OFFICE of the INSURANCE COMMISSIONER WASHINGTON STATE

MENU

For Consumers

Kreidler alerts consumers to new credit scoring protections during coronavirus pandemic

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OLYMPIA, Wash. – Insurance Commissioner Mike Kreidler is reminding consumers of a new federal protection that applies to how insurance companies use a consumer's credit history.

The federal Coronavirus Aid, Relief and Economic Security (CARES) Act amends the Fair Credit Reporting Act and protects consumers during the coronavirus pandemic from any negative credit reporting as long as their accounts were in good standing before the pandemic started.

This protection also applies to how insurers use credit history to calculate how much consumers pay for auto and homeowners insurance.

"The initial focus of the act was on stimulus payments, but it's also important to alert people to new protections regarding credit scoring," said Kreidler. "Millions of people have lost their jobs and are likely struggling to pay their bills during this pandemic. It's critical that we do what we can to make sure they're not further harmed during these financially devastating times."

The CARES Act:

> Prohibits a creditor from reporting an individual's delinquent payments to a credit reporting agency if the individual was up-to-date on their payments before the pandemic started.

> If asked, a creditor may also allow an individual to defer one or more payments, make a partial payment, or modify a loan or contract.

The 120-day duration of the moratorium took effect March 27. It is likely to be extended until the federal administration declares an end to the current national emergency.

Kreidler has been a vocal opponent of the use of credit information in insurance and worked to restrict its use in Washington state early in his administration.

"I first heard about insurers using credit information 2001," said Kreidler. "I thought it was incredibly unfair then and worked to limit its use. While some people may benefit, I still believe many more people are harmed by it."

"I want people to know they have these new but temporary protections now and that I'm closely monitoring how insurers use credit information. If we see people are being harmed by its use, I'll use my authority to limit the practice where I can."

Washington state law restricts how insurers can use credit information when determining who to offer coverage to and how much to charge someone.

Anyone who believes their credit information has been misused by their insurance company should contact Kreidler's consumer protection division either online or by calling 1-800-562-6900.

Learn about the coronavirus and insurance.

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HOW CARES ACT AFFECTS CREDIT SCORING

On March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief and Economic Security (CARES) Act (S. 3548) that built upon an earlier version of the CARES Act (H.R. 748). This law serves as an additional round of federal government support in response to the coronavirus public health crisis and associated economic fallout, succeeding the $8.3 billion in public health support passed on March 18, 2020 through the Families First Coronavirus Response Act (H.R. 6201).

Federal Law Now Prohibits Negative Credit Reporting

The CARES Act modifies the Fair Credit Reporting Act, 15 U.S.C. § 1681, ("FCRA") which addresses the types of reporting that are prohibited under the statute, by adding a new subsection (F). The new subsection (F) provides the following:

SEC. 4021. Credit protection during COVID–19.

Section 623(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(1)) is amended by adding at the end the following:

(F) REPORTING INFORMATION DURING COVID–19 PANDEMIC.—

(i) DEFINITIONS.—In this subsection:

(I) ACCOMMODATION.—The term 'accommodation' includes an agreement to defer 1 or more payments, make a partial payment, forbear any delinquent amounts, modify a loan or contract, or any other assistance or relief granted to a consumer who is affected by the coronavirus disease 2019 (COVID–19) pandemic during the covered period.

(II) COVERED PERIOD.—The term 'covered period' means the period beginning on January 31, 2020 and ending on the later of—

(aa) 120 days after the date of enactment of this subparagraph; or

(bb) 120 days after the date on which the national emergency concerning the novel coronavirus disease (COVID–19) outbreak declared by the President on March 13, 2020 under the National Emergencies Act (50 U.S.C. 1601 et seq.) terminates.

(ii) REPORTING.—Except as provided in clause (iii), if a furnisher makes an accommodation with respect to 1 or more payments on a credit obligation or account of a consumer, and the consumer

makes the payments or is not required to make 1 or more payments pursuant to the accommodation, the furnisher shall—

(I) report the credit obligation or account as current; or

(II) if the credit obligation or account was delinquent before the accommodation—

(aa) maintain the delinquent status during the period in which the accommodation is in effect; and

(bb) if the consumer brings the credit obligation or account current during the period described in item (aa), report the credit obligation or account as current.

(iii) EXCEPTION.—Clause (ii) shall not apply with respect to a credit obligation or account of a consumer that has been charged-off.

The CARES Act stops adverse credit reporting for individuals nationwide during the COVID-19 crisis with these important features:

- Under the amended FCRA, if a creditor/lender makes an accommodation because an individual was affected by coronavirus, that creditor must report the individual's account as <u>current</u> to the credit reporting agencies, so long as the individual was not already delinquent on their payments;
- The CARES Act broadly defines "accommodation" to include "an agreement to defer one or more payments, make partial payments, forbear any delinquent amounts, modify a loan or contract, or any other assistance or relief granted to a consumer who is affected by the COVID-19 pandemic." Thus, nearly any type of alteration of loan obligations could conceivably fall under this definition as long as the creditor and consumer reach an "agreement";
- The relevant time period for when such an "accommodation" can occur and impact a creditor's credit reporting is from January 31, 2020 to the "later of" 120 days after the date that the CARES Act is enacted or 120 days after the COVID-19 national emergency declared by President Trump is terminated (this requirement is likely to extend well into the Fall of 2020).

It important to note that the foregoing protections are not automatic or assumed – an individual affected by COVID-19 must notify their creditor and request assistance with their payment obligations first to trigger the Act's safeguards.

Enhanced Consumer Credit Protections

To recap, the CARES Act specifically prohibits a creditor from reporting an individual's delinquent payments to a credit reporting agency if the individual is up to date on their consumer debt and the creditor agrees to the following:

- Let individual defer one or more payments
- Let individual make a partial payment
- Forbear any delinquent amounts
- Modify a loan or contract, or
- Give individual any other assistance or relief.

The Act also provides leniency for individuals facing borrowing and credit pressures and who are able to work out a new payment plan with their credit-card companies or other lenders.