

A BILL TO BE ENTITLED

AN ACT

relating to the use of credit scoring by insurers of residential properties and personal automobiles; providing a civil penalty.

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

SECTION 1. Subchapter B, Chapter 21, Insurance Code, is amended by adding Article 21.21-10 to read as follows:

Art. 21.21-10. CREDIT SCORING BY INSURERS OF RESIDENTIAL PROPERTY AND PERSONAL AUTOMOBILES; SANCTIONS

Sec. 1. DEFINITIONS. In this article:

(1) "Adverse action" has the meaning assigned by Section 603(k), Fair Credit Reporting Act (15 U.S.C. Section 1681a(k)), as amended.

(2) "Insurance credit score" means a numerical representation of the insurance risk an individual presents, using the individual's attributes derived from a credit report or credit information in a formula to assess insurance risk on an actuarial or statistical basis. The term includes "credit score" and "insurance score."

(3) "Insurance credit score system" means the methodology by which an individual's insurance credit score, credit score, or insurance score is determined.

(4) "Insurer" means an insurance company, reciprocal or interinsurance exchange, mutual, farm mutual insurance company, capital stock company, fraternal benefit society, local mutual aid

1 association, county mutual insurance company, association, Lloyd's
2 plan company, or other entity writing personal automobile insurance
3 or residential property insurance in this state. The term includes
4 an affiliate, as defined by Section 823.003(a) of this code, and the
5 Texas Windstorm Insurance Association created and operated under
6 Article 21.49 of this code.

7 (5) "Personal automobile insurance" means an
8 automobile insurance policy providing insurance coverages for the
9 ownership, maintenance, or use of private passenger, utility, and
10 miscellaneous type motor vehicles and trailers including mobile
11 homes and recreational trailers, and not primarily used for the
12 delivery of goods, materials, or services, unless such use is in
13 farm or ranch operations and provided that such vehicles are owned
14 or leased by an individual or individuals.

15 (6) "Residential property insurance" means insurance
16 against loss to real or tangible personal property at a fixed
17 location provided in a homeowners policy, a tenant policy, a
18 condominium owners policy, or a residential fire and allied lines
19 policy.

20 Sec. 2. USERS OF CREDIT INFORMATION. An insurer that uses
21 credit information in whole or in part in connection with a
22 determination regarding any of the following must comply with the
23 requirements of this article:

- 24 (1) whether to issue a policy;
25 (2) the amount and terms of coverage in the policy;
26 (3) the duration of the policy;
27 (4) the rates and fees to be charged in the policy;

1 (5) whether to cancel a policy; or

2 (6) whether to renew a policy.

3 Sec. 3. LIMITATION ON THE RELIANCE ON CREDIT SCORES. An
4 insurer may not reject an application for, cancel, or refuse to
5 renew a personal automobile insurance policy or a residential
6 property insurance policy solely on the basis of a credit score.

7 Sec. 4. DISPUTED OR INACCURATE CREDIT INFORMATION. (a) An
8 insurer may not use disputed credit information in determining a
9 credit score.

10 (b) At the request of an insured or an applicant for
11 insurance, an insurer shall rerun a credit check if a previous
12 credit check on an insured or an applicant for insurance provided
13 incorrect credit information and shall recalculate the credit score
14 if the credit information changes.

15 Sec. 5. LIMITED CREDIT HISTORY. An insurer may not use the
16 fact that a person has little or no credit history as the sole
17 determining factor in determining whether to issue a policy.

18 Sec. 6. MEDICAL COLLECTION INFORMATION. An insurer may not
19 use medical collection information in determining a credit score.

20 Sec. 7. IMPROPER USES OF CREDIT INFORMATION AND SCORING.
21 (a) An insurer may not use credit information that is arbitrary,
22 capricious, or unfairly discriminatory.

23 (b) An insurer may not use insurance credit scoring or an
24 insurance credit scoring methodology that incorporates the race,
25 color, religion, national origin, or gender of an insured or an
26 applicant for insurance.

27 (c) An insurer may not use insurance inquiries or

1 non-consumer-initiated credit inquiries as part of the insurance
2 credit scoring process.

3 Sec. 8. DISCLOSURE REQUIREMENTS. (a) An insurer shall, on
4 the request of an insured or an applicant for insurance, provide
5 specific reasons for adverse actions.

6 (b) An insurer shall require its agents to disclose to its
7 customers that credit information will be obtained and used as part
8 of the insurance credit scoring process.

9 Sec. 9. FILING OF CREDIT SCORING MODELS. An insurer that
10 uses insurance credit scoring in whole or in part in deciding
11 whether to take any action described in this article shall file with
12 the commissioner the insurer's insurance credit scoring models or
13 methodologies for residential property insurance and personal
14 automobile insurance.

15 Sec. 10. CONFIDENTIALITY OF CREDIT SCORING MODEL. A credit
16 scoring model filed with the commissioner for purposes of
17 compliance with this article is confidential trade secret
18 information and is not subject to disclosure under Chapter 552,
19 Government Code.

20 Sec. 11. RIGHT TO APPEAL. (a) An insurer shall reconsider
21 an adverse action by the insurer that has been appealed by the
22 insured or applicant for insurance.

23 (b) An appeal may be filed under this section on the basis
24 of:

- 25 (1) catastrophic illness or injury;
26 (2) temporary loss of employment;
27 (3) death of an immediate family member; or

1 (4) any other grounds as determined by the
2 commissioner by rule as provided by Section 12(a)(1)(C) of this
3 article.

4 (c) In considering an appeal, the insurer shall make
5 reasonable exceptions for credit scores that are adversely affected
6 by any of the factors specified in Subsection (b) of this section.

7 (d) An insurer shall implement a procedure for appeals that
8 conforms with rules for appeals adopted by the commissioner under
9 Section 12 of this article.

10 Sec. 12. RULES. (a) The commissioner shall adopt rules
11 governing the procedure for appeals under Section 11 of this
12 article, including:

13 (1) rules regarding:

14 (A) the time period in which an insured or an
15 applicant for insurance has the right to file an appeal;

16 (B) the means of notification of the appeals
17 process;

18 (C) the grounds for an appeal, which may include
19 additional grounds for appeal and other exceptions as determined by
20 the commissioner;

21 (D) provisions for reasonable, fair, and
22 nondiscriminatory means of review and determination of an appeal;

23 (E) the time frame for the appeals decision; and

24 (F) the means of notification of the appeals
25 decision; and

26 (2) any other rules the commissioner determines are
27 reasonable and necessary to implement the appeals process under

1 this section and Section 11 of this article.

2 (b) The commissioner shall adopt any other rules as
3 necessary to implement the provisions of this article.

4 Sec. 13. SANCTIONS. If the commissioner determines that an
5 insurer has violated any provision of this article, the insurer
6 shall be subject to the penalties provided under Chapter 82 of this
7 code.

8 SECTION 2. Not later than the 120th day after the effective
9 date of this Act, the commissioner of insurance shall adopt rules
10 governing the procedures for appeal as provided by Subsection (a),
11 Section 12, Article 21.21-10, Insurance Code, as added by this Act,
12 and any other rules as necessary to implement the provisions of this
13 Act as provided by Subsection (b), Section 12, Article 21.21-10,
14 Insurance Code, as added by this Act.

15 SECTION 3. An insurer that is using an insurance credit
16 score system on the effective date of this Act must file the
17 insurance credit scoring models described by Section 9, Article
18 21.21-10, Insurance Code, as added by this Act, with the
19 commissioner of insurance not later than the 120th day after the
20 effective date of this Act. An insurer that uses an insurance
21 credit score system after the effective date of this Act must file
22 the insurance credit scoring models with the commissioner of
23 insurance before they are used.

24 SECTION 4. (a) This Act applies only to a residential
25 property or personal automobile insurance policy:

26 (1) that is delivered, issued for delivery, or renewed
27 on or after the 120th day after the effective date of this Act;

1 (2) the application for which is submitted on or after
2 the 120th day after the effective date of this Act; or

3 (3) that is subject to determination of denial,
4 cancellation, or nonrenewal on or after the 120th day after the
5 effective date of this Act.

6 (b) A residential property or personal automobile insurance
7 policy delivered, issued for delivery, or renewed before the 120th
8 day after the effective date of this Act, or the application for
9 which is submitted before the 120th day after the effective date of
10 this Act, or that is subject to determination of denial,
11 cancellation, or nonrenewal before the 120th day after the
12 effective date of this Act is governed by the law as it existed
13 immediately before the effective date of this Act, and that law is
14 continued in effect for that purpose.

15 SECTION 5. This Act takes effect June 1, 2003, if it
16 receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas Constitution.
18 If this Act does not receive the vote necessary for effect on that
19 date, this Act takes effect September 1, 2003.