

By: Van de Putte

S.B. No. 99

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the use of 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 21.49-2Q to read as follows:

Art. 21.49-2Q. PROHIBITION ON USE OF CERTAIN UNDERWRITING GUIDELINES 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) "Insurer" means an insurer authorized to write
5 property and casualty insurance in this state, including:

6 (A) a county mutual insurance company;

7 (B) a farm mutual insurance company;

8 (C) a Lloyd's plan; and

9 (D) a reciprocal or interinsurance exchange.

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

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

16 (1) a personal automobile insurance policy;

17 (2) a homeowners insurance policy;

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

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

22 Sec. 3. PROHIBITION; EXEMPTION. (a) An insurer may not use
23 an underwriting guideline that is based in whole or in part on the
24 credit report or credit score of an applicant for insurance
25 coverage or any person other than the named applicant who would be
26 insured under the policy.

27 (b) This section does not apply to the use of a credit report

1 or credit score by an insurer solely to determine whether the
2 insurer will offer an installment payment plan for the payment of
3 premiums to an applicant for insurance coverage.

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

6 Sec. 5. PENALTY. An insurer who violates this article
7 commits an unfair practice in violation of Article 21.21 of this
8 code.

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

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