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CHAMBER ACTION

The Committee on Insurance recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the use of credit reports and credit scores by insurers; creating s. 626.9741, F.S.; specifying a purpose to regulate and limit the use of credit reports and credit scores by insurers for underwriting and rating purposes; specifying application to types of insurance; defining terms; requiring that an insurer identify the items in a credit report which resulted in an adverse decision; prohibiting an insurer from making an adverse decision based solely on a credit report or score or certain other factors; authorizing insurers to use the number of credit inquiries for certain purposes; providing exceptions; requiring an insurer to provide a means for appeal to an applicant or insured under certain circumstances; prohibiting the use of a credit report or score under certain circumstances; authorizing the Office of Insurance Regulation to disapprove such filings; requiring an insurer to adhere to certain laws and rules; requiring an insurer to provide for an adjustment in the



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29 premium of an insured to reflect an improvement in credit
30 history; authorizing the Financial Services Commission to
31 adopt rules; providing for application; providing an
32 effective date.

33

34 Be It Enacted by the Legislature of the State of Florida:

35

36 Section 1. Section 626.9741, Florida Statutes, is created
37 to read:

38 626.9741 Use of credit reports and credit scores by
39 insurers.--

40 (1) The purpose of this section is to regulate and limit
41 the use of credit reports and credit scores by insurers for
42 underwriting and rating purposes. This section applies only to
43 personal lines motor vehicle insurance and personal lines
44 residential insurance, which includes homeowners, mobile
45 homeowners dwelling, tenants, condominium unit owners,
46 cooperative unit owners, and similar types of insurance.

47 (2) As used in this section, the term:

48 (a) "Adverse decision" means a decision to:

49 1. Refuse to issue or renew a policy of insurance;

50 2. Issue a policy with exclusions or restrictions;

51 3. Increase the rates or premium charged for a policy of
52 insurance;

53 4. Place an insured or applicant in a rating tier that
54 does not have the lowest available rates for which that insured
55 or applicant is otherwise eligible; or



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56 5. Place an applicant or insured with a company operating
57 under common management, control, or ownership which does not
58 offer the lowest rates available, within the affiliate group of
59 insurance companies, for which that insured or applicant is
60 otherwise eligible.

61 (b) "Credit report" means any written, oral, or other
62 communication of any information by a consumer reporting agency,
63 as defined in the Federal Fair Credit Reporting Act, 15 U.S.C.
64 s. 1681, et seq., bearing on a consumer's credit worthiness,
65 credit standing, or credit capacity, which is used or expected
66 to be used or collected as a factor to establish a person's
67 eligibility for credit or insurance, or any other purpose
68 authorized pursuant to the applicable provision of such federal
69 act. A credit score alone, as calculated by a credit reporting
70 agency or by or for the insurer, may not be considered a credit
71 report.

72 (c) "Credit score" means a score, grade, or value that is
73 derived by using any data from a credit report in any type of
74 model, method, or program, whether electronically, in an
75 algorithm, computer software or program, or any other process,
76 for the purpose of grading or ranking credit report data.

77 (d) "Tier" means a category within a single insurer into
78 which insureds with substantially similar risk, exposure, or
79 expense factors are placed for purposes of determining rate or
80 premium.

81 (3) An insurer shall inform an applicant or insured, in
82 the same medium as the application is taken, that a credit
83 report or score is being requested for underwriting or rating



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84 | purposes. An insurer that makes an adverse decision based, in
85 | whole or in part, upon a credit report shall provide at no
86 | charge a copy of the credit report to the applicant or insured
87 | or provide the applicant or insured with the name, address, and
88 | telephone number of the consumer reporting agency from which the
89 | insured or applicant may obtain the credit report. The insurer
90 | shall provide notification to the consumer explaining the
91 | reasons for the adverse decision. The reasons must be provided
92 | in sufficiently clear and specific language so that the insured
93 | or applicant can identify the basis for the insurer's adverse
94 | decision. Such notification shall include a description of the
95 | four primary reasons, or such fewer number as existed, which
96 | were the primary influences of the adverse decision. The use of
97 | generalized terms such as "poor credit history," "poor credit
98 | rating," or "poor insurance score" does not meet the explanation
99 | requirements of this subsection. A credit score may not be used
100 | in underwriting or rating insurance unless the scoring process
101 | produces information in sufficient detail to permit compliance
102 | with the requirements of this subsection. It shall not be deemed
103 | an adverse decision if, due to the insured's credit report or
104 | credit score, the insured continues to receive a less favorable
105 | rate or placement in a less favorable tier or company at the
106 | time of renewal except for renewals or re-underwriting required
107 | by this section.

108 | (4)(a) An insurer may not request a credit report or score
109 | based upon the race, color, religion, marital status, age,
110 | gender, income, national origin, or place of residence of the
111 | applicant or insured.



112 (b) An insurer may not make an adverse decision solely
 113 because of information contained in a credit report or score
 114 without consideration of any other underwriting or rating
 115 factor.

116 (c) An insurer may not make an adverse decision or use a
 117 credit score that could lead to an adverse decision if based, in
 118 whole or in part, on:

119 1. The absence of or an insufficient credit history, in
 120 which instance the insurer shall:

121 a. Treat the consumer as otherwise approved by the
 122 Department of Financial Services if the insurer presents
 123 information that such an absence or inability is related to the
 124 risk for the insurer;

125 b. Treat the consumer as if the applicant or insured had
 126 neutral credit information, as defined by the insurer; or

127 c. Exclude the use of credit information as a factor and
 128 use only other underwriting criteria;

129 2. Collection accounts with a medical industry code, if so
 130 identified on the consumer's credit report;

131 3. Place of residence; or

132 4. Any other circumstance that the Financial Services
 133 Commission determines, by rule, lacks sufficient statistical
 134 correlation and actuarial justification as a predictor of
 135 insurance risk.

136 (d) An insurer may use the number of credit inquiries
 137 requested or made regarding the applicant or insured except for:



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138 1. Credit inquiries not initiated by the consumer or
139 inquiries requested by the consumer for his or her own credit
140 information.

141 2. Inquiries relating to insurance coverage, if so
142 identified on a consumer's credit report.

143 3. Collection accounts with a medical industry code, if so
144 identified on the consumer's credit report.

145 4. Multiple lender inquiries, if coded by the consumer
146 reporting agency on the consumer's credit report as being from:

147 a. The home mortgage industry and made within 30 days of
148 each another, unless only one inquiry is considered; or

149 b. The automobile lending industry and made within 30 days
150 of each another, unless only one inquiry is considered.

151 (e) An insurer shall, upon the request of an applicant or
152 insured, provide a means of appeal for an applicant or insured
153 whose credit report or credit score is unduly influenced by a
154 dissolution of marriage, the death of a spouse, or temporary
155 loss of employment. The insurer shall complete its review within
156 10 business days after the request by the applicant or insured
157 and receipt of reasonable documentation requested by the insurer
158 and, if the insurer determines that the credit report or credit
159 score was unduly influenced by either of such factors, the
160 insurer shall treat the applicant or insured as if the applicant
161 or insured had neutral credit information or shall exclude the
162 credit information, as defined by the insurer, whichever is more
163 favorable to the applicant or insured. An insurer shall not be
164 deemed out of compliance with its underwriting rules or rates or
165 forms filed with the Office of Insurance Regulation or out of



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166 compliance with any other state law or rule as a result of
167 granting any exceptions pursuant to this subsection.

168 (5) A rate filing that uses credit reports or credit
169 scores must comply with the requirements of s. 627.062 or s.
170 627.0651 to ensure that rates are not excessive, inadequate, or
171 unfairly discriminatory.

172 (6) An insurer that requests or uses credit reports and
173 credit scoring in its underwriting and rating methods shall
174 maintain and adhere to established written procedures that
175 reflect the restrictions set forth in the Federal Fair Credit
176 Reporting Act, this section, and all rules related to such act
177 and this section.

178 (7)(a) An insurer shall establish procedures to review the
179 credit history of an insured who was adversely affected by the
180 use of the insured's credit history at the initial rating of the
181 policy, or at a subsequent renewal of the policy. Such review
182 shall be performed at least once every 2 years or at the request
183 of the insured, whichever is sooner, and the premium of the
184 insured shall be adjusted to reflect any improvement in the
185 insured's credit history. The procedures must provide that, with
186 respect to existing policyholders, the review of a credit report
187 shall not be used by the insurer to cancel or refuse to renew a
188 policy or require a change in the method of payment or payment
189 plan.

190 (b) As an alternative to the requirements of paragraph
191 (a), an insurer that used a credit report or credit score for an
192 insured upon inception of a policy, who will not use a credit
193 report or score for reunderwriting purposes, shall reevaluate



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194 the insured within the first 3 years after inception, based on
195 other allowable underwriting or rating factors, excluding credit
196 information, if the insurer does not increase the rates or
197 premium charged to the insured based on the exclusion of credit
198 reports or credit scores.

199 (8) The commission may adopt rules to administer this
200 section. The rules may include, but need not be limited to:

201 (a) Information that must be included in filings to
202 demonstrate compliance with subsection (3).

203 (b) Statistical detail that insurers using credit reports
204 or scores under subsection (5) must retain and report annually
205 to the Office of Insurance Regulation.

206 (c) Standards that ensure that rates or premiums
207 associated with the use of a credit report or score are not
208 unfairly discriminatory based upon race, color, religion,
209 marital status, age, gender, income, national origin, or place
210 of residence.

211 (d) Standards for review of models, methods, programs, or
212 any other process by which to grade or rank credit report data
213 and which may produce credit scores in order to ensure that the
214 insurer demonstrates that such grading, ranking, or scoring is
215 valid in predicting insurance risk of an applicant or insured.

216 Section 2. This act shall take effect January 1, 2004, and
217 shall apply to policies issued or renewed on or after that date.