

A BILL TO BE ENTITLED

AN ACT

relating to the use of certain insurance underwriting guidelines based on credit scores; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.49-2Q to read as follows:

Art. 21.49-2Q. RESTRICTIONS ON USE OF CERTAIN UNDERWRITING GUIDELINES BASED ON CREDIT SCORING

Sec. 1. DEFINITIONS. In this article:

(1) "Credit history" means information regarding an individual's past history of:

(A) financial responsibility;

(B) payment habits; or

(C) creditworthiness.

(2) "Creditscore" means a score, grade, or value that is derived by using data from a credit history in any type of model, method, or program for the purpose of grading or ranking credit report data, whether derived electronically, from an algorithm, through a computer software application model or program, or through any other analogous process.

(3) "Insurer" means an insurer authorized to write property and casualty insurance in this state, including:

(A) a county mutual insurance company;

(B) a farm mutual insurance company;

1           (C) a Lloyd's plan; and

2           (D) a reciprocal or interinsurance exchange.

3           (4) "Underwriting guideline" means a rule, standard,  
4 marketing decision, or practice that is used by an insurer or an  
5 agent of an insurer to examine, bind, accept, reject, cancel, or  
6 limit insurance coverage to groups of consumers of insurance.

7           Sec. 2. APPLICATION. This article applies only to an  
8 insurer in this state that writes:

9           (1) a personal automobile insurance policy;

10          (2) a homeowners insurance policy;

11          (3) a farm and ranch or farm and ranch owners insurance  
12 policy; or

13          (4) a residential fire and allied lines insurance  
14 policy.

15          Sec. 3. FILING WITH DEPARTMENT; APPROVAL; NOTICE. (a) An  
16 insurer shall file with the department, in the manner prescribed by  
17 the commissioner and accompanied by a fee set by the department in  
18 an amount reasonable and necessary to administer this article, any  
19 credit scoring model, method, or program used by the insurer in  
20 determining underwriting guidelines for insurance coverage subject  
21 to this article. The insurer shall provide sufficient information  
22 in the filing to substantiate to the department the relevance of the  
23 model to the risks associated with the underwriting of the  
24 insurance.

25          (b) The model, method, or program may use any information,  
26 including computer programs, algorithms, and other analogous  
27 systems, that produce relevant statistics concerning the lines of

1 insurance subject to this article.

2 (c) An insurer may not use any credit scoring model, method,  
3 or program until it has been filed with the department and approved  
4 by the commissioner.

5 (d) A filing under this section must contain all information  
6 and statistics relevant to the subject matter of the filing. Not  
7 later than the 30th day after the date the insurer files the  
8 information, the commissioner shall either approve or disapprove  
9 the filing and give written notice of the decision to the insurer.  
10 A filing is considered complete when all information requested by  
11 the commissioner is received by the department. If the  
12 commissioner disapproves a filing, the notice must specify in what  
13 manner the filing fails to meet the requirements of this article.  
14 An insurer whose filing is disapproved is entitled to a hearing on  
15 written request to the department made by the insurer not later than  
16 the 30th day after the date of issuance of the disapproval order. A  
17 hearing under this section is subject to Subchapter D, Chapter 36,  
18 of this code.

19 Sec. 4. PUBLIC INFORMATION. Information submitted by an  
20 insurer under Section 3 of this article is public information  
21 available to the public under Chapter 552, Government Code.

22 Sec. 5. RULES. The commissioner shall adopt rules as  
23 necessary to implement this article.

24 Sec. 6. PENALTY. An insurer who violates this article  
25 commits an unfair practice in violation of Article 21.21 of this  
26 code.

27 SECTION 2. Section 38.002, Insurance Code, is amended by

1 adding Subsection (g) to read as follows:

2 (g) This section does not apply to information submitted by  
3 an insurer that is public information under Article 21.49-2Q.

4 SECTION 3. Article 21.49-2Q, Insurance Code, as added by  
5 this Act, applies only to an insurance policy delivered, issued for  
6 delivery, or renewed on or after January 1, 2004. A policy  
7 delivered, issued for delivery, or renewed before January 1, 2004,  
8 is governed by the law as it existed immediately before the  
9 effective date of this Act, and that law is continued in effect for  
10 that purpose.

11 SECTION 4. This Act takes effect September 1, 2003.