

By Senator Miller

18-2591-03

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

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

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

3 626.9741 Use of credit reports and credit scores by
4 insurers.--

5 (1) The purpose of this section is to regulate and
6 limit the use of credit reports and credit scores by insurers
7 for underwriting and rating purposes. This section applies
8 only to personal lines motor vehicle insurance and personal
9 lines residential insurance, which includes homeowners, mobile
10 homeowners dwelling, tenants, condominium unit owners,
11 cooperative unit owners, and similar types of insurance.

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

13 (a) "Adverse decision" means a decision to refuse to
14 issue or renew a policy of insurance; to issue a policy with
15 exclusions or restrictions; to increase the rates or premium
16 charged for a policy of insurance; to place an insured or
17 applicant in a rating tier that does not have the lowest
18 available rates for which that insured or applicant is
19 otherwise eligible; or to place an applicant or insured with a
20 company operating under common management, control, or
21 ownership which does not offer the lowest rates available,
22 within the affiliate group of insurance companies, for which
23 that insured or applicant is otherwise eligible.

24 (b) "Credit report" means any written, oral, or other
25 communication of any information by a consumer reporting
26 agency, as defined in the federal Fair Credit Reporting Act,
27 15 U.S.C. s. 1681, et seq., bearing on a consumer's credit
28 worthiness, credit standing, or credit capacity, which is used
29 or expected to be used or collected as a factor to establish a
30 person's eligibility for credit or insurance, or any other
31 purpose authorized pursuant to the applicable provision of

1 such federal act. A credit score alone, as calculated by a
2 credit reporting agency or by or for the insurer, may not be
3 considered a credit report.

4 (c) "Credit score" means a score, grade, or value that
5 is derived by using any or all data from a credit report in
6 any type of model, method, or program, whether electronically,
7 in an algorithm, computer software or program, or any other
8 process, for the purpose of grading or ranking credit report
9 data.

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

14 (3) An insurer must inform an applicant or insured, in
15 the same medium as the application is taken, that a credit
16 report or score is being requested for underwriting or rating
17 purposes. An insurer that makes an adverse decision based, in
18 whole or in part, upon a credit report must provide at no
19 charge, a copy of the credit report to the applicant or
20 insured or provide the applicant or insured with the name,
21 address, and telephone number of the consumer reporting agency
22 from which the insured or applicant may obtain the credit
23 report. The insurer must provide notification to the consumer
24 explaining the reasons for the adverse decision. The reasons
25 must be provided in sufficiently clear and specific language
26 so that a person can identify the basis for the insurer's
27 adverse decision. Such notification shall include a
28 description of the four primary reasons, or such fewer number
29 as existed, which were the primary influences of the adverse
30 decision. The use of generalized terms such as "poor credit
31 history," "poor credit rating," or "poor insurance score" does

1 not meet the explanation requirements of this paragraph. A
2 credit score may not be used in underwriting or rating
3 insurance unless the scoring process produces information in
4 sufficient detail to permit compliance with the requirements
5 of this subsection. It shall not be deemed an adverse decision
6 if, due to the insured's credit report or credit score, the
7 insured continues to receive a less favorable rate or
8 placement in a less favorable tier or company at the time of
9 renewal except for renewals or re-underwriting required by
10 this section.

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

15 (b) An insurer may not make an adverse decision solely
16 because of information contained in a credit report or score
17 without consideration of any other underwriting or rating
18 factor.

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

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

24 a. Treat the consumer as otherwise approved by the
25 Office of Insurance Regulation if the insurer presents
26 information that such an absence or inability is related to
27 the risk for the insurer;

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

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

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

3 3. Place of residence; or

4 4. Any other circumstance that the Financial Services
5 Commission determines, by rule, lacks sufficient statistical
6 correlation and actuarial justification as a predictor of
7 insurance risk.

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

11 1. Credit inquiries not initiated by the consumer or
12 inquiries requested by the consumer for his or her own credit
13 information.

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

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

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

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

26 (e) An insurer must, upon the request of an applicant
27 or insured, provide a means of appeal for an applicant or
28 insured whose credit report or credit score is unduly
29 influenced by a dissolution of marriage, the death of a
30 spouse, or temporary loss of employment. The insurer must
31 complete its review within 10 business days after the request

1 by the applicant or insured and receipt of reasonable
2 documentation requested by the insurer, and, if the insurer
3 determines that the credit report or credit score was unduly
4 influenced by any of such factors, the insurer shall treat the
5 applicant or insured as if the applicant or insured had
6 neutral credit information or shall exclude the credit
7 information, as defined by the insurer, whichever is more
8 favorable to the applicant or insured. An insurer shall not be
9 considered out of compliance with its underwriting rules or
10 rates or forms filed with the Office of Insurance Regulation
11 or out of compliance with any other state law or rule as a
12 result of granting any exceptions pursuant to this subsection.

13 (5) A rate filing that uses credit reports or credit
14 scores must comply with the requirements of s. 627.062 or s.
15 627.0651 to ensure that rates are not excessive, inadequate,
16 or unfairly discriminatory.

17 (6) An insurer that requests or uses credit reports
18 and credit scoring in its underwriting and rating methods
19 shall maintain and adhere to established written procedures
20 that reflect the restrictions set forth in the federal Fair
21 Credit Reporting Act, this section, and all rules related
22 thereto.

23 (7)(a) An insurer shall establish procedures to review
24 the credit history of an insured who was adversely affected by
25 the use of the insured's credit history at the initial rating
26 of the policy, or at a subsequent renewal thereof. This review
27 must be performed at a minimum of once every 2 years or at the
28 request of the insured, whichever is sooner, and the insurer
29 shall adjust the premium of the insured to reflect any
30 improvement in the credit history. The procedures must provide
31 that, with respect to existing policyholders, the review of a

1 credit report will not be used by the insurer to cancel,
2 refuse to renew, or require a change in the method of payment
3 or payment plan.

4 (b) However, as an alternative to the requirements of
5 paragraph (a), an insurer that used a credit report or credit
6 score for an insured upon inception of a policy, who will not
7 use a credit report or score for re-underwriting, shall
8 reevaluate the insured within the first 3 years after
9 inception, based on other allowable underwriting or rating
10 factors, excluding credit information if the insurer does not
11 increase the rates or premium charged to the insured based on
12 the exclusion of credit reports or credit scores.

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

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

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

20 (c) Standards that ensure that rates or premiums
21 associated with the use of a credit report or score are not
22 unfairly discriminatory, based upon race, color, religion,
23 marital status, age, gender, income, national origin, or place
24 of residence.

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

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1 Section 2. This act shall take effect January 1, 2004,
2 and shall apply to policies issued or renewed on or after that
3 date, except that this act shall not take effect unless SB
4 ____ or similar legislation is adopted in the same legislative
5 session, or an extension thereof, and becomes law.

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8 SENATE SUMMARY

9 Regulates and limits the use of credit reports and credit
10 scores by insurers for underwriting and rating purposes.
11 Requires that an insurer identify the items in a credit
12 report which result in an adverse decision. Prohibits an
13 adverse decision based solely on certain factors.
14 Provides for an applicant or insured to appeal an adverse
15 decision by an insurer under certain circumstances.
16 Authorizes the Financial Services Commission to adopt
17 rules. (See bill for details.)