By: Ellis   S.B. No. 533

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].

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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

2

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:

3

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. The following laws are repealed:

13   (1) Sections 559.004(b), 559.051, and 559.053 through

14   559.056, Insurance Code; and

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

16   SECTION 6. (a) The changes in law made by this Act in

17   amending Chapter 559, Insurance Code, apply only to a personal

18   insurance policy:

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

20   on or after January 1, 2008;

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

22   January 1, 2008; or

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

24   cancellation, or nonrenewal on or after January 1, 2008.

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

26   delivery, or renewed before January 1, 2008, or the application for

27   which is submitted before January 1, 2008, is governed by the law as

1 it existed immediately before January 1, 2008, and that law is

2 continued in effect for that purpose.

3   SECTION 7. This Act takes effect September 1, 2007.