



HB 0109A

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1 A bill to be entitled

2 An act relating to the use of credit reports and credit
3 scores by insurers; creating s. 626.9741, F.S.; specifying
4 that the act's purpose is to regulate and limit the use of
5 credit reports and credit scores by insurers for
6 underwriting and rating purposes; specifying the types of
7 insurance to which the act applies; defining terms;
8 requiring that an insurer identify the items in a credit
9 report which resulted in an adverse decision; prohibiting
10 an insurer from making an adverse decision based solely on
11 a credit report or score or certain other factors;
12 requiring an insurer to provide a means for appeal to an
13 applicant or insured under certain circumstances;
14 prohibiting the use of a credit report or score unless the
15 Office of Insurance Regulation determines, based on a
16 filing by the insurer, that such use is valid and
17 reasonable; authorizing the Office of Insurance Regulation
18 to disapprove such filings; requiring an insurer to adhere
19 to certain laws and rules; requiring an insurer to provide
20 for an adjustment in the premium of an insured to reflect
21 an improvement in credit history; authorizing the
22 Financial Services Commission to adopt rules; providing
23 for application; providing for construction of the act in
24 pari materia with laws enacted during the 2003 Regular
25 Session of the Legislature; providing a contingent
26 effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Section 626.9741, Florida Statutes, is created
31 to read:

32 626.9741 Use of credit reports and credit scores by
33 insurers.--

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

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

42 (a) "Adverse decision" means a decision to refuse to issue
43 or renew a policy of insurance; to issue a policy with
44 exclusions or restrictions; to increase the rates or premium
45 charged for a policy of insurance; to place an insured or
46 applicant in a rating tier that does not have the lowest
47 available rates for which that insured or applicant is otherwise
48 eligible; or to place an applicant or insured with a company
49 operating under common management, control, or ownership which
50 does not offer the lowest rates available, within the affiliate
51 group of insurance companies, for which that insured or
52 applicant is otherwise eligible.

53 (b) "Credit report" means any written, oral, or other
54 communication of any information by a consumer reporting agency,
55 as defined in the federal Fair Credit Reporting Act, 15 U.S.C.
56 s. 1681, et seq., bearing on a consumer's credit worthiness,
57 credit standing, or credit capacity, which is used or expected
58 to be used or collected as a factor to establish a person's
59 eligibility for credit or insurance, or any other purpose



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60 authorized pursuant to the applicable provision of such federal
61 act. A credit score alone, as calculated by a credit reporting
62 agency or by or for the insurer, may not be considered a credit
63 report.

64 (c) "Credit score" means a score, grade, or value that is
65 derived by using any or all data from a credit report in any
66 type of model, method, or program, whether electronically, in an
67 algorithm, computer software or program, or any other process,
68 for the purpose of grading or ranking credit report data.

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

73 (3) An insurer must inform an applicant or insured, in the
74 same medium as the application is taken, that a credit report or
75 score is being requested for underwriting or rating purposes. An
76 insurer that makes an adverse decision based, in whole or in
77 part, upon a credit report must provide at no charge, a copy of
78 the credit report to the applicant or insured or provide the
79 applicant or insured with the name, address, and telephone
80 number of the consumer reporting agency from which the insured
81 or applicant may obtain the credit report. The insurer must
82 provide notification to the consumer explaining the reasons for
83 the adverse decision. The reasons must be provided in
84 sufficiently clear and specific language so that a person can
85 identify the basis for the insurer's adverse decision. Such
86 notification shall include a description of the four primary
87 reasons, or such fewer number as existed, which were the primary
88 influences of the adverse decision. The use of generalized terms
89 such as "poor credit history," "poor credit rating," or "poor



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90 insurance score" does not meet the explanation requirements of
91 this paragraph. A credit score may not be used in underwriting
92 or rating insurance unless the scoring process produces
93 information in sufficient detail to permit compliance with the
94 requirements of this subsection. It shall not be deemed an
95 adverse decision if, due to the insured's credit report or
96 credit score, the insured continues to receive a less favorable
97 rate or placement in a less favorable tier or company at the
98 time of renewal except for renewals or re-underwriting required
99 by this section.

100 (4)(a) An insurer may not request a credit report or score
101 based upon the race, color, religion, marital status, age,
102 gender, income, national origin, or place of residence of the
103 applicant or insured.

104 (b) An insurer may not make an adverse decision solely
105 because of information contained in a credit report or score
106 without consideration of any other underwriting or rating
107 factor.

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

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

113 a. Treat the consumer as otherwise approved by the Office
114 of Insurance Regulation if the insurer presents information that
115 such an absence or inability is related to the risk for the
116 insurer;

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



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

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

123 3. Place of residence; or

124 4. Any other circumstance that the Financial Services
125 Commission determines, by rule, lacks sufficient statistical
126 correlation and actuarial justification as a predictor of
127 insurance risk.

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

130 1. Credit inquiries not initiated by the consumer or
131 inquiries requested by the consumer for his or her own credit
132 information.

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

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

137 4. Multiple lender inquiries, if coded by the consumer
138 reporting agency on the consumer's credit report as being from
139 the home mortgage industry and made within 30 days of one
140 another, unless only one inquiry is considered.

141 5. Multiple lender inquiries, if coded by the consumer
142 reporting agency on the consumer's credit report as being from
143 the automobile lending industry and made within 30 days of one
144 another, unless only one inquiry is considered.

145 (e) An insurer must, upon the request of an applicant or
146 insured, provide a means of appeal for an applicant or insured
147 whose credit report or credit score is unduly influenced by a
148 dissolution of marriage, the death of a spouse, or temporary



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149 loss of employment. The insurer must complete its review within
150 10 business days after the request by the applicant or insured
151 and receipt of reasonable documentation requested by the
152 insurer, and, if the insurer determines that the credit report
153 or credit score was unduly influenced by any of such factors,
154 the insurer shall treat the applicant or insured as if the
155 applicant or insured had neutral credit information or shall
156 exclude the credit information, as defined by the insurer,
157 whichever is more favorable to the applicant or insured. An
158 insurer shall not be considered out of compliance with its
159 underwriting rules or rates or forms filed with the Office of
160 Insurance Regulation or out of compliance with any other state
161 law or rule as a result of granting any exceptions pursuant to
162 this subsection.

163 (5) A rate filing that uses credit reports or credit
164 scores must comply with the requirements of s. 627.062 or s.
165 627.0651 to ensure that rates are not excessive, inadequate, or
166 unfairly discriminatory.

167 (6) An insurer that requests or uses credit reports and
168 credit scoring in its underwriting and rating methods shall
169 maintain and adhere to established written procedures that
170 reflect the restrictions set forth in the federal Fair Credit
171 Reporting Act, this section, and all rules related thereto.

172 (7)(a) An insurer shall establish procedures to review the
173 credit history of an insured who was adversely affected by the
174 use of the insured's credit history at the initial rating of the
175 policy, or at a subsequent renewal thereof. This review must be
176 performed at a minimum of once every 2 years or at the request
177 of the insured, whichever is sooner, and the insurer shall
178 adjust the premium of the insured to reflect any improvement in



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179 the credit history. The procedures must provide that, with
180 respect to existing policyholders, the review of a credit report
181 will not be used by the insurer to cancel, refuse to renew, or
182 require a change in the method of payment or payment plan.

183 (b) However, as an alternative to the requirements of
184 paragraph (a), an insurer that used a credit report or credit
185 score for an insured upon inception of a policy, who will not
186 use a credit report or score for re-underwriting, shall
187 reevaluate the insured within the first 3 years after inception,
188 based on other allowable underwriting or rating factors,
189 excluding credit information if the insurer does not increase
190 the rates or premium charged to the insured based on the
191 exclusion of credit reports or credit scores.

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

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

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

199 (c) Standards that ensure that rates or premiums
200 associated with the use of a credit report or score are not
201 unfairly discriminatory, based upon race, color, religion,
202 marital status, age, gender, income, national origin, or place
203 of residence.

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



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209 Section 2. This act shall take effect January 1, 2004, and
210 shall apply to policies issued or renewed on or after that date,
211 except that this act shall not take effect unless HB 0111A or
212 substantially similar legislation is adopted in the same
213 legislative session, or an extension thereof, and becomes a law.