

By: Hochberg

H.B. No. 331

A BILL TO BE ENTITLED

AN ACT

relating to credit scoring in underwriting and rating certain consumer lines of insurance coverage; providing a penalty.

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

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

Art. 21.49-2R. PROHIBITION ON USE OF CREDIT SCORING IN UNDERWRITING OR RATING

Sec. 1. DEFINITIONS. In this article:

(1) "Applicant for insurance coverage" includes an applicant for new coverage and a policyholder renewing coverage.

(2) "Consumer reporting agency" has the meaning assigned by Section 603, Fair Credit Reporting Act (15 U.S.C. Section 1681a), as amended.

(3) "Credit report" means a written or electronic communication of any information by a consumer reporting agency that bears on an individual's creditworthiness, credit standing, or credit capacity.

(4) "Credit score" means a numerical representation of the risk presented by an individual that uses attributes of the individual derived from a credit report or other consumer or credit information in a formula to assess risk on an actuarial or statistical basis.

(5) "Credit scoring entity" means a consumer reporting

1 agency or other entity that creates, compiles, or provides credit
2 scores.

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

5 (A) a county mutual insurance company;

6 (B) a farm mutual insurance company;

7 (C) a Lloyd's plan; and

8 (D) a reciprocal or interinsurance exchange.

9 (7) "Underwriting" means the selection of the risk
10 that will be assumed by an insurer, and specifically the decision
11 whether to accept, deny, renew, nonrenew, reduce, or increase the
12 amount of benefits payable under an insurance policy or the types of
13 coverages available under an insurance policy.

14 Sec. 2. APPLICATION. This article applies only to:

15 (1) a personal automobile insurance policy;

16 (2) a homeowners insurance policy;

17 (3) a farm and ranch or farm and ranch owners insurance
18 policy; or

19 (4) a residential fire and allied lines insurance
20 policy.

21 Sec. 3. PROHIBITION ON CERTAIN USE OF CREDIT SCORING BY
22 INSURERS. With respect to a line of insurance subject to this
23 article, an insurer may not:

24 (1) refuse to underwrite, cancel, or refuse to renew a
25 risk based, in whole or in part, on the credit report or credit
26 score of an applicant for insurance coverage; or

27 (2) rate a risk based, in whole or in part, on the

1 credit report or credit score of an applicant for insurance
2 coverage in any manner, including:

3 (A) the provision or removal of a discount;

4 (B) assignment of the applicant for insurance
5 coverage to a rating tier; or

6 (C) placement of an applicant for insurance
7 coverage with an affiliated company.

8 Sec. 4. CERTAIN PAYMENT PLANS. Section 3 of this article
9 does not prohibit an insurer from requiring a policyholder of the
10 insurer to make payments under a payment plan based, in whole or in
11 part, on the credit report of the policyholder if the insurer has
12 reasonable grounds, based on late payments made by the policyholder
13 to the insurer or other analogous circumstances related to the
14 relationship between the insurer and the policyholder, to justify
15 the implementation of a particular payment plan for that
16 policyholder.

17 Sec. 5. RULES. The commissioner may adopt rules as
18 necessary to implement this article.

19 Sec. 6. PENALTY. An insurer who violates this article
20 commits an unfair practice in violation of Article 21.21 of this
21 code.

22 SECTION 2. Article 21.49-2R, Insurance Code, as added by
23 this Act, applies only to an insurance policy delivered, issued for
24 delivery, or renewed on or after January 1, 2004. A policy
25 delivered, issued for delivery, or renewed before January 1, 2004,
26 is governed by the law as it existed immediately before the
27 effective date of this Act, and that law is continued in effect for

1 that purpose.

2 SECTION 3. This Act takes effect September 1, 2003.