

By: Coleman

H.B. No. 792

A BILL TO BE ENTITLED

AN ACT

relating to the use of certain rating practices in certain lines of insurance.

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

SECTION 1. Article 5.171, Insurance Code, is amended to read as follows:

Art. 5.171. RATING TERRITORIES. Notwithstanding any other provision of this code, an insurer, in writing any insurance in this state including residential property or personal automobile insurance, may not use rating territories that subdivide a county unless:

(1) the county is subdivided; and

(2) the rate for any subdivisions within that county is not greater than 15 percent higher than the rate used in any other subdivisions in the county by that insurer [~~, except that the commissioner may by rule allow a greater rate difference for residential property insurance or personal automobile insurance~~].

SECTION 2. Sections 1(2), (4), and (7), Article 21.49-2U, Insurance Code, are amended to read as follows:

(2) "Agent" means a person licensed or required to be licensed as a general property and casualty insurance agent under Subchapter B, C, D, or E, Chapter 4051 [~~Article 21.14 of this code~~].

(4) "Consumer" means an individual whose credit information has been reported to or is in the possession of a

1 consumer reporting agency or an insurer ~~[is used or whose credit~~
2 ~~score is computed in the underwriting or rating of a personal~~
3 ~~insurance policy]~~. The term includes an applicant for insurance
4 coverage.

5 (7) "Credit report" means any written, oral, or other
6 communication of information by a consumer reporting agency that ~~[+~~
7 ~~[(A)]~~ bears on a consumer's creditworthiness,
8 credit standing, or credit capacity ~~[; and~~

9 ~~[(B) is used or expected to be used or collected~~
10 ~~in whole or in part to serve as a factor to determine personal~~
11 ~~insurance premiums, eligibility for coverage, or tier placement]~~.

12 SECTION 3. Section 2, Article 21.49-2U, Insurance Code, is
13 amended to read as follows:

14 Sec. 2. APPLICATION. This article applies to each ~~[an]~~
15 insurer that writes personal insurance coverage ~~[and uses credit~~
16 ~~information or credit reports for the underwriting or rating of~~
17 ~~that coverage]~~.

18 SECTION 4. Section 3, Article 21.49-2U, Insurance Code, is
19 amended to read as follows:

20 Sec. 3. ~~[PROHIBITED]~~ USE OF CREDIT INFORMATION PROHIBITED.

21 (a) An insurer may not:

22 (1) use an underwriting guideline ~~[a credit score]~~
23 that is based, in whole or in part, on the credit information,
24 credit report, or credit score of an applicant for insurance
25 coverage or any other person other than the applicant who would be
26 insured under a policy of personal insurance ~~[computed using~~
27 ~~factors that constitute unfair discrimination]~~;

1 (2) refuse to underwrite ~~[deny]~~, cancel, or nonrenew a
2 policy of personal insurance based, in whole or in part, ~~[solely]~~ on
3 the ~~[basis of]~~ credit information, credit report, or credit score
4 of an applicant for insurance coverage or any other person other
5 than the applicant who would be insured under the policy ~~[without~~
6 ~~consideration of any other applicable underwriting factor~~
7 ~~independent of credit information]~~; ~~[or]~~

8 (3) take an action that results in an adverse effect
9 against a consumer because the consumer does not have a credit card
10 account;

11 (4) charge an applicant for insurance coverage a
12 higher premium than otherwise would be charged based, in whole or in
13 part, on the credit information, credit report, or credit score of
14 the applicant or any other person other than the applicant who would
15 be insured under a policy of personal insurance;

16 (5) rate a risk based, in whole or in part, on the
17 credit information, credit report, or credit score of an applicant
18 for insurance coverage or any other person other than the applicant
19 who would be insured under a policy of personal insurance,
20 including:

21 (A) providing or removing a discount;

22 (B) assigning the applicant for insurance
23 coverage to a rating tier; or

24 (C) placing an applicant for insurance coverage
25 with an affiliated company; or

26 (6) require a particular payment plan based, in whole
27 or in part, on the credit information, credit report, or credit

1 score of the applicant for insurance coverage or any other person
2 other than the applicant who would be insured under a policy of
3 personal insurance [~~without consideration of any other applicable~~
4 ~~factor independent of credit information~~].

5 (b) An insurer may not consider an absence of credit
6 information or an inability to determine credit information for an
7 applicant for insurance coverage or insured as a factor in
8 underwriting or rating an insurance policy [~~unless the insurer:~~

9 [~~(1) has statistical, actuarial, or reasonable~~
10 ~~underwriting information that:~~

11 [~~(A) is reasonably related to actual or~~
12 ~~anticipated loss experience; and~~

13 [~~(B) shows that the absence of credit information~~
14 ~~could result in actual or anticipated loss differences;~~

15 [~~(2) treats the consumer as if the applicant for~~
16 ~~insurance coverage or insured had neutral credit information, as~~
17 ~~defined by the insurer; or~~

18 [~~(3) excludes the use of credit information as a~~
19 ~~factor in underwriting and uses only other underwriting criteria~~].

20 SECTION 5. Section 16, Article 21.49-2U, Insurance Code, is
21 amended to read as follows:

22 Sec. 16. DUTIES OF DEPARTMENT. The department shall [+

23 [~~(1) update insurer profiles maintained on the~~
24 ~~department's Internet website to provide information to consumers~~
25 ~~stating whether or not an insurer uses credit scoring; and~~

26 [~~(2)~~] post the report required under Section 15 of
27 this article on the department's Internet website.

1 SECTION 6. Sections 4-11 and 13, Article 21.49-2U,
2 Insurance Code, are repealed.

3 SECTION 7. Article 5.171, Insurance Code, as amended by
4 this Act, applies only to the rates applicable to insurance
5 policies that are delivered, issued for delivery, or renewed on or
6 after January 1, 2006. Rates applicable to policies that are
7 delivered, issued for delivery, or renewed before January 1, 2006,
8 are governed by the law as it existed immediately before the
9 effective date of this Act, and that law is continued in effect for
10 that purpose.

11 SECTION 8. (a) Article 21.49-2U, as amended by this Act,
12 applies only to a personal insurance policy:

13 (1) that is delivered, issued for delivery, or renewed
14 on or after January 1, 2006;

15 (2) the application for which is submitted on or after
16 January 1, 2006; or

17 (3) that is subject to determination of denial,
18 cancellation, or nonrenewal on or after January 1, 2006.

19 (b) A personal insurance policy delivered, issued for
20 delivery, or renewed before January 1, 2006, or the application for
21 which is submitted before January 1, 2006, is governed by the law as
22 it existed immediately before January 1, 2006, and that law is
23 continued in effect for that purpose.

24 SECTION 9. This Act takes effect September 1, 2005.