

By Senator Miller

18-242-03

1                                   A bill to be entitled  
2           An act relating to the use of credit reports by  
3           insurers; creating s. 626.9741, F.S.;  
4           specifying that the act's purpose is to  
5           regulate and limit the use of credit reports by  
6           insurers for underwriting and rating purposes;  
7           specifying the types of insurance to which the  
8           section applies; defining terms; requiring  
9           insurers to notify applicants and insureds of  
10          the use of credit reports and to provide a copy  
11          of the credit report; prohibiting insurers from  
12          making adverse underwriting decisions based on  
13          certain credit information or under certain  
14          circumstances; authorizing the Financial  
15          Services Commission to adopt rules; requiring  
16          the Office of Insurance Regulation to approve  
17          an insurer's methodology for using credit  
18          reports and to conduct a study of the use of  
19          credit reports for underwriting and rating  
20          purposes; providing for application; providing  
21          an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25           Section 1. Section 626.9741, Florida Statutes, is  
26 created to read:

27           626.9741 Use of credit reports by insurers.--  
28           (1) The purpose of this section is to regulate and  
29 limit the use of credit reports by insurers for underwriting  
30 and rating purposes. This section applies only to personal  
31 lines motor vehicle insurance and homeowner's insurance.

1           (2) As used in this section, the term:  
2           (a) "Adverse underwriting decision" means a decision  
3 to deny or nonrenew a policy of insurance, to issue a policy  
4 with exclusions or restrictions, or to increase the rates or  
5 premium charged for the policy of insurance.  
6           (b) "Credit report" means any written, oral, or other  
7 communication of any information by a consumer reporting  
8 agency, as defined in the Federal Fair Credit Reporting Act,  
9 15 U.S.C. ss.1681, et seq., bearing on a consumer's credit  
10 worthiness, credit standing, or credit capacity, which is used  
11 or expected to be used or collected as a factor to establish a  
12 person's eligibility for credit or insurance or any other  
13 purpose authorized pursuant to the applicable provision of the  
14 Federal Fair Credit Reporting Act.  
15           (3) An insurer must notify the applicant or insured,  
16 in writing, prior to requesting a credit report, that a credit  
17 report is being requested and may be used for underwriting or  
18 rating purposes. An insurer that makes an adverse underwriting  
19 decision based upon a credit report must provide, or designate  
20 a third party to provide, a copy of the credit report to the  
21 applicant or insured and must identify the specific items in  
22 the credit report which resulted in the adverse underwriting  
23 decision.  
24           (4)(a) An insurer may not make an adverse underwriting  
25 decision solely because of credit information contained in a  
26 credit report.  
27           (b) An insurer may not make an adverse underwriting  
28 decision based on:  
29           1. The absence of, or an insufficient, credit history;  
30           2. The number of credit reports or credit inquiries  
31 requested or made regarding the applicant or insured;

1           3. Credit problems resulting from medical bills; or  
2           4. Any other special circumstance that the Financial  
3 Services Commission determines, by rule, does not pose an  
4 increased insurance risk.

5           (c) An insurer may not request a credit report based  
6 upon the race, color, creed, marital status, gender, or  
7 national origin of the applicant or insured.

8           (5) An insurer may not use a credit report as an  
9 underwriting or rating factor unless the insurer provides the  
10 Office of Insurance Regulation sufficient information for the  
11 office to determine that the methodology used by the insurer  
12 reasonably predicts the insurance risk posed by the applicant  
13 or insured and that the weight given to the credit information  
14 is reasonable compared to other factors affecting insurance  
15 risk. Any premium increase imposed by an insurer based on  
16 credit information contained in a credit report must be  
17 consistent with the rates filed with and approved by the  
18 Office of Insurance Regulation pursuant to the applicable  
19 insurance rating laws and rules.

20           (6) An insurer may not refuse to renew a policy or  
21 impose a premium increase due to credit information contained  
22 in a credit report until the insured has had an opportunity to  
23 correct any errors in the credit report, as provided in this  
24 subsection. The insurer must notify the insured that he or she  
25 may correct or question the accuracy of the information on  
26 which the nonrenewal or premium increase is based within 10  
27 days after receiving a copy of the credit report required to  
28 be provided by subsection (3). If, within such period, the  
29 insured notifies the insurer or a third party designated by  
30 the insurer, in writing, that the insured questions the  
31 accuracy of the credit information on which the nonrenewal or

1 premium increase was based, the nonrenewal or premium increase  
2 may not take effect until 30 days after the accuracy of the  
3 credit information has been verified and communicated to the  
4 insured. An insured must cooperate in any such investigation.  
5 The insurer may nonrenew the policy or impose the premium  
6 increase if the insured fails to respond to relevant questions  
7 regarding the investigation within 15 days after written  
8 notice to the insured.

9 (7) The Financial Services Commission may adopt rules  
10 to administer this section.

11 Section 2. The Office of Insurance Regulation shall  
12 conduct a study of the use of credit information as an  
13 underwriting and rating factor. The study shall evaluate and  
14 determine the increased risk of insurance loss posed by an  
15 individual's credit worthiness, credit standing, or credit  
16 capacity, and the appropriate weight that should be given to  
17 such factors in determining insurability in conjunction with  
18 other risk factors.

19 Section 3. This act shall take effect January 1, 2004,  
20 and applies to policies issued or renewed on or after that  
21 date.

22  
23 \*\*\*\*\*

24 SENATE SUMMARY

25 Requires that an insurer notify an applicant or insured  
26 of the use of a credit report to establish the person's  
27 eligibility for credit or insurance. Prohibits the use of  
28 specified credit information to make an adverse  
29 underwriting decision. Requires that an insured be given  
30 an opportunity to correct or question any errors in a  
31 credit report. Requires that the Office of Insurance  
Regulation approve an insurer's methodology for using  
credit reports. Authorizes the Financial Services  
Commission to adopt rules. (See bill for details.)