

By: West

S.B. No. 91

A BILL TO BE ENTITLED

AN ACT

relating to credit scoring in underwriting 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 UNDERWRITING BASED ON CREDIT SCORING

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 the risk presented by an individual that uses attributes of the

1 individual derived from a credit report or other consumer or credit
2 information in a formula to assess risk on an actuarial or
3 statistical basis.

4 (5) "Credit scoring entity" means a consumer reporting
5 agency or other entity that creates, compiles, or provides credit
6 scores.

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

9 (A) a county mutual insurance company;

10 (B) a farm mutual insurance company;

11 (C) a Lloyd's plan; and

12 (D) a reciprocal or interinsurance exchange.

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

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

19 (1) a personal automobile insurance policy;

20 (2) a homeowners insurance policy;

21 (3) a farm and ranch or farm and ranch owners insurance
22 policy; or

23 (4) a residential fire and allied lines insurance
24 policy.

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

1 (1) refuse to underwrite, cancel, or refuse to renew a
2 risk based, in whole or in part, on the credit history or credit
3 score of an applicant for insurance coverage;

4 (2) rate a risk based, in whole or in part, on the
5 credit history or credit score of an applicant for insurance
6 coverage in any manner, including:

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

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

10 (C) placement of an applicant for insurance
11 coverage with an affiliated company; or

12 (3) require a particular payment plan based, in whole
13 or in part, on the credit history or credit score of the applicant
14 for insurance coverage.

15 Sec. 4. RULES. The commissioner may adopt rules as
16 necessary to implement this article.

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

20 SECTION 2. Subchapter E, Chapter 21, Insurance Code, is
21 amended by adding Article 21.79C to read as follows:

22 Art. 21.79C. INTERIM STUDY REGARDING USE OF INSURANCE
23 CREDIT SCORES

24 Sec. 1. DEFINITIONS. In this article:

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

1 (2) "Credit report" means a written or electronic
2 communication of any information by a consumer reporting agency
3 that:

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

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

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

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

16 (A) a county mutual insurance company;

17 (B) a farm mutual insurance company;

18 (C) a Lloyd's plan; and

19 (D) a reciprocal or interinsurance exchange.

20 (5) "Underwriting" means the selection of the risk
21 that will be assumed by an insurer, and specifically the decision
22 whether to accept, deny, renew, nonrenew, reduce, or increase the
23 amount of benefits payable under an insurance policy or the types of
24 coverages available under an insurance policy.

25 Sec. 2. INTERIM STUDY; REPORT. (a) The department shall
26 conduct an interim study regarding the use before January 1, 2004,
27 of credit scores by insurers. The study must analyze whether the

1 use of credit scoring in underwriting insurance coverage had an
2 adverse impact on any demographic group defined by race or
3 socioeconomic status.

4 (b) In conducting the study, the commissioner shall consult
5 with representatives of:

6 (1) consumer organizations;
7 (2) insurers and other insurance organizations;
8 (3) consumer reporting agencies; and
9 (4) any other persons determined necessary by the
10 commissioner to assist the department in conducting the study.

11 (c) The department shall prepare a written report to the
12 legislature regarding the findings of the interim study. The
13 report may include any recommendations of the department regarding
14 the use of credit scores by insurers.

15 (d) Not later than September 1, 2004, the department shall
16 deliver copies of the report to the governor, the lieutenant
17 governor, the speaker of the house of representatives, and the
18 members of the 78th Legislature.

19 (e) This article expires September 1, 2005.

20 SECTION 3. Article 21.49-2R, Insurance Code, as added by
21 this Act, applies only to an insurance policy delivered, issued for
22 delivery, or renewed on or after January 1, 2004. A policy
23 delivered, issued for delivery, or renewed before January 1, 2004,
24 is governed by the law as it existed immediately before the
25 effective date of this Act, and that law is continued in effect for
26 that purpose.

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