

By: Hilderbran

H.B. No. 3331

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the use of credit scoring in certain lines of personal
3 insurance and to the contents of consumer credit reports.

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

5 SECTION 1. Sections 559.001(4), (7), and (8), Insurance
6 Code, are amended to read as follows:

7 (4) "Consumer" means an individual whose credit
8 information has been reported to or is in the possession of a
9 consumer reporting agency or insurer [~~is used or whose credit score~~
10 ~~is computed in the underwriting or rating of a personal insurance~~
11 ~~policy~~]. The term includes an applicant for insurance coverage.

12 (7) "Credit report" means any written, oral, or other
13 communication of information by a consumer reporting agency that [+

14 [~~(A)~~] bears on a consumer's creditworthiness,
15 credit standing, or credit capacity [~~, and~~

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

19 (8) "Credit score" or "insurance score" means a number
20 or rating derived from an algorithm, computer application, model,
21 or other process that is [+

22 [~~(A)~~] based on credit information [~~, and~~

23 [~~(B) used to predict the future insurance loss~~
24 ~~exposure of a consumer~~].

1 SECTION 2. Section 559.002, Insurance Code, is amended to
2 read as follows:

3 Sec. 559.002. APPLICABILITY OF CHAPTER. This chapter
4 applies to each ~~[an]~~ insurer that writes personal insurance
5 coverage ~~[and uses credit information or credit reports for the~~
6 ~~underwriting or rating of that coverage]~~.

7 SECTION 3. Section 559.003, Insurance Code, is amended to
8 read as follows:

9 Sec. 559.003. INFORMATION PROVIDED TO PUBLIC. The
10 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 former Section
15 15, Article 21.49-2U, on the department's Internet website.

16 SECTION 4. Section 559.052, Insurance Code, is amended to
17 read as follows:

18 Sec. 559.052. ~~[PROHIBITED]~~ USE OF CREDIT INFORMATION
19 PROHIBITED. (a) An insurer may not:

20 (1) use an underwriting guideline ~~[a credit score]~~
21 that is based wholly or partly on the credit information, credit
22 report, or credit score of an applicant for insurance coverage or of
23 any other person ~~[computed using factors that constitute unfair~~
24 ~~discrimination]~~;

25 (2) refuse to underwrite ~~[deny]~~, cancel, or nonrenew a
26 policy of personal insurance based wholly or partly ~~[solely]~~ on the
27 ~~[basis of]~~ credit information, credit report, or credit score of an

1 applicant for insurance coverage or of any other person [~~without~~
2 ~~considering any other applicable underwriting factor independent~~
3 ~~of credit information~~]; [~~or~~]

4 (3) take an action that results in an adverse effect
5 against a consumer because the consumer does not have a credit card
6 account;

7 (4) charge an applicant for insurance coverage a
8 higher premium than otherwise would be charged based wholly or
9 partly on the credit information, credit report, or credit score of
10 the applicant or of any other person;

11 (5) rate a risk based wholly or partly on the credit
12 information, credit report, or credit score of an applicant for
13 insurance coverage or of any other person, including:

14 (A) providing or removing a discount;

15 (B) assigning the applicant for insurance
16 coverage to a rating tier; or

17 (C) placing an applicant for insurance coverage
18 with an affiliated company; or

19 (6) require a particular payment plan based wholly or
20 partly on the credit information, credit report, or credit score of
21 the applicant for insurance coverage or of any other person
22 [~~without considering any other applicable factor independent of~~
23 ~~credit information~~].

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

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

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

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

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

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

12 SECTION 5. Subchapter B, Chapter 559, Insurance Code, is
13 amended by adding Section 559.058 to read as follows:

14 Sec. 559.058. RE-UNDERWRITING AND RE-RATING REQUIRED. If
15 an insurer used an insured's credit score or reviewed an insured's
16 credit information or credit report in initially rating or
17 underwriting a personal insurance policy covering the insured, the
18 insurer, each time the policy is renewed, shall re-underwrite and
19 re-rate the policy if re-underwriting and re-rating the policy
20 would result in the insured's paying a lower premium for the policy
21 than at the time the policy was first underwritten or rated.

22 SECTION 6. Section 20.02(a), Business & Commerce Code, is
23 amended to read as follows:

24 (a) A consumer reporting agency may furnish a consumer
25 report only:

26 (1) in response to a court order issued by a court with
27 proper jurisdiction;

1 (2) in accordance with the written instructions of the
2 consumer to whom the report relates; or

3 (3) to a person the agency has reason to believe:

4 (A) intends to use the information in connection
5 with a transaction involving the extension of credit to, or review
6 or collection of an account of, the consumer to whom the report
7 relates;

8 (B) intends to use the information for employment
9 purposes as authorized under the Fair Credit Reporting Act (15
10 U.S.C. Section 1681 et seq.), as amended, and regulations adopted
11 under that Act;

12 (C) intends to use the information, if the use of
13 the information is not prohibited by Chapter 559, Insurance Code,
14 in connection with the underwriting of insurance involving the
15 consumer as authorized under the Fair Credit Reporting Act (15
16 U.S.C. Section 1681 et seq.), as amended, and regulations adopted
17 under that Act;

18 (D) intends to use the information in connection
19 with a determination of the consumer's eligibility for a license or
20 other benefit granted by a governmental entity required by law to
21 consider an applicant's financial responsibility or status;

22 (E) has a legitimate business need for the
23 information in connection with a business transaction involving the
24 consumer; or

25 (F) intends to use the information for any
26 purpose authorized under the Fair Credit Reporting Act (15 U.S.C.
27 Section 1681 et seq.), as amended, and regulations adopted under

1 that Act.

2 SECTION 7. Chapter 20, Business & Commerce Code, is amended
3 by adding Section 20.14 to read as follows:

4 Sec. 20.14. INCLUDING CERTAIN INFORMATION IN REPORT
5 PROHIBITED. A consumer reporting agency may not include in any
6 consumer report delivered in this state information concerning an
7 inquiry made by an insurer into a consumer's creditworthiness,
8 credit standing, or credit capacity. For purposes of this section,
9 "insurer" has the meaning assigned by Section 559.001, Insurance
10 Code.

11 SECTION 8. The following laws are repealed:

12 (1) Sections 559.004(b), 559.051, and 559.053 through
13 559.056, Insurance Code; and

14 (2) Subchapters C and D, Chapter 559, Insurance Code.

15 SECTION 9. (a) The changes in law made by this Act in
16 amending Chapter 559, Insurance Code, apply only to a personal
17 insurance policy:

18 (1) that is delivered, issued for delivery, or renewed
19 on or after January 1, 2008;

20 (2) the application for which is submitted on or after
21 January 1, 2008; or

22 (3) that is subject to determination of denial,
23 cancellation, or nonrenewal on or after January 1, 2008.

24 (b) A personal insurance policy delivered, issued for
25 delivery, or renewed before January 1, 2008, or the application for
26 which is submitted before January 1, 2008, is governed by the law as
27 it existed immediately before January 1, 2008, and that law is

1 continued in effect for that purpose.

2 (c) The change in law made by Section 20.14, Business &
3 Commerce Code, as added by this Act, applies only to a consumer
4 report that is requested on or after the effective date of this Act.
5 A consumer report that is requested before the effective date of
6 this Act is covered by the law in effect at the time the consumer
7 report was requested, and that law is continued in effect for that
8 purpose.

9 SECTION 10. This Act takes effect September 1, 2007.