

110TH CONGRESS
2D SESSION

H. R. 5633

To amend the Fair Credit Reporting Act to prohibit certain discriminatory uses of consumer reports and consumer information in connection with certain personal lines of insurance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2008

Mr. GUTIERREZ (for himself, Mr. WATT, and Mr. FRANK of Massachusetts) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Fair Credit Reporting Act to prohibit certain discriminatory uses of consumer reports and consumer information in connection with certain personal lines of insurance, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nondiscriminatory Use
5 of Consumer Reports and Consumer Information Act of
6 2008”.

1 **SEC. 2. USE OF CONSUMER REPORTS AND CONSUMER IN-**
2 **FORMATION IN A DISCRIMINATORY MANNER**
3 **PROHIBITED.**

4 (a) IN GENERAL.—Section 604 of the Fair Credit
5 Reporting Act (15 U.S.C. 1681b) is amended—

6 (1) in subsection (a), by striking “Subject to
7 subsection (c)” and inserting “Subject to subsections
8 (c) and (h)”; and

9 (2) in subsection (c)(1), by striking “A con-
10 sumer reporting agency” and inserting “Subject to
11 subsection (h), a consumer reporting agency”.

12 (b) PROHIBITION ON CERTAIN DISCRIMINATORY
13 USES OF CONSUMER REPORTS AND CONSUMER INFORMA-
14 TION IN CONNECTION WITH INSURANCE.—Section 604 of
15 the Fair Credit Reporting Act (15 U.S.C. 1681b) is
16 amended by adding at the end the following new sub-
17 section:

18 “(h) PROHIBITION ON CERTAIN DISCRIMINATORY
19 USES OF CONSUMER REPORTS AND CONSUMER INFORMA-
20 TION IN CONNECTION WITH INSURANCE.—

21 “(1) IN GENERAL.—No consumer reporting
22 agency may furnish a consumer report or consumer
23 information with respect to any consumer to any
24 person for use in making any decision to underwrite
25 or rate any personal lines of insurance, and no per-
26 son shall use or obtain a consumer report or con-

1 consumer information with respect to any consumer in
2 connection with the underwriting or rating of any
3 personal line of insurance, for which the Commission
4 determines, including any finding or determination
5 made in any study for which a report is submitted
6 to the Congress, that any such use of the consumer
7 report or the consumer information—

8 “(A) results in racial or ethnic discrimina-
9 tion; or

10 “(B) represents a proxy or proxy effect for
11 race or ethnicity.

12 “(2) INSURANCE INFORMATION NOT IN-
13 CLUDED.—Information derived from the following
14 data bases shall not be treated as a consumer report
15 or consumer information for purposes of paragraph
16 (1):

17 “(A) Databases that contain information
18 on property loss data regarding personal lines
19 of insurance, such as the Comprehensive Loss
20 Underwriting Exchange (CLUE) and Auto-
21 mobile-Property Loss Underwriting System (A-
22 PLUS).

23 “(B) Databases that contain information
24 on driver history, such as accidents or moving

1 violations, typically maintained at State depart-
2 ments of motor vehicles.

3 “(C) Databases that contain information
4 on a consumer’s medical history, to the extent
5 such access and use for purposes described in
6 paragraph (1) is consistent with the require-
7 ments of section 604(g).

8 “(3) EFFECT ON STATE LAWS.—Notwith-
9 standing section 625(b)(3)(C), no provision of this
10 section shall be construed as limiting or superseding
11 the application of any State laws or regulations that
12 restrict or prohibit the use of consumer reports or
13 consumer information in the underwriting or rating
14 of any personal lines of insurance.

15 “(4) DEFINITIONS.—For purposes of this sub-
16 section, the following definitions shall apply:

17 “(A) CONSUMER INFORMATION.—The
18 term ‘consumer information’ means any infor-
19 mation from the file on any consumer at a con-
20 sumer reporting agency, or any product derived
21 from any such information.

22 “(B) PERSONAL LINE OF INSURANCE.—
23 The term ‘personal line of insurance’ means
24 any personal automobile or homeowners line of
25 insurance, as defined in the Uniform Property

1 and Casualty Product Coding Matrix estab-
2 lished and maintained by the National Associa-
3 tion of Insurance Commissioners (or any suc-
4 cessor to such document).

5 “(C) PROXY FOR RACE OR ETHNICITY.—
6 The term ‘proxy for race or ethnicity’ means a
7 substitute or stand-in for race or ethnicity, ei-
8 ther by design or in effect, without regard to
9 the extent of the effect.”.

○