By: Veasey   H.B. No. 981

A BILL TO BE ENTITLED

1   AN ACT

2   relating to the use of credit scoring in certain lines of personal

3   insurance.

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

5   SECTION 1. Sections 1(2), (4), and (7), Article 21.49-2U,

6   Insurance Code, are amended to read as follows:

7   (2) "Agent" means a person licensed or required to be

8   licensed as a general property and casualty insurance agent under

9   Subchapters B, C, D, or E, Chapter 4051 [Article 21.14 of this

10   code].

11   (4) "Consumer" means an individual whose credit

12   information has been reported to or is in the possession of a

13   consumer reporting agency or an insurer [is used or whose credit

14   score is computed in the underwriting or rating of a personal

15   insurance policy]. The term includes an applicant for insurance

16   coverage.

17   (7) "Credit report" means any written, oral, or other

18   communication of information by a consumer reporting agency that [:

19   [(A)] bears on a consumer's creditworthiness,

20   credit standing, or credit capacity [, and

21   [(B) is used or expected to be used or collected

22   in whole or in part to serve as a factor to determine personal

23   insurance premiums, eligibility for coverage, or tier placement].

24   SECTION 2. Section 2, Article 21.49-2U, Insurance Code, is

1 amended to read as follows:

2   Sec. 2. APPLICATION. This article applies to each [an]

3 insurer that writes personal insurance coverage [and uses credit

4 information or credit reports for the underwriting or rating of

5 that coverage].

6   SECTION 3. Section 3, Article 21.49-2U, Insurance Code, is

7 amended to read as follows:

8   Sec. 3. [PROHIBITED] USE OF CREDIT INFORMATION PROHIBITED.

9 (a) An insurer may not:

10   (1) use an underwriting guideline [a credit score]

11 that is based, in whole or in part, on the credit information,

12 credit report, or credit score of an applicant for insurance

13 coverage or any other person other than the applicant who would be

14 insured under a policy of personal insurance [computed using

15 factors that constitute unfair discrimination];

16   (2) refuse to underwrite [deny], cancel, or nonrenew a

17 policy of personal insurance based, in whole or in part, [solely] on

18 the [basis of] credit information, credit report, or credit score

19 of an applicant for insurance coverage or any other person other

20 than the applicant who would be insured under the policy [without

21 consideration of any other applicable underwriting factor

22 independent of credit information]; [or]

23   (3) take an action that results in an adverse effect

24 against a consumer because the consumer does not have a credit card

25 account;

26   (4) charge an applicant for insurance coverage a

27 higher premium than otherwise would be charged based, in whole or in

1 part, on the credit information, credit report, or credit score of

2 the applicant or any other person other than the applicant who would

3 be insured under a policy of personal insurance;

4   (5) rate a risk based, in whole or in part, on the

5 credit information, credit report, or credit score of an applicant

6 for insurance coverage or any other person other than the applicant

7 who would be insured under a policy of personal insurance,

8 including:

9   (A) providing or removing a discount;

10   (B) assigning the applicant for insurance

11 coverage to a rating tier; or

12   (C) placing an applicant for insurance coverage

13 with an affiliated company; or

14   (6) require a particular payment plan based, in whole

15 or in part, on the credit information, credit report, or credit

16 score of the applicant for insurance coverage or any other person

17 other than the applicant who would be insured under a policy of

18 personal insurance [without consideration of any other applicable

19 factor independent of credit information].

20   (b) An insurer may not consider an absence of credit

21 information or an inability to determine credit information for an

22 applicant for insurance coverage or insured as a factor in

23 underwriting or rating an insurance policy [unless the insurer:

24   [(1) has statistical, actuarial, or reasonable

25 underwriting information that:

26   [(A) is reasonably related to actual or

27 anticipated loss experience; and

1   [~~(B)~~ ~~shows that the absence of credit information~~

2 ~~could result in actual or anticipated loss differences;~~

3   [~~(2)~~ ~~treats the consumer as if the applicant for~~

4 ~~insurance coverage or insured had neutral credit information, as~~

5 ~~defined by the insurer; or~~

6   [~~(3)~~ ~~excludes the use of credit information as a~~

7 ~~factor in underwriting and uses only other underwriting criteria~~].

8   SECTION 4. Section 16, Article 21.49-2U, Insurance Code, is

9 amended to read as follows:

10   Sec. 16. DUTIES OF DEPARTMENT. The department shall [~~:~~

11   [~~(1)~~ ~~update insurer profiles maintained on the~~

12 ~~department's Internet website to provide information to consumers~~

13 ~~stating whether or not an insurer uses credit scoring; and~~

14   [~~(2)~~] post the report required under Section 15 of

15 this article on the department's Internet website.

16   SECTION 5. Sections 4-11 and Section 13, Article 21.49-2U,

17 Insurance Code, are repealed.

18   SECTION 6. (a) This Act takes effect September 1, 2005,

19 and applies only to a personal insurance policy:

20   (1) that is delivered, issued for delivery, or renewed

21 on or after January 1, 2006;

22   (2) the application for which is submitted on or after

23 January 1, 2006; or

24   (3) that is subject to determination of denial,

25 cancellation, or nonrenewal on or after January 1, 2006.

26   (b) A personal insurance policy delivered, issued for

27 delivery, or renewed before January 1, 2006, or the application for

1   which is submitted before January 1, 2006, is governed by the law as

2   it existed immediately before January 1, 2006, and that law is

3   continued in effect for that purpose.