offer, she is immediately telephonically transferred to a waiting AIG representative who then requests information from the consumer, such as her name, address, type of vehicle, and social security number. Based on this information, the AIG representative, utilizing a computer program, calculates a quote. As part of this process, AIG's computer program automatically orders the credit score (which itself is based on information obtained from the consumer's credit report), and inputs this three-digit number into the program to determine the quote.

from whom?

²Except from argument in chambers, the Court does not have any account from AIG and MBNA concerning their relationship. This summary of the facts is therefore culled primarily from Plaintiff's statements of facts and the relevant depositions.

The relevant events begin on August 6, 1999, when Plaintiff spoke by telephone to MBNA, with whom she had a credit card, and consented to the transfer to an AIG representative. At the time, Plaintiff's current automobile insurance policy was about to expire and she decided to compare rates. During the brief conversation, the AIG representative asked Plaintiff a series of questions, including a request for her social security number. Whether or not Plaintiff provided this in response is a critical fact in dispute.³ Through some undetermined means, AIG nevertheless obtained access to her consumer report from Trans Union. As a result, AIG offered her an immediate rate quote. That rate quote was significantly higher than Plaintiff's current automobile insurance premium. So, Plaintiff stated she was not interested and terminated the conversation. Notwithstanding this rejection, AIG subsequently sent her a written application urging her to purchase the insurance at the offered rate.

Nearly one year later, while reviewing her credit report in July of 2000, Plaintiff noticed a record of AIG obtaining her consumer report on August 6, 1999. Plaintiff has now sued AIG and MBNA claiming that AIG's process of obtaining of her consumer report violated the FCRA, invaded her privacy, and was the product of an unlawful civil conspiracy.

³ At this stage, the Court finds this important fact is irrelevant in determining the narrow legal question at hand. Nevertheless, it may be important in future litigation in this case that Plaintiff asserts that, "being very protective of her privacy," she "never gave her social security number to the AIG[M] representative." (Scharpf. Depo., pg. 61-63). In contrast, Defendants argue that because, as a matter of fact according to Mr. Wardzinski, AIG has no other way of obtaining a consumer's Social Security number other than from a consumer, "Ms. Scharpf's memory appears to have betrayed her." Another possibility is that AIG gained access to the consumer credit report without aid of the social security number.

II.

This case poses a difficult and important issue of first impression. Namely, under the FCRA, can an insurance company obtain a consumer report, prior to the consumer's unequivocal application, in order to issue an insurance quote?⁴ This is an important issue because apparently a vast percentage of insurers may obtain consumer reports in a similar manner prior to receiving a specific application.

In 1970 Congress amended the Consumer Credit Protection Act, 15 U.S.C. § 1601 *et seq.*, by adding a number of provisions collectively known as the Fair Credit Reporting Act ("FCRA"). The FCRA provides the exclusive circumstances under which a credit reporting agency may furnish a credit report to another. *See* 15 U.S.C. § 1681b(a)(2). Insurance companies may be held liable under the FCRA because they must comply with the FCRA's terms in handling an insured's credit report. *St. Paul Guardian Ins. Co. v. Johnson*, 884 F.2d 881, 883 (5th Cir. 1989). As a result of congressional amendments in 1997, the FCRA now lists six limited "permissible purposes" for which a consumer reporting agency can provide a consumer report to third parties. *See* 15 U.S.C. § 1681b(a). The FCRA authorizes third parties, such as AIG, to obtain and use consumer reports only if they act in accordance with one of these permissible purposes. *See* 15 U.S.C. § 1681b(f)(1).⁵ Both sides agree that the singular "permissible purpose" applicable here is the provision that a third-party may obtain the consumer's report if it "intends to use the

⁴To date, only one federal court has considered this issue concluding in a remarkably brief opinion that such a scheme was permissible under the FCRA's text. *Wilting v. Progressive County Mutual Insur. Co.*, 227 F.3d 474 (5th Cir. 2000).

⁵Specifically, the FCRA states, "A person shall not use or obtain a consumer report for any purpose unless ... the consumer report is obtained for a purpose for which the consumer report is authorized to be furnished under this section." 15 U.S.C. § 1681b(f)(1).

information in connection with the underwriting of insurance involving the customer.” 15 U.S.C. § 1681b(a)(C). Plaintiff’s claim implicitly contains important questions of law and fact.

A.

Plaintiff first argues that, as a matter of law, the underwriting purpose is inapplicable here because she never “applied” for insurance. Because she never made an application for insurance, Plaintiff contends AIG had no right to access her credit report even if it was performing an underwriting function. The Court disagrees. Several basic principles of statutory construction compel this outcome. In addition, such a construction satisfies the balance Congress intended by enacting the FCRA.

As a starting point, to explore Plaintiff’s argument fairly, the Court’s analysis begins by examining that language. *Community for Creative Non-Violence v. Reid*, 490 U.S. 730, 739 (1989). Tellingly, Section 1681b(a)(C)’s text does not contain an “application” requirement, certainly not an explicit one. To the contrary, the underwriting provision permits a consumer reporting agency to furnish a report to a company which *intends* to use the information *in connection with the underwriting* of insurance. 15 U.S.C. §1681b(a)(C). This statutory language does not limit the underwriting purpose to those occasions after someone has *applied* for insurance; nor, as Plaintiff would prefer, does it limit this purpose to obtaining a consumer report with the consumer’s knowledge. The three terms which Congress used to define this permissible purpose suggest that this conclusion is both correct and sensible within the FCRA’s overall scheme.

First, Congress did not restrict the scope of the permissible distribution of a report to companies like AIG who can prove they will use a consumer report for underwriting. Rather,

consumer credit companies are permitted to furnish the reports where a third party, such as AIG, demonstrates an *intent* to use the report for the authorized purpose. See, e.g., *Yang v. Government Employees Insur. Co.*, 146 F.3d 1320, 1325 (11th Cir. 1998) (noting that there are three potential types of use that might exist under this section: ultimate use, expectation of use, and the purpose for compiling the report, and concluding that only one of those purposes is necessary to meet a "permissible purpose" provision); *Korotki v. Attorney Servs. Corp.*, 931 F. Supp. 1269, 1276 (D. Md. 1996) ("[S]o long as a user has reason to believe that a permissible purpose exists, that user may obtain a consumer report without violating the FCRA"). Second, Webster's Dictionary defines "connection" as "an association or relationship; logical ordering of words or ideas." Webster's II New Riverside Dictionary 300 (1994). Thus, both the practical and strict definitional applications suggest that a consumer reporting agency may provide a consumer report without evidence that a consumer has made an application. Consequently, it is counterintuitive to suggest that the recipient would need an application before using the information which the consumer credit agency had legally provided.

Third, while Congress did not define the word "underwriting," the Federal Trade Commission ("FTC"), as the agency authorized with administering the FCRA, 15 U.S.C. §1681s(a), has provided a definition. That definition states, "An insurer may obtain a consumer report to decide whether or not to issue a policy to the consumer, the amount and terms of the coverage, the duration of the policy, the rates or fees charged, or whether or not to renew or cancel a policy, because these are all 'underwriting' decisions." FTC Commentary on the Fair Credit Reporting Act, 16 C.F.R. pt. 600, App.; see also *Wilting*, 227 F.3d at 476 (adopting the FTC's definition). Similarly, in defining "consumer report," the FCRA states that information on

an individual may be obtained “for the purpose of serving as a factor in establishing the consumer’s *eligibility* for” insurance. 15 U.S.C. §1681a(d)(1). None of these definitions suggest that an application is the pre-condition to this permissible purpose. Rather, the terms intimate an insurer may examine a consumer’s credit report to assess the risks that person poses.

Another cardinal principle of statutory construction supports this interpretation. *Duncan v. Walker*, 533 U.S. 167 (2001). That principle says that “a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant.” *Id.*; see *United States v. Menasche*, 348 U.S. 528, 538-539 (1955). Plaintiff argues repeatedly that “the term ‘application’ and derivations thereof are used more than a dozen times in the FCRA.” Pl.’s Mot. Summ. J. at 16. Plaintiff specifically relies on the FCRA’s use of “applicant” in the permissible purpose pertaining to a consumer’s application “for a license or other benefit granted by a governmental instrumentality.” *Id.* at 17-18; 15 U.S.C. § 1681b(a)(3)(D).⁶ Were this Court to adopt Plaintiff’s construction of the statute and infer that the term “application” is a prerequisite to triggering every “permissible purpose,” simply because it appears in the text of one permissible purpose, the express use of the term “applicant” in § 1681b(a)(3)(D) “would be rendered insignificant, if not wholly superfluous.” *TRW, Inc. v. Andrews*, 534 U.S. 19, 31 (2001). This court is “reluctant to treat statutory terms as surplusage in any setting,” and declines to do so here. *Id.*

⁶In its entirety, §1681b(a)(3) states that a person may obtain a consumer report if he “intends to use the information in connection with a determination of the consumer’s eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant’s financial responsibility or status.”

The principle that a statute should be read and construed as a whole is also germane here. *United States v. American Trucking Ass'ns, Inc.*, 310 U.S. 534, 542-43 (1940). That is, in the context of the overall statutory scheme, § 1681b(a)(C) is better read *not* as restricting this permissible purpose to instances where a consumer has submitted a written application, but instead as setting up a safeguard to ensure that a user of a consumer report is operating with a permissible purpose, *when it lacks the consumer's express permission*. This is an important distinction. Though neither party focuses on it, the underwriting permissible purpose is itself not an unlimited source of power. In FCRA's permissible purpose section, Congress began its enunciation of the six permissible purposes by noting their scope was "[s]ubject to subsection (c) of this section." 15 U.S.C. § 1681b(a).⁷ Subsection (c), in turn, imposes limitations on cases where the consumer does not initiate the transaction.⁸ That section of the FCRA states:

⁷ The entire text of the introduction states, "In general—Subject to subsection (c) of this section, any consumer reporting agency may furnish a consumer report under the following circumstances and no other." 15 U.S.C. § 1681b(a).

⁸ Those limitations are as follows:

- (c) Furnishing reports in connection with credit or insurance transactions that are not initiated by the consumer.
 - (1) In general. A consumer reporting agency may furnish a consumer report relating to any consumer pursuant to subparagraph (A) or (C) of subsection (a)(3) in connection with any credit or insurance transaction that is not initiated by the consumer only if--
 - (A) the consumer authorizes the agency to provide such report to such person; or
 - (B) (i) the transaction consists of a firm offer of credit or insurance;
 - (ii) the consumer reporting agency has complied with subsection (e); and
 - (iii) there is not in effect an election by the consumer, made in accordance with subsection (e), to have the consumer's name and address excluded from lists of names provided by the agency pursuant to this paragraph.
 - (2) Limits on information received under paragraph (1)(b). A person may receive pursuant to paragraph (1)(B) only--
 - (A) the name and address of a consumer;;
 - (B) an identifier that is not unique to the consumer and that is used by the person solely for the purpose of verifying the identity of the consumer; and
 - (C) other information pertaining to a consumer that does not identify the relationship or experience of the consumer with respect to a particular creditor or other entity.

A consumer reporting agency may furnish a consumer report relating to any consumer pursuant to [the underwriting permissible purpose set forth in] this section in connection with any credit or insurance transaction that is not initiated by the consumer only if—(A) the consumer authorizes the agency to provide such report to such person; or (B)(I) *the transaction consists of a firm offer of credit or insurance* [and the consumer has not elected to be excluded from identified lists].

15 U.S.C. § 1681b(c)(1).

(3) Information regarding inquiries. Except as provided in section 609(a)(5) [15 USCS § 1681g(a)(5)], a consumer reporting agency shall not furnish to any person a record of inquiries in connection with a credit or insurance transaction that is not initiated by a consumer.

15 U.S.C. § 1681b(c).

The FCRA elsewhere defines "firm offer of credit or insurance," to be "any offer of credit or insurance to a consumer that will be honored if the consumer is determined, based on information in a consumer report on the consumer, to meet the specific criteria used to select the consumer for the offer." 15 U.S.C. § 1681a(l).⁹ Thus, the FCRA seems to contemplate that a company may obtain a consumer report without the consumer's application or knowledge, if it provides a firm offer in connection with one of the permissible purposes. For purposes of this analysis the Court must assume that AIG through its agent MBNA initiated the transaction.¹⁰ According to Wardzinski, the quote provided by AIG over the phone was binding on AIG for sixty days and was available if the Plaintiff completed the written application for the insurance. (Wardzinski Dep. at 34, 54, 61-64, 88). In this way, then, Plaintiff's experience was no different from the unhappy

⁹ In its entirety, the definition of "firm offer of credit or insurance" provides as follows:

The term "firm offer of credit or insurance" means any offer of credit or insurance to a consumer that will be honored if the consumer is determined, based on information in a consumer report on the consumer, to meet the specific criteria used to select the consumer for the offer, except that the offer may be further conditioned on one or more of the following:

- (1) The consumer being determined, based on information in the consumer's application for the credit or insurance, to meet specific criteria bearing on credit worthiness or insurability, as applicable, that are established--
 - (A) before selection of the consumer for the offer; and
 - (B) for the purpose of determining whether to extend credit or insurance pursuant to the offer.
- (2) Verification.
 - (A) that the consumer continues to meet the specific criteria used to select the consumer for the offer, by using information in a consumer report on the consumer, information in the consumer's application for the credit or insurance, or other information bearing on the credit worthiness or insurability of the consumer; or
 - (B) of the information in the consumer's application for the credit or insurance, to determine that the consumer meets the specific criteria bearing on credit worthiness or insurability.
- (3) The consumer furnishing any collateral that is a requirement for the extension of the credit or insurance that was--
 - (A) established before selection of the consumer for the offer of credit or insurance; and
 - (B) disclosed to the consumer in the offer of credit or insurance.

15 U.S.C. § 1681a(1)

¹⁰ AIG disputes this conclusion and argues that Plaintiff initiated the transaction by agreeing to the call

consumer who discovers a credit card company legally obtained her credit history without her authorization in order to make her a credit card offer, subject to the approval of her application.

See Baker v. American Express, 2002 U.S. Dist. LEXIS 10005, *6-*7 (W.D. Ky. 2002).

Nevertheless, by making the firm offer, AIG has complied with the protections established in the FCRA.

This more complete and logical reading of §1681b(a)(C) shows that it restricts an insurer's access to a consumer's credit report, by requiring a legitimate underwriting use, *and* by requiring either the consumer's express permission *or* the making of a firm offer. This interpretation eminently comports with what Congress intended for the FCRA. In enacting the FCRA, Congress made four findings, three of which are particularly relevant to the question of law Plaintiff poses.

Those pertinent findings state:

(2) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, character, and general reputation of consumers.

(3) Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

(4) There is a need to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

15 U.S.C. § 1681(a).

In effect, the FCRA created a fair mechanism through which creditors and insurers could obtain a consumer's report in order to make an offer and evaluate creditworthiness. Conversely, it also established procedures to ensure accuracy and to protect consumer privacy. The FCRA strikes a balance between these two competing ends.

transfer.

Evidence of this give and take is prevalent throughout the FCRA. When preparing a report, a consumer reporting agency must follow "*reasonable* procedures to assure *maximum possible accuracy*." 15 U.S.C. 1681e(c) (emphasis added). The stated aim is therefore perfection in protecting the consumer, but the burden on the credit reporting agency is only to act reasonably. Similarly, it is *presumed* that a consumer's *privacy will not be violated* in the context of a firm offer for a permissible purpose, unless that consumer personally seeks to have her name removed from a consumer reporting agency's list. 15 U.S.C. § 1681b(c). Moreover, if a plaintiff seeks to bring a state law defamation, invasion of privacy, or negligence reporting claim against a consumer reporting agency, she can succeed only upon overcoming the highest standard of malice. 15 U.S.C. § 1681h(e). Last, only *after* a creditor or insurer takes action against a consumer's interest, is that consumer informed of her right to see their credit report or know that it was used against her. 15 U.S.C. § 1681a(k). Taken together these provisions illustrate that 15 U.S.C. § 1681b(a)(C), even absent the "application" requirement Plaintiff asks this Court to impute, is consistent with Congress's clear desire to allow some carefully proscribed investigation into a consumer's credit history, even without his knowledge or consent.

B.

Turning once again to the facts in this case, Plaintiff contends that she did not make an "application." Despite Plaintiff's assumption to the contrary, this fact is disputed. Even assuming the Court did agree with Plaintiff on her legal argument, a reasonable person could conclude, based on the evidence presently before the Court, that AIG did overcome this implicit "application" requirement. This disputed fact makes the grant of summary judgment improper.

According to her deposition, Plaintiff agreed to the phone transfer and then provided some

detailed information, like that one would provide on a written application. Among those pieces of information were her name, address, the make and model of her car, specific information about her driving history, and her desired policy coverage. (Scharpf Dep. at 69-72, 95-96). Plaintiff has since stated that she was aware the quote the insurer provided her was subject, in the same way her written application would be, to “the background checks [of her] the driving record, to verify the appropriate rates that they gave [her].” (*Id.* at 37, 39, 43). Thus, the only major distinction between what Plaintiff would term “an application” and what a reasonable person could term an “application” appears to be an unequivocal statement to her that, by providing this information, she was applying for insurance.

This very factual scenario highlights another failing of Plaintiff’s legal argument. As a practical matter, Plaintiff’s argument is not workable in this context. Defendants are legally bound not to obtain the Plaintiff’s credit report unless they use it “in connection with the underwriting of insurance.” Both parties agree that the Defendants were involved in underwriting; Plaintiff’s claim is only that the FTC and Congress simply did not intend for this provision to kick in until a consumer made an “application.” But determining when the application process formally begins would either have this Court add an extra requirement for all insurance companies, or would inject the Court into every phone call to determine whether the consumer believed she had made an application. Neither of these outcomes is either appropriate or necessary in this context. Although the FCRA as it stands is not perfect, it does contain a reasonable number of protections which, when enforced, strike the proper balance between protecting business and consumer rights. Despite Plaintiff’s well-formulated arguments, the Court simply cannot reach her conclusions. Therefore, the Court concludes that neither the specific statutory language nor the FCRA’s broad

purposes require an application for insurance in order to justify access to a credit report.

III.

In the process of arguing the interpretation of the FCRA, the parties raise two important issues which the Court believes deserve a direct response. Those issues are noted at this time with the hope that it might focus the parties in the future course of their litigation.

A.

First, after careful consideration, the Court has declined to give substantial deferential weight to the assorted pieces of non-binding Federal Trade Commission ("FTC") interpretations. Several important factors that led to this conclusion.¹¹

¹¹Plaintiff has argued at length that this Court is bound by certain FTC commentary and definitions. However, Plaintiff has not explained why, in accordance with basic principles of administrative law, the FTC's definitions, sample notices, and informal opinions are binding, persuasive, or what level of deference is proper under these circumstances. After analyzing the law in this respect, the Court for the reasons explained herein, concludes it is not bound to adopt the conclusions in these different pieces of information.

Plaintiff argues this Court should look to is an Informal Staff Opinion Letter. *See* FTC Informal Staff Opinion Letter, David Medine (Feb.11, 1998). That letter states that where a consumer asks a car dealer questions about prices and financing, "The customer may simply be comparison shopping. In such a situation, the dealer must obtain written permission from the consumer before obtaining a consumer report." *Id.* The scope of the inquiry in that case, however, dealt with *a different section of the act*. Specifically, the FTC was asked whether, *consistent with § 1681b(a)(3)(F)'s permissible purpose*, an auto dealership could obtain a consumer report on an individual who visits a showroom and thus "in connection with a business transaction that is initiated by the customer."¹² In interpreting that provision, the FTC advised that the customer did not trigger the permissible purpose until she was *knowingly* initiating a transaction, as opposed to asking general questions about prices. As a legal matter, the FTC opinion letter specifically clarified when a consumer "initiated" a transaction, not when "underwriting" began. For this reason, the Court is reluctant to hold that an informal agency opinion relating to the sale of cars and the "business transaction" permissible purpose should also control the underwriting of insurance and its unique permissible purpose. Our case involves an altogether different situation and a different statutory provision. Had Congress intended the same set of rules for these two situations, it would not have carved out two separate exceptions written at different levels of generality.

¹² In its entirety, §1681b(a)(3)(F) states that a person may obtain a consumer report if he "otherwise has a legitimate business need for the information in connection with a business transaction that is initiated by the consumer."

Plaintiff also points to the FTC's example of what type of notice a credit reporting agency should give to a user of a consumer report. Importantly, the FTC provided its sample notice in response to Congress's directive in 15 U.S.C. § 1681e(d), requiring that a consumer reporting agency provide to any company "(A) who regularly and in the ordinary course of business furnishes information to the agency with respect to any consumer; or (B) to whom a consumer report is provided by the [credit reporting] agency; a notice of [the receiving company's] responsibilities under this subchapter." The FCRA further notes that, after the FTC prescribes the content of that notice, "a consumer reporting agency shall be in compliance with this subsection if it provides a notice ... that is *substantially similar* to the FTC prescription." 15 U.S.C. § 1681e(d)(2) (emphasis added). The FTC draft notice states that "users must have a permissible purpose" and paraphrases the underwriting permissible purpose as follows: "For the underwriting of insurance as a result of an *application* from a consumer." 16 C.F.R. § 601 App. C (emphasis added). To be sure, one could say that the FTC sample notice implies that only an application can trigger a permissible purpose.

Under the FCRA, the FTC is the agency empowered to enforce the Act. 15 U.S.C. § 1681s(a). Plaintiff does not go so far, however, to argue that the FTC's sample notice is entitled to the level of deference set forth in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984) (in appropriate circumstances, agency determination is binding unless procedurally defective, arbitrary or capricious in substance, or manifestly contrary to statute). Based upon the circumstances through which this draft notice was published, the Court agrees.

If the FTC's draft notice had been adopted in a rulemaking or other formal proceeding, *Chevron* deference would be appropriate. Instead, the FTC itself clearly states, "[t]he Commentary

does not have the force or effect of regulations or statutory provisions.” C.F.R. Pt. 600 A, Introduction ¶ 1. Recent Supreme Court cases emphasize that such agency statements do not deserve broad *Chevron* deference. See *United States v. Mead Corp.*, 533 U.S. 218 (2001); *Christensen v. Harris County*, 529 U.S. 576 (2000). In *Christensen* the Supreme Court held that “interpretations such as those in opinion letters -- like interpretations contained in policy statements, agency manuals, and enforcement guidelines, all of which lack the force of law -- do not warrant *Chevron*-style deference.” 529 U.S. at 587. “Instead,” the Court continued, “interpretations contained in formats such as opinion letters are ‘entitled to respect’ . . . but only to the extent that those interpretations have the ‘power to persuade.’” *Id.*; see also *Navarro v. Pfizer Corp.*, 261 F.3d 90 (1st Cir. 2001); *Catskill Mts. Chapter of Trout Unlimited, Inc. v. City of New York*, 273 F.3d 481 (2nd Cir. 2001); *AFGE, Local 2119 v. Rumsfeld*, 262 F.3d 649 (7th Cir. 2001); *Nat’l Org. of Veterans’ Advocates, Inc. v. Sec’y of Veterans Affairs*, 260 F.3d 1365 (Fed. Cir. 2001).

However, as *Mead* and *Christensen* make clear, courts do not face a choice between *Chevron* deference and no deference at all. Administrative decisions not subject to *Chevron* deference may be entitled to a lesser degree of deference; the agency position should be followed to the extent persuasive. See *Mead* 533 U.S. at 228; (citing *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944)). For the reasons that follow, however, the Court does not find the FTC’s position to be persuasive.¹³ Most importantly, although the agency uses the term “application,” there is *no*

¹³ As the Supreme Court recently noted in *Mead*, 533 U.S. 218, Justice Jackson’s enunciation of the *Skidmore* test is as follows,

“The weight [accorded to an administrative] judgment in a particular case will depend upon the

evidence that the FTC gave its use of this term any special consideration or was moved to use that term for any particular reason. In fact, as this Court has already noted, the FTC's definition of underwriting makes absolutely no mention of an "application" requirements needed to trigger that process; the FTC itself therefore, on this question, takes inconsistent positions.¹⁴ Rather, the fact that a consumer reporting agency will not violate this act if it issues its own notice "substantially similar" to the FTC's draft notice suggests the "application" requirement is hardly equivocal.

thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade, if lacking power to control."

Skidmore, 323 U.S. at 140.

¹⁴ The FTC's definition of "underwriting" states, "An insurer may obtain a consumer report to decide whether or not to issue a policy to the consumer, the amount and terms of the coverage, the duration of the policy, the rates or fees charged, or whether or not to renew or cancel a policy, because these are all "underwriting" decisions." FTC Commentary on the Fair Credit Reporting Act, 16 C.F.R. pt. 600, App.; *see also Wilting*, 227 F.3d at 476 (adopting the FTC's definition).

See 15 U.S.C. § 1681e(d)(2).¹⁵ The FTC opinion letter and commentary, therefore, while deserving consideration, are neither binding nor persuasive. The Court does not believe that the FTC sample notice should decide this case.

B.

¹⁵ Importantly, the Court briefly notes that, even applying a full *Chevron* analysis, Plaintiff would probably fail on this point. The Supreme Court has established a two-step process for reviewing an agency's interpretation of a statute that it administers. *Chevron*, 467 U.S. 837 (1984). "First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress." *Jewish Hosp., Inc. v. Sec'y of Health & Human Servs.*, 19 F.3d 270, 273 (6th Cir. 1994) The Supreme Court has explained that "the judiciary is the final authority on issues of statutory construction and must reject administrative constructions which are contrary to clear congressional intent." *Chevron*, 467 U.S. at 843 n.9.

Applying step one of *Chevron*, the Court is persuaded that the statute in this case is clear; Congress did not intend to prevent using a consumer report for the purposes of underwriting *only after* a customer had made a formal application. Rather, as discussed throughout this opinion, the FCRA is a notice statute. There are instances where a company may obtain a consumer's credit report without their permission or advance knowledge, so long as that company subsequently *notifies* the consumer of its usage. The words used as well as the different parts of the statute when considered together demonstrate this clarity.