SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1033 be amended to read as follows:

Page 3, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 4. IC 27-2-21-4 IS REPEALED [EFFECTIVE JULY 1, 2017]. See: 4. As used in this chapter, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

SECTION 1. IC 27-2-21-9 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec: 9. As used in this chapter, "department" refers to the department of insurance created by IC 27-1-1-1.

SECTION 2. IC 27-2-21-16, AS AMENDED BY P.L.84-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. (a) An insurer that uses may not use credit information to underwrite or rate risks. shall not do the following:

(1) Use an insurance score that is calculated using income; gender; address; ZIP code; ethnic group; religion; marital status; or nationality of the consumer as a factor.

(2) Deny; cancel; or decline to renew a personal insurance policy solely on the basis of credit information.

(3) Base an insured's renewal rate for a personal insurance policy solely on credit information.

(4) Take an adverse action against a consumer solely because the consumer does not have a credit card account.

(5) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating a personal insurance policy, unless the insurer does one (1) of the following:

(A) Presents to the commissioner information that the absence or inability relates to the risk for the insurer and treats the consumer as approved by the commissioner.

(B) Treats the consumer as if the consumer had neutral credit.
information, as defined by the insurer.

(6) Take an adverse action against a consumer based on credit information unless the insurer obtains and uses:

(A) a credit report issued; or

(B) an insurance score calculated;

not more than ninety (90) days before the date the personal insurance policy is first written or the renewal is issued:

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

(A) A credit inquiry:

(i) not initiated by the consumer; or

(ii) requested by the consumer for the consumer's own credit information:

(B) A credit inquiry relating to insurance coverage:

(C) A late payment or a collection account with a medical industry code on the consumer's credit report:

(D) Multiple lender inquiries:

(i) coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry; and

(ii) made within thirty (30) days of one another:

(E) Multiple lender inquiries:

(i) coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry; and

(ii) made within thirty (30) days of one another:

(b) An insurer that uses credit information to underwrite or rate risks shall, at annual renewal upon the request of an insured or an insured's agent, re-underwrite and re-rate the insured's personal insurance policy based on a current credit report or insurance score unless one (1) of the following applies:

(1) The insurer's treatment of the consumer is otherwise approved by the commissioner.

(2) The insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers.

(3) Credit information was not used for underwriting or rating the insured when the personal insurance policy was initially written.

(4) The insurer reevaluates the insured at least every thirty-six (36) months after a personal insurance policy is issued based on underwriting or rating factors other than credit information.

(5) The insurer has re-underwritten and re-rated the insured's personal insurance policy based on a credit report obtained or an insurance score recalculated less than twelve (12) months before the date of the request by the insured or the insured's agent.

(c) An insurer that uses credit information to underwrite or rate risks
may obtain current credit information upon the renewal of a personal
insurance policy when renewal occurs more frequently than every
thirty-six (36) months if consistent with the insurer's underwriting
guidelines.

SECTION 3. IC 27-2-21-17 IS REPEALED [EFFECTIVE JULY 1,
2017]. Sec. 17. (a) If:

(1) a determination is made through the dispute resolution process
set forth in the federal Fair Credit Reporting Act, 15 U.S.C.
1681i(a)(5); that the credit information of a current insured was
incorrect or incomplete; and
(2) the insurer receives notice of the determination from the
consumer reporting agency or the insured;

the insurer shall re-underwrite and re-rate the insured not more than
thirty (30) days after receiving the notice.

(b) After an insurer re-underwrites or re-rates an insured as
described in subsection (a); the insurer shall:

(1) make necessary adjustments; consistent with the insurer's
underwriting and rating guidelines; and
(2) if the insurer determines that the insured has overpaid a
premium; refund to the insured the amount of overpayment
 calculated back to the shorter of the:

(A) immediately preceding twelve (12) month period of
 coverage; or
(B) actual policy period.

SECTION 4. IC 27-2-21-18 IS REPEALED [EFFECTIVE JULY 1,
2017]. Sec. 18. (a) If an insurer uses credit information in underwriting
or rating a consumer, the insurer or the insurer's agent shall disclose;
either on the insurance application or at the time the insurance
application is taken; that the insurer may obtain credit information in
connection with the application. The disclosure must be:

(1) written; or
(2) provided to the consumer in the same medium as the
application for insurance:

The insurer is not required to provide the disclosure statement required
under this section to an insured on a renewal policy if the insured has
previously been provided a disclosure statement.

(b) Use of the following sample disclosure statement constitutes
compliance with this section: "In connection with this application for
insurance, we may review your credit report or obtain or use a credit
based insurance score based on the information contained in that credit
report. We may use a third party in connection with the development
of your insurance score."

SECTION 5. IC 27-2-21-19 IS REPEALED [EFFECTIVE JULY 1,
2017]. Sec. 19. (a) If an insurer takes an adverse action based on credit
information; the insurer shall:

(1) provide notice to the consumer that an adverse action has been
taken, in accordance with the requirements of the federal Fair Credit Reporting Act, 15 U.S.C. 1681m(a); and

(2) provide notice to the consumer explaining the reason for the adverse action.

(b) The reason provided under subsection (a)(2) must be provided in sufficiently clear and specific language so that an individual can identify the basis for the insurer's decision to take an adverse action.

The notice must include a description of all factors up to four (4) primary factors that were the primary influences of the adverse action.

The use of generalized terms such as "poor credit history", "poor credit rating", or "poor insurance score" does not meet requirements of this subsection. A standardized credit explanation provided by a consumer reporting agency or other third party vendor meets the requirements of this section.

SECTION 6. IC 27-2-21-20 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 20. (a) An insurer that uses an insurance score to underwrite and rate risks shall file the insurer's scoring models or other scoring processes with the department.

(b) A third party may file a scoring model or scoring process on behalf of an insurer.

(c) A filing that includes insurance scoring may include loss experience justifying the use of credit information.

(d) A filing related to credit information is confidential.

SECTION 7. IC 27-2-21-21 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 21. (a) An insurer shall indemnify and defend an insurance producer and hold an insurance producer harmless from and against liability, fees, and costs arising out of or related to the actions, errors, or omissions of the insurance producer relating to a use of credit information if the insurance producer:

(1) obtains or uses credit information or insurance scores for the insurer;

(2) follows the instructions of or procedures established by the insurer; and

(3) complies with applicable laws and regulations.

(b) This section does not provide a consumer with a cause of action that does not exist in the absence of this section:"

Renumber all SECTIONS consecutively.

(Reference is to EHB 1033 as printed March 21, 2017.)

Senator TAYLOR G