

By: Coleman

H.B. No. 3565

A BILL TO BE ENTITLED

AN ACT

relating to the use of credit scoring and rating territories in writing certain lines of personal insurance.

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

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

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

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

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

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

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

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

~~[(B) used to predict the future insurance loss 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. Section 2253.001, Insurance Code, is amended to
13 read as follows:

14 Sec. 2253.001. RATING TERRITORIES. ~~[(a)]~~ Notwithstanding
15 any other provision of this code, an insurer, in writing any
16 insurance in this state, including residential property or personal
17 automobile insurance, may use rating territories that subdivide a
18 county only if:

19 (1) the county is subdivided; and

20 (2) the rate for any subdivision in the county is not
21 greater than 15 percent higher than the rate used in any other
22 subdivision in the county by that insurer.

23 ~~[(b) For residential property insurance or personal~~
24 ~~automobile insurance, the commissioner by rule may allow a greater~~
25 ~~rate difference than the rate difference specified by Subsection~~
26 ~~(a).]~~

27 SECTION 6. The following laws are repealed:

1 (1) Sections 559.004(b), 559.051, 559.053, 559.054,
2 559.055, and 559.056, Insurance Code; and

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

4 SECTION 7. (a) The changes in law made by this Act in
5 amending Chapter 559, Insurance Code, apply only to a personal
6 insurance policy:

7 (1) that is delivered, issued for delivery, or renewed
8 on or after January 1, 2010;

9 (2) the application for which is submitted on or after
10 January 1, 2010; or

11 (3) that is subject to determination of denial,
12 cancellation, or nonrenewal on or after January 1, 2010.

13 (b) A personal insurance policy delivered, issued for
14 delivery, or renewed before January 1, 2010, or the application for
15 which is submitted before January 1, 2010, is governed by the law as
16 it existed immediately before January 1, 2010, and that law is
17 continued in effect for that purpose.

18 SECTION 8. Section 2253.001, Insurance Code, as amended by
19 this Act, applies only to the rates applicable to insurance
20 policies that are delivered, issued for delivery, or renewed on or
21 after January 1, 2010. Rates applicable to policies that are
22 delivered, issued for delivery, or renewed before January 1, 2010,
23 are governed by the law as it existed immediately before the
24 effective date of this Act, and that law is continued in effect for
25 that purpose.

26 SECTION 9. This Act takes effect September 1, 2009.