

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.

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## 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

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## 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.”.

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