

By: Flores

H.B. No. 870

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the use of an individual's credit history or credit score in underwriting or determining premiums for certain consumer lines of insurance; 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 21.49-2Q to read as follows:

Art. 21.49-2Q. PROHIBITION ON USE OF CERTAIN CREDIT SCORING BY INSURERS

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:

(A) bears on an individual's creditworthiness, credit standing, or credit capacity; and

(B) is used or collected in whole or in part to serve as a factor in determining eligibility for insurance coverage.

(4) "Credit score" means a numerical representation of

1 the risk presented by an individual that uses attributes of the  
2 individual derived from a credit report or other consumer or credit  
3 information in a formula to assess risk on an actuarial or  
4 statistical basis.

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

7 (A) a county mutual insurance company;

8 (B) a farm mutual insurance company;

9 (C) a Lloyd's plan; and

10 (D) a reciprocal or interinsurance exchange.

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

15 Sec. 2. APPLICATION. This article applies only to an  
16 insurer that writes:

17 (1) a personal automobile insurance policy;

18 (2) a homeowners insurance policy;

19 (3) a farm and ranch or farm and ranch owners insurance  
20 policy; or

21 (4) a residential fire and allied lines insurance  
22 policy.

23 Sec. 3. PROHIBITIONS; EXEMPTION. (a) An insurer may not,  
24 based primarily on the credit report or credit score of an applicant  
25 for insurance coverage, charge the applicant a higher premium than  
26 would otherwise be charged for an insurance policy that is subject  
27 to this article. An insurer's decision to charge a higher premium

1 is considered to be based primarily on a credit report or credit  
2 score of an applicant only if the weight given by the insurer to the  
3 credit report or credit score exceeds the weight given by the  
4 insurer to all other criteria considered in making the decision.

5 (b) An insurer may not use an underwriting guideline that is  
6 based in whole or in part on the credit report or credit score of an  
7 applicant for insurance coverage or any person other than the named  
8 applicant who would be insured under the policy.

9 (c) This section does not apply to the use of a credit report  
10 or credit score by an insurer solely to determine whether the  
11 insurer will offer an installment payment plan for the payment of  
12 premiums to an applicant for insurance coverage.

13 Sec. 4. RULES. The commissioner may adopt rules as  
14 necessary to implement this article.

15 Sec. 5. PENALTY. An insurer who violates this article  
16 commits an unfair practice in violation of Article 21.21 of this  
17 code.

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

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