

**USE OF CREDIT INFORMATION AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Christine F. Watkins**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE****General Description:**

This bill amends and enacts provisions related to the use of credit information.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits a public service provider from using credit information to determine a rate;
- ▶ prohibits an Internet service provider from using credit information to determine a rate;
- ▶ prohibits an insurer from using credit information to determine certain aspects of a motor vehicle related insurance policy;
- ▶ prohibits an insurer from using credit information in connection with the underwriting of residential dwelling liability insurance;
- ▶ prohibits a public utility from using credit information to determine a rate;
- ▶ prohibits the Public Service Commission from adopting a method of rate regulation that bases rates on credit information; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

**31A-22-320**, as last amended by Laws of Utah 2008, Chapter 382

**31A-22-1307**, as enacted by Laws of Utah 1997, Chapter 105

**54-4-4.1**, as last amended by Laws of Utah 2009, Chapter 319

**ENACTS:**

**11-26a-101**, Utah Code Annotated 1953

**11-26a-102**, Utah Code Annotated 1953

**11-26a-201**, Utah Code Annotated 1953

**13-57-101**, Utah Code Annotated 1953

**13-57-102**, Utah Code Annotated 1953

**13-57-201**, Utah Code Annotated 1953

**54-3-34**, Utah Code Annotated 1953

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

Section 1. Section **11-26a-101** is enacted to read:

**CHAPTER 26a. PUBLIC SERVICE PROVIDER PROHIBITION**

**11-26a-101. Title.**

This chapter is known as "Public Service Provider Prohibition."

Section 2. Section **11-26a-102** is enacted to read:

**11-26a-102. Definitions.**

As used in this chapter:

(1) "Credit information" means the same as that term is defined in Section 13-57-102.

(2) "Public service provider" means a person engaged in the business of supplying taxable energy as defined in Section 10-1-303.

Section 3. Section **11-26a-201** is enacted to read:

**11-26a-201. Prohibition against determining rates from credit information.**

A public service provider may not use an individual's credit information for purposes of determining a rate for the individual.

Section 4. Section **13-57-101** is enacted to read:

## CHAPTER 57. CREDIT CHECK PROHIBITIONS

**13-57-101. Title.**

This chapter is known as "Credit Check Prohibitions."

Section 5. Section **13-57-102** is enacted to read:

**13-57-102. Definitions.**

As used in this chapter:

(1) "Consumer report" means the same as that term is defined in 15 U.S.C. Sec. 1681a.

(2) "Credit information" means:

(a) a consumer report;

(b) a credit score;

(c) any part of a consumer report; or

(d) any part of a credit score.

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

(a) derived from information in a consumer report;

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

(c) developed to predict credit behavior.

(4) "Internet service provider" means a person engaged in the business of providing Internet access service, with the intent of making a profit, to consumers in the state.

Section 6. Section **13-57-201** is enacted to read:

**13-57-201. Prohibition against use of credit information.**

An Internet service provider that contracts with an individual to provide Internet access for the individual may not use the individual's credit information for the purpose of determining a rate for the individual.

Section 7. Section **31A-22-320** is amended to read:

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

(1) For purposes of this section:

(a) "Credit information" means:

(i) a consumer report;

(ii) a credit score;

(iii) any information obtained by the insurer from a consumer report;

(iv) any part of a consumer report; or

90 (v) any part of a credit score.

91 (b) (i) Except as provided in Subsection (1)(b)(ii), "consumer report" is as defined in

92 15 U.S.C. Sec. 1681a.

93 (ii) "Consumer report" does not include:

94 (A) a motor vehicle record obtained from a state or an agency of a state; or

95 (B) any information regarding an applicant's or insured's insurance claim history.

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

97 (A) derived from information in a consumer report;

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

99 (C) developed to predict the likelihood of:

100 (I) future insurance claims behavior; or

101 (II) credit behavior.

102 (ii) "Credit score" includes:

103 (A) a risk predictor; or

104 (B) a risk score.

105 (iii) A numerical value or a categorization described in Subsection (1)(c)(i) is a credit

106 score if it is developed to predict the behavior described in Subsection (1)(c)(i)(C) regardless of

107 whether it is developed to predict other factors in addition to predicting the behavior described

108 in Subsection (1)(c)(i)(C).

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

110 (i) a motor vehicle liability policy;

111 (ii) a policy that contains uninsured motorist coverage;

112 (iii) a policy that contains underinsured motorist coverage;

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

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

115 (2) An insurer that issues a motor vehicle related insurance policy[~~:(a) except as~~

116 ~~provided in Subsection (2)(b);~~] may not use credit information for the purpose of determining

117 for the motor vehicle related insurance policy:

118 [(i)] (a) renewal;

119 [(ii)] (b) nonrenewal;

120 [(iii)] (c) termination;

121           ~~[(iv)] (d) eligibility;~~  
122           ~~[(v)] (e) underwriting; or~~  
123           ~~[(vi)] (f) rating[; and].~~  
124           ~~[(b) notwithstanding Subsection (2)(a), may use credit information for the purpose of:]~~  
125           ~~[(i) if risk related factors other than credit information are considered, determining~~  
126 ~~initial underwriting; or]~~  
127           ~~[(ii) providing to an insured:]~~  
128           ~~[(A) a reduction in rates paid by the insured for the motor vehicle related insurance~~  
129 ~~policy; or]~~  
130           ~~[(B) any other discount similar to the reduction in rates described in Subsection~~  
131 ~~(2)(b)(ii)(A).]~~

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

134           Section 8. Section **31A-22-1307** is amended to read:

135           **31A-22-1307. Use of consumer reports by residential dwelling liability insurers.**

136           (1) As used in this section:

137           (a) "Consumer report" means the same as that term is defined in 15 U.S.C. Sec. 1681a.

138           (b) "Credit information" means:

139           (i) a consumer report;

140           (ii) a credit score;

141           (iii) any information obtained by the insurer from a consumer report;

142           (iv) any part of a consumer report; or

143           (v) any part of a credit score.

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

145           (A) derived from information in a consumer report;

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

147           (C) developed to predict the likelihood of future insurance claims behavior or credit  
148 behavior.

149           (ii) "Credit score" includes:

150           (A) a risk predictor;

151           (B) a risk score; or

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

~~[(1)] (2) An insurer [who uses consumer reports] may not use credit information in connection with the underwriting of residential dwelling liability insurance [shall establish and adhere to written procedures that:]~~

~~[(a) identify the circumstances under which the insurer may request and the manner in which it will use consumer reports in its underwriting decisions;]~~

~~[(b) provide prior notice of the possible or intended use of a consumer report to an applicant for a residential liability insurance policy; and]~~

~~[(c) ensure compliance with the Consumer Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq., including the duties that arise from taking adverse action based on information contained in a consumer report.]~~

~~[(2) An insurer that requests or uses a consumer report in connection with an application for a residential dwelling liability insurance policy shall maintain evidence of its compliance with the written procedures established by the insurer under Subsection (1).]~~

~~[(3) An insurer shall submit to the commissioner, upon request, evidence of compliance maintained in accordance with Subsection (2).]~~

~~[(4) As used in this section, the terms "consumer report" and "adverse action" are defined in 15 U.S.C. Sec. 1681a.]~~

Section 9. Section **54-3-34** is enacted to read:

**54-3-34. Use of credit information in determining rates.**

(1) As used in this section, "credit information" means the same as that term is defined in Section [13-57-102](#).

(2) A public utility may not use an individual's credit information for the purpose of determining a rate.

Section 10. Section **54-4-4.1** is amended to read:

**54-4-4.1. Rules to govern rates.**

(1) [The] Subject to Subsection (3), the commission may, by rule or order, adopt any method of rate regulation that is:

(a) consistent with this title;

(b) in the public interest; and

(c) just and reasonable.

(2) In accordance with Subsection (1), a method of rate regulation may include:

(a) rate designs utilizing:

(i) volumetric rate components;

(ii) demand rate components;

(iii) fixed rate components; and

(iv) variable rate components;

(b) rate stabilization methods;

(c) decoupling methods;

(d) incentive-based mechanisms; and

(e) other components, methods, or mechanisms approved by the commission.

(3) (a) As used in this Subsection (3), "credit information" means the same as that term is defined in Section [13-57-102](#).

(b) The commission may not adopt a method of rate regulation that bases rates on consumers' or users' credit information.