



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2107

Introduced 2/20/2009, by Sen. Mattie Hunter

SYNOPSIS AS INTRODUCED:

See Index

Amends the Use of Credit Information in Personal Insurance Act. In the provision concerning scope, includes non-commercial farm owners insurance policies and personal umbrella policies to the definition of "personal insurance". Makes changes in the provision concerning definitions. Makes changes in the provision concerning the use of credit information. Provides that an insurer authorized to do business in this State shall use credit information only for the purpose of initially underwriting a consumer. Provides that an insurer authorized to do business in this State that uses credit information to underwrite risks (instead of underwrite or rate risks) shall not take an adverse action against a consumer based on credit information unless and until certain requirements are met. Provides that an insurer must file language in its underwriting guidelines acknowledging the requirement to review and consider extraordinary life events. Provides that an insurer shall re-underwrite the consumer within 30 days if it is determined through any dispute resolution process (instead of the dispute resolution process set forth in the federal Fair Credit Reporting Act) that the credit information of a consumer was incorrect. Provides that scoring models filed by third parties are considered as filed by insurers and subject to the requirements of the Act. Provides that any insurer that used credit information or insurance scores for rating purposes prior to the effective date of the Act must file with the Director for approval an acceptable plan for removing use of credit information or insurance scores for rating purposes. Makes other changes. Effective immediately.

LRB096 03619 RPM 13647 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning insurance.

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

4 Section 5. The Use of Credit Information in Personal
5 Insurance Act is amended by changing Sections 10, 15, 20, 22,
6 25, 30, 40, and 45 as follows:

7 (215 ILCS 157/10)

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

18 (Source: P.A. 93-114, eff. 10-1-03.)

19 (215 ILCS 157/15)

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

22 "Adverse action" means a denial or cancellation within the

1 first 60 days of initial coverage, ~~of, an increase in any~~
2 ~~charge for, or a reduction or other adverse or unfavorable~~
3 ~~change in the terms of coverage or amount of,~~ any insurance,
4 ~~existing or~~ applied for, in connection with the underwriting of
5 personal insurance.

6 "Affiliate" means any company that controls, is controlled
7 by, or is under common control with another company.

8 "Affiliated group of insurers" means any group of insurers
9 under common control that, whether by means of underwriting or
10 rating, are used to place an applicant in a specific company
11 within the affiliated group.

12 "Applicant" means an individual who has applied for the
13 first time to be covered by a personal insurance policy with an
14 insurer.

15 "Consumer" means ~~an insured or~~ an applicant for a personal
16 insurance policy whose credit information is used or whose
17 insurance score is calculated in the initial underwriting ~~or~~
18 ~~rating~~ of a personal insurance policy.

19 "Consumer reporting agency" means any person that, for
20 monetary fees or dues or on a cooperative nonprofit basis,
21 regularly engages in whole or in part in the practice of
22 assembling or evaluating consumer credit information or other
23 information on consumers for the purpose of furnishing consumer
24 reports or credit or insurance scores to third parties.

25 "Credit information" means any credit-related information
26 derived from a credit report, found on a credit report itself,

1 or provided on an application for personal insurance.
2 Information that is not credit-related shall not be considered
3 "credit information," regardless of whether it is contained in
4 a credit report or in an application or is used to calculate an
5 insurance score.

6 "Credit report" means any written, oral, or other
7 communication of information by a consumer reporting agency
8 bearing on a consumer's credit worthiness, credit standing, or
9 credit capacity, that is used or expected to be used or
10 collected in whole or in part for the purpose of serving as a
11 factor to determine ~~personal insurance premiums,~~ eligibility
12 for coverage of personal insurance, ~~or tier placement.~~

13 "Director" means the Director of the Division of Insurance
14 within the Department of Financial and Professional
15 Regulation.

16 "Division Department" means the Division Department of
17 Insurance of the Department of Financial and Professional
18 Regulation.

19 "Domestic partner" means an individual in a domestic
20 partnership or civil union as recognized by a state or local
21 law or ordinance.

22 "Insurance score" means a number or rating that is derived
23 from an algorithm, computer application, model, or other
24 process that is based in whole or in part on credit information
25 for the purposes of predicting the future insurance loss
26 exposure of an individual applicant ~~or insured.~~

1 "Insurer" means any person, firm, corporation,
2 association, or aggregation of persons, including affiliated
3 groups of insurers, doing or proposing to do an insurance
4 business and subject to the insurance supervisory authority of,
5 or to liquidation, rehabilitation, reorganization, or
6 conservation by, the commissioner of insurance or equivalent
7 insurance supervisory official of a state.

8 "Underwriting" means only the act of accepting, rejecting,
9 or canceling within the first 60 days a policy of personal
10 insurance and shall not include any activities related to
11 determination of coverages, limits of insurance, or payment
12 plans available to a consumer; or to activities related to
13 rating a policy of personal insurance, including, but not
14 limited to, calculation of rates, placement of consumers into
15 tiers, or placement of consumers into a specific insurer within
16 an affiliated group of insurers based in whole or in part on
17 rates, coverages, or limits of insurance.

18 (Source: P.A. 93-114, eff. 10-1-03.)

19 (215 ILCS 157/20)

20 Sec. 20. Use of credit information. An insurer authorized
21 to do business in this State shall use credit information only
22 for the purpose of initially underwriting a consumer, as
23 defined and prescribed in this Act. An insurer authorized to do
24 business in this State that uses credit information to
25 underwrite ~~or rate~~ risks shall not:

1 (1) Use credit information or an insurance score that
2 is based on or calculated using income, gender, address,
3 ethnic group, religion, marital status, or nationality of
4 the consumer as a factor.

5 (2) Deny or reject a policy of personal insurance or
6 ~~cancel, or nonrenew~~ a policy of personal insurance within
7 the first 60 days of initial coverage solely on the basis
8 of credit information, without consideration of any other
9 adverse risk-related ~~applicable~~ underwriting factor
10 independent of credit information and not expressly
11 prohibited by item (1). An insurer shall not be considered
12 to have denied or ~~cancelled, or nonrenewed~~ a policy if
13 coverage is available through an affiliate. Making
14 coverage available through an affiliate shall not be used
15 as a proxy for charging a consumer different rates,
16 coverages, limits of insurance, or payment plans based on a
17 consumer's credit information.

18 (3) Base a consumer's ~~an insured's~~ renewal rates,
19 coverages, limits of insurance, or premium for personal
20 insurance ~~solely~~ upon credit information, including credit
21 information used in any insurance scoring model used for
22 rating ~~without consideration of any other applicable~~
23 ~~factor independent of credit information. An insurer shall~~
24 ~~not be considered to have based rates solely on credit~~
25 ~~information if coverage is available in a different tier of~~
26 ~~the same insurer. Offering coverage through an affiliate or~~

1 placing a consumer into a different tier shall not be used
2 as a proxy for charging a consumer different rates,
3 coverages, limits of insurance, or premium payment plans
4 because of a consumer's credit information.

5 (4) Take an adverse action against a consumer ~~solely~~
6 because he or she does not have a credit card account,
7 ~~without consideration of any other applicable factor~~
8 ~~independent of credit information.~~

9 (5) Consider an absence of credit information or an
10 inability to calculate an insurance score in underwriting
11 ~~or rating personal insurance, , unless the insurer does one~~
12 ~~of the following:~~

13 ~~(A) Treats the consumer as otherwise filed with the~~
14 ~~Department, if the insurer presents information that~~
15 ~~such an absence or inability relates to the risk for~~
16 ~~the insurer and submits a filing certification form~~
17 ~~signed by an officer for the insurer certifying that~~
18 ~~such treatment is actuarially justified.~~

19 ~~(B) Treats the consumer as if the applicant or~~
20 ~~insured had neutral credit information, as defined by~~
21 ~~the insurer.~~

22 ~~(C) Excludes the use of credit information as a~~
23 ~~factor and uses only other underwriting criteria.~~

24 (6) Take an adverse action against a consumer based on
25 credit information, unless and until an insurer obtains and
26 uses a credit report issued or an insurance score

1 calculated within 90 days from the date the policy is first
2 written and completes all of the following requirements: ~~or~~
3 renewal is issued.

4 (A) notifies the consumer, in writing, that the
5 insurer has obtained the consumer's credit
6 information;

7 (B) informs the consumer, in writing, what
8 information from the consumer's credit information
9 would trigger a potentially adverse action;

10 (C) offers the consumer an opportunity to respond
11 within 30 days after the potentially adverse credit
12 information; and

13 (D) considers the consumer's response prior to
14 taking an adverse action; if the insurer decides to
15 take an adverse action, the insurer must communicate
16 that fact and its rationale for doing so in writing.

17 ~~(7) Use credit information unless not later than every~~
18 ~~36 months following the last time that the insurer obtained~~
19 ~~current credit information for the insured, the insurer~~
20 ~~recalculates the insurance score or obtains an updated~~
21 ~~credit report. Regardless of the other requirements of this~~
22 ~~Section:~~

23 ~~(A) At annual renewal, upon the request of a~~
24 ~~consumer or the consumer's agent, the insurer shall~~
25 ~~re-underwrite and re-rate the policy based upon a~~
26 ~~current credit report or insurance score. An insurer~~

1 ~~need not recalculate the insurance score or obtain the~~
2 ~~updated credit report of a consumer more frequently~~
3 ~~than once in a 12-month period.~~

4 ~~(B) The insurer shall have the discretion to obtain~~
5 ~~current credit information upon any renewal before the~~
6 ~~expiration of 36 months, if consistent with its~~
7 ~~underwriting guidelines.~~

8 ~~(C) An insurer is not required to obtain current~~
9 ~~credit information for an insured, despite the~~
10 ~~requirements of subitem (A) of item (7) of this Section~~
11 ~~if one of the following applies:~~

12 ~~(a) The insurer is treating the consumer as~~
13 ~~otherwise filed with the Department.~~

14 ~~(b) The insured is in the most~~
15 ~~favorably priced tier of the insurer, within a~~
16 ~~group of affiliated insurers. However, the insurer~~
17 ~~shall have the discretion to order credit~~
18 ~~information, if consistent with its underwriting~~
19 ~~guidelines.~~

20 ~~(c) Credit was not used for underwriting or~~
21 ~~rating the insured when the policy was initially~~
22 ~~written. However, the insurer shall have the~~
23 ~~discretion to use credit for underwriting or~~
24 ~~rating the insured upon renewal, if consistent~~
25 ~~with its underwriting guidelines.~~

26 ~~(d) The insurer re-evaluates the insured~~

1 ~~beginning no later than 36 months after inception~~
2 ~~and thereafter based upon other underwriting or~~
3 ~~rating factors, excluding credit information.~~

4 (7) ~~(8)~~ Use the following as a negative factor in any
5 insurance scoring methodology or in reviewing credit
6 information for the purpose of underwriting ~~or rating~~ a
7 policy of personal insurance:

8 (A) Credit inquiries not initiated by the consumer
9 or inquiries requested by the consumer for his or her
10 own credit information.

11 (B) Inquiries relating to insurance coverage, if
12 so identified on a consumer's credit report or if
13 properly identified by the consumer as such.

14 (C) Collection accounts with a medical industry
15 code, if so identified on the consumer's credit report
16 or if properly identified by the consumer as such.

17 (D) Multiple lender inquiries, if coded by the
18 consumer reporting agency on the consumer's credit
19 report as being from the home mortgage industry and
20 made within 30 days of one another, unless only one
21 inquiry is considered, or if properly identified by the
22 consumer as such.

23 (E) Multiple lender inquiries, if coded by the
24 consumer reporting agency on the consumer's credit
25 report as being from the automobile lending industry
26 and made within 30 days of one another, unless only one

1 inquiry is considered, or if properly identified by the
2 consumer as such.

3 (F) Home mortgage foreclosures.

4 (G) Lack of a home mortgage, if the reason for the
5 lack of a mortgage is that the consumer has paid off a
6 home mortgage in full.

7 (H) Lack of an automobile loan, if the reason for
8 the lack of an automobile loan is that the consumer has
9 paid off an automobile loan in full.

10 (I) Existence of a student loan used to pay
11 expenses associated with post-secondary education.

12 (J) Any credit information that the consumer is
13 disputing or has disputed or any credit information for
14 a dispute that is under review by the credit reporting
15 agency or creditor.

16 (K) Information related to the financing of a
17 primary residence if the consumer occupies the
18 premises and is not in default on the financing
19 agreement.

20 (8) Use credit information or an insurance score to
21 determine the coverage or coverages or policy or coverage
22 limits available to the consumer or to limit or restrict
23 the payment plans available to the consumer.

24 (9) Consider for underwriting purposes the credit
25 information of any of the following in addition to the
26 credit information of the named insured; if any of the

1 following are listed as or considered to be named insureds
2 under the policy and the insurer considers the credit
3 information of all named insureds under the policy, then
4 the insurer shall consider only the credit information of
5 the named insured whose credit information results in the
6 most favorable underwriting treatment of the consumer:

7 (A) An individual who is not the named insured
8 under the policy.

9 (B) The spouse or other family member of the named
10 insured.

11 (C) A domestic partner who resides in the same
12 household of the named insured.

13 (10) Use different credit or insurance scoring methods
14 or models to underwrite the same named insured under
15 various personal lines insurance policies with the
16 insurer, unless the insurer underwrites the named insured
17 using only the most favorable credit or insurance scoring
18 results for all of the named insured's personal lines
19 policies.

20 (Source: P.A. 93-114, eff. 10-1-03; 93-477, eff. 10-1-03.)

21 (215 ILCS 157/22)

22 Sec. 22. Extraordinary life events.

23 (a) An insurer authorized to do business in this State that
24 uses credit information or an insurance score to underwrite ~~or~~
25 ~~rate~~ risks shall review and consider an exception to its

1 credit-related underwriting treatment of an applicant or
2 insured ~~the risk score~~ based upon extraordinary life events
3 after receiving a written and signed notification from the
4 applicant or insured explaining how the applicant or insured
5 believes the extraordinary life event adversely impacts the
6 applicant's or insured's credit information or insurance ~~risk~~
7 score.

8 (b) For the purposes of this Section, "extraordinary life
9 event" includes, but is not limited to, ~~means~~ the following:

10 (1) a catastrophic illness or injury to an applicant or
11 insured or an immediate family member of an applicant or
12 insured;

13 (2) the death of a spouse, child, or parent of an
14 applicant or insured;

15 (3) involuntary loss of employment for a period of 3
16 months or more by an applicant or insured;

17 (4) identity theft of an applicant or insured; ~~or~~

18 (5) dissolution of marriage of an applicant or insured;

19 or ~~or~~

20 (6) military deployment of an applicant or insured.

21 (c) An insurer must file language in its underwriting
22 guidelines acknowledging the requirement to review and
23 consider extraordinary life events.

24 (Source: P.A. 94-245, eff. 7-1-06.)

1 Sec. 25. Dispute resolution and error correction. If it is
2 determined through any ~~the~~ dispute resolution process,
3 including, but not limited to, the process set forth in the
4 federal Fair Credit Reporting Act, 15 U.S.C. 1681i(a)(5), that
5 the credit information of a consumer ~~current insured~~ was
6 incorrect or incomplete and if the insurer receives notice of
7 that determination from either the consumer reporting agency or
8 from the consumer ~~insured~~, the insurer shall re-underwrite ~~and~~
9 ~~re-rate~~ the consumer within 30 days after receiving the notice.
10 After re-underwriting ~~or re-rating~~ the consumer ~~insured~~, the
11 insurer shall make any adjustments necessary to ensure that the
12 incorrect or incomplete credit information no longer adversely
13 affects the consumer, ~~consistent with its underwriting and~~
14 ~~rating guidelines. If an insurer determines that the insured~~
15 ~~has overpaid premium, the insurer shall refund to the insured~~
16 ~~the amount of overpayment calculated back to the shorter of~~
17 ~~either the last 12 months of coverage or the actual policy~~
18 ~~period.~~

19 (Source: P.A. 93-114, eff. 10-1-03.)

20 (215 ILCS 157/30)

21 Sec. 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 taken,

1 that it may obtain credit information in connection with the
2 application. The disclosure shall be either written or provided
3 to an applicant in the same medium as the application for
4 insurance. ~~The insurer need not provide the disclosure
5 statement required under this Section to any insured on a
6 renewal policy, if the consumer has previously been provided a
7 disclosure statement.~~

8 (b) Use of the following example disclosure statement
9 constitutes compliance with this Section: "In connection with
10 this application for insurance, we may review your credit
11 report or obtain or use a credit-based insurance score based on
12 the information contained in that credit report. We may use a
13 third party in connection with the development of your
14 insurance score. Negative information obtained from your
15 credit report or credit information may cause you to be denied
16 or rejected for insurance coverage, or have your insurance
17 canceled within the first 60 days of coverage of a new policy.
18 Accordingly, you should be aware of the contents of your credit
19 report so that you can review it periodically. Federal law
20 gives you the right to dispute inaccurate or incomplete
21 information on your credit report."

22 (Source: P.A. 93-114, eff. 10-1-03.)

23 (215 ILCS 157/40)

24 Sec. 40. Filing.

25 (a) Insurers that use credit information or insurance

1 scores to underwrite consumers ~~and rate risks~~ must file their
2 credit-related underwriting guidelines and credit or insurance
3 scoring models (or other scoring processes) with the Division
4 Department. A third party may file scoring models on behalf of
5 insurers. However, for purposes of this Act, scoring models
6 filed by third parties are considered as filed by insurers and
7 subject to the same requirements under this Act. All
8 credit-related filings, including scoring models, must be
9 complete, concise, and easily comprehensible by both the
10 Division and consumers. Insurers may not file underwriting
11 guidelines or scoring models that contain unnecessarily
12 complex algorithms or an unreasonable number of pages in an
13 attempt to circumvent the requirement that such filings be
14 complete, concise, and easily comprehensible by both the
15 Division and consumers. A filing that includes insurance
16 scoring may include loss experience justifying the use of
17 credit information.

18 (b) Any insurer that used credit information or insurance
19 scores for rating purposes prior to the effective date of this
20 Act must immediately file with the Director for approval an
21 acceptable plan, methodology, or process, including, but not
22 limited to, revised underwriting guidelines, rates, and rating
23 rules, for removing use of credit information or insurance
24 scores for rating purposes. No plan, methodology, process,
25 underwriting guidelines, rates, or rating rules shall in any
26 way be calculated using or based on credit information or

1 insurance scores, including, but not limited to, charging
2 consumers different rates based on their prior credit
3 information or insurance scores, placing consumers into tiers
4 or affiliated insurers based on prior credit information or
5 insurance scores, or providing discounts or surcharges based on
6 credit information or insurance scores.

7 (c) In any filing that includes use of credit information
8 or insurance scoring, an insurer may include loss experience
9 and actuarial information justifying the use of credit
10 information, or must make such information available to the
11 Division upon request.

12 (d) In order that consumers may understand the various ways
13 credit information and insurance scores affect insurance
14 acceptance, rejection, and underwriting, all underwriting
15 guideline and scoring model filings ~~(b) Any filing~~ relating to
16 credit information is deemed to be public information and not
17 ~~is~~ considered to be a trade secret under the Illinois Trade
18 Secrets Act.

19 (Source: P.A. 93-114, eff. 10-1-03.)

20 (215 ILCS 157/45)

21 Sec. 45. Enforcement; ~~rates not regulated.~~

22 (a) The Division ~~Department~~ shall enforce the provisions of
23 this Act pursuant to the enforcement powers granted to it under
24 the Illinois Insurance Code (215 ILCS 5/1 et seq.). The
25 Division ~~Department~~ may promulgate rules necessary to enforce

1 and administer this Act.

2 (b) Except for the powers granted under subsection (b) of
3 Section 40, nothing ~~Nothing~~ contained in this Act shall be
4 construed to empower the Division ~~Department~~ to regulate or set
5 the rates of any insurer pursuant to this Act.

6 (Source: P.A. 93-114, eff. 10-1-03.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 215 ILCS 157/10

4 215 ILCS 157/15

5 215 ILCS 157/20

6 215 ILCS 157/22

7 215 ILCS 157/25

8 215 ILCS 157/30

9 215 ILCS 157/40

10 215 ILCS 157/45