

1 AN ACT concerning the use of credit information and
2 insurance.

3 Be it enacted by the People of the State of Illinois,
4 represented in the General Assembly:

5 Section 1. Short title. This Act may be cited as the
6 Use of Credit Information in Personal Insurance Act.

7 Section 5. Purpose. The purpose of this Act is to
8 regulate the use of credit information for personal insurance
9 so that consumers are afforded certain protections with
10 respect to the use of that information.

11 Section 10. Scope. This Act applies to personal
12 insurance and not to commercial insurance. For purposes of
13 this Act, "personal insurance" means private passenger
14 automobile, homeowners, motorcycle, mobile-homeowners and
15 non-commercial dwelling fire insurance policies, and boat,
16 personal watercraft, snowmobile, and recreational vehicle
17 policies. Such policies must be individually underwritten for
18 personal, family, or household use. No other type of
19 insurance shall be included as personal insurance for the
20 purpose of this Act.

21 Section 15. Definitions. For the purposes of this Act,
22 these defined words have the following meanings:

23 "Adverse Action" means a denial or cancellation of, an
24 increase in any charge for, or a reduction or other adverse
25 or unfavorable change in the terms of coverage or amount of,
26 any insurance, existing or applied for, in connection with
27 the underwriting of personal insurance.

28 "Affiliate" means any company that controls, is
29 controlled by, or is under common control with another

1 company.

2 "Applicant" means an individual who has applied to be
3 covered by a personal insurance policy with an insurer.

4 "Consumer" means an insured or an applicant for a
5 personal insurance policy whose credit information is used or
6 whose insurance score is calculated in the underwriting or
7 rating of a personal insurance policy.

8 "Consumer reporting agency" means any person that, for
9 monetary fees or dues or on a cooperative nonprofit basis,
10 regularly engages in whole or in part in the practice of
11 assembling or evaluating consumer credit information or other
12 information on consumers for the purpose of furnishing
13 consumer reports to third parties.

14 "Credit information" means any credit-related information
15 derived from a credit report, found on a credit report
16 itself, or provided on an application for personal insurance.
17 Information that is not credit-related shall not be
18 considered "credit information," regardless of whether it is
19 contained in a credit report or in an application or is used
20 to calculate an insurance score.

21 "Credit report" means any written, oral, or other
22 communication of information by a consumer reporting agency
23 bearing on a consumer's credit worthiness, credit standing,
24 or credit capacity, that is used or expected to be used or
25 collected in whole or in part for the purpose of serving as a
26 factor to determine personal insurance premiums, eligibility
27 for coverage, or tier placement.

28 "Department" means the Department of Insurance.

29 "Insurance score" means a number or rating that is
30 derived from an algorithm, computer application, model, or
31 other process that is based in whole or in part on credit
32 information for the purposes of predicting the future
33 insurance loss exposure of an individual applicant or
34 insured.

1 Section 20. Use of credit information. An insurer
2 authorized to do business in this State that uses credit
3 information to underwrite or rate risks shall not:

4 (1) Use an insurance score that is calculated using
5 income, gender, address, ethnic group, religion, marital
6 status, or nationality of the consumer as a factor.

7 (2) Deny, cancel, or nonrenew a policy of personal
8 insurance solely on the basis of credit information,
9 without consideration of any other applicable
10 underwriting factor independent of credit information and
11 not expressly prohibited by item (1). An insurer shall
12 not be considered to have denied, cancelled, or
13 nonrenewed a policy if coverage is available through an
14 affiliate.

15 (3) Base an insured's renewal rates for personal
16 insurance solely upon credit information, without
17 consideration of any other applicable factor independent
18 of credit information. An insurer shall not be
19 considered to have based rates solely on credit
20 information if coverage is available in a different tier
21 of the same insurer.

22 (4) Take an adverse action against a consumer
23 solely because he or she does not have a credit card
24 account, without consideration of any other applicable
25 factor independent of credit information.

26 (5) Consider an absence of credit information or an
27 inability to calculate an insurance score in underwriting
28 or rating personal insurance, unless the insurer does one
29 of the following:

30 (A) Treats the consumer as otherwise approved
31 by the Department, if the insurer presents
32 information that such an absence or inability
33 relates to the risk for the insurer.

34 (B) Treats the consumer as if the applicant or

1 insured had neutral credit information, as defined
2 by the insurer.

3 (C) Excludes the use of credit information as
4 a factor and uses only other underwriting criteria.

5 (6) Take an adverse action against a consumer based
6 on credit information, unless an insurer obtains and uses
7 a credit report issued or an insurance score calculated
8 within 90 days from the date the policy is first written
9 or renewal is issued.

10 (7) Use credit information unless not later than
11 every 36 months following the last time that the insurer
12 obtained current credit information for the insured, the
13 insurer recalculates the insurance score or obtains an
14 updated credit report. Regardless of the other
15 requirements of this Section:

16 (A) At annual renewal, upon the request of a
17 consumer or the consumer's agent, the insurer shall
18 re-underwrite and re-rate the policy based upon a
19 current credit report or insurance score. An insurer
20 need not recalculate the insurance score or obtain
21 the updated credit report of a consumer more
22 frequently than once in a 12-month period.

23 (B) The insurer shall have the discretion to
24 obtain current credit information upon any renewal
25 before the expiration of 36 months, if consistent
26 with its underwriting guidelines.

27 (C) An insurer is not required to obtain
28 current credit information for an insured, despite
29 the requirements of subitem (A) of item (7) of this
30 Section if one of the following applies:

31 (a) The insurer is treating the consumer
32 as otherwise approved by the Department.

33 (b) The insured is in the most
34 favorably-priced tier of the insurer, within a

1 group of affiliated insurers. However, the
2 insurer shall have the discretion to order
3 credit information, if consistent with its
4 underwriting guidelines.

5 (c) Credit was not used for underwriting
6 or rating the insured when the policy was
7 initially written. However, the insurer shall
8 have the discretion to use credit for
9 underwriting or rating the insured upon
10 renewal, if consistent with its underwriting
11 guidelines.

12 (d) The insurer re-evaluates the insured
13 beginning no later than 36 months after
14 inception and thereafter based upon other
15 underwriting or rating factors, excluding
16 credit information.

17 (8) Use the following as a negative factor in any
18 insurance scoring methodology or in reviewing credit
19 information for the purpose of underwriting or rating a
20 policy of personal insurance:

21 (A) Credit inquiries not initiated by the
22 consumer or inquiries requested by the consumer for
23 his or her own credit information.

24 (B) Inquiries relating to insurance coverage,
25 if so identified on a consumer's credit report.

26 (C) Collection accounts with a medical
27 industry code, if so identified on the consumer's
28 credit report.

29 (D) Multiple lender inquiries, if coded by the
30 consumer reporting agency on the consumer's credit
31 report as being from the home mortgage industry and
32 made within 30 days of one another, unless only one
33 inquiry is considered.

34 (E) Multiple lender inquiries, if coded by the

1 consumer reporting agency on the consumer's credit
2 report as being from the automobile lending industry
3 and made within 30 days of one another, unless only
4 one inquiry is considered.

5 Section 25. Dispute resolution and error correction. If
6 it is determined through the dispute resolution process set
7 forth in the federal Fair Credit Reporting Act, 15 U.S.C.
8 1681i (a)(5), that the credit information of a current
9 insured was incorrect or incomplete and if the insurer
10 receives notice of that determination from either the
11 consumer reporting agency or from the insured, the insurer
12 shall re-underwrite and re-rate the consumer within 30 days
13 after receiving the notice. After re-underwriting or
14 re-rating the insured, the insurer shall make any adjustments
15 necessary, consistent with its underwriting and rating
16 guidelines. If an insurer determines that the insured has
17 overpaid premium, the insurer shall refund to the insured the
18 amount of overpayment calculated back to the shorter of
19 either the last 12 months of coverage or the actual policy
20 period.

21 Section 30. Initial notification.

22 (a) If an insurer writing personal insurance uses credit
23 information in underwriting or rating a consumer, the insurer
24 or its agent shall disclose, either on the insurance
25 application or at the time the insurance application is
26 taken, that it may obtain credit information in connection
27 with the application. The disclosure shall be either written
28 or provided to an applicant in the same medium as the
29 application for insurance. The insurer need not provide the
30 disclosure statement required under this Section to any
31 insured on a renewal policy, if the consumer has previously
32 been provided a disclosure statement.

1 (b) Use of the following example disclosure statement
2 constitutes compliance with this Section: "In connection with
3 this application for insurance, we may review your credit
4 report or obtain or use a credit-based insurance score based
5 on the information contained in that credit report. We may
6 use a third party in connection with the development of your
7 insurance score."

8 Section 35. Adverse action notification. If an insurer
9 takes an adverse action based upon credit information, the
10 insurer must meet all of the notice requirements of this
11 Section. The insurer shall:

12 (1) Provide notification to the consumer that an
13 adverse action has been taken, in accordance with the
14 requirements of the federal Fair Credit Reporting Act, 15
15 U.S.C. 1681m(a).

16 (2) Provide notification to the consumer explaining
17 the reason for the adverse action. The reasons must be
18 provided in sufficiently clear and specific language so
19 that a person can identify the basis for the insurer's
20 decision to take an adverse action. The notification
21 shall include a description of up to 4 factors that were
22 the primary influences of the adverse action. The use of
23 generalized terms such as "poor credit history", "poor
24 credit rating", or "poor insurance score" does not meet
25 the explanation requirements of this Section.
26 Standardized credit explanations provided by consumer
27 reporting agencies or other third party vendors are
28 deemed to comply with this Section.

29 Section 40. Filing.

30 (a) Insurers that use insurance scores to underwrite and
31 rate risks must file their scoring models (or other scoring
32 processes) with the Department. A third party may file

1 scoring models on behalf of insurers. A filing that includes
2 insurance scoring may include loss experience justifying the
3 use of credit information.

4 (b) Any filing relating to credit information is
5 considered to be a trade secret under the Illinois Trade
6 Secrets Act.

7 Section 45. Enforcement; rates not regulated.

8 (a) The Department shall enforce the provisions of this
9 Act pursuant to the enforcement powers granted to it under
10 the Illinois Insurance Code. The Department may promulgate
11 rules necessary to enforce and administer this Act.

12 (b) Nothing contained in this Act shall be construed to
13 empower the Department to regulate or set the rates of any
14 insurer pursuant to this Act.

15 Section 50. Sale of policy term information by consumer
16 reporting agency.

17 (a) No consumer reporting agency shall provide or sell
18 data or lists that include any information that in whole or
19 in part was submitted in conjunction with an insurance
20 inquiry about a consumer's credit information or a request
21 for a credit report or insurance score. Such information
22 includes, but is not limited to, the expiration dates of an
23 insurance policy or any other information that may identify
24 time periods during which a consumer's insurance may expire
25 and the terms and conditions of the consumer's insurance
26 coverage.

27 (b) The restrictions provided in subsection (a) of this
28 Section do not apply to data or lists the consumer reporting
29 agency supplies to the insurance agent or producer from whom
30 information was received, the insurer on who's behalf the
31 agent or producer acted, or the insurer's affiliates or
32 holding companies.

1 (c) Nothing in this Section shall be construed to
2 restrict any insurer from being able to obtain a claims
3 history report or a motor vehicle report.

4 Section 55. Severability. If any Section, paragraph,
5 sentence, clause, phrase, or part of this Act is declared
6 invalid due to an interpretation of or a future change in the
7 federal Fair Credit Reporting Act, the remaining Sections,
8 paragraphs, sentences, clauses, phrases, or parts thereof
9 shall be in no manner affected thereby but shall remain in
10 full force and effect.

11 (215 ILCS 5/155.38 rep)

12 Section 95. The Illinois Insurance Code is amended by
13 repealing Section 155.38.

14 Section 99. Effective date. This Act takes effect on
15 October 1, 2003.