

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE DRS35171-LT-82 (3/26)

Short Title: Credit Scoring Limitation.

(Public)

Sponsors: Senator Thomas.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE USE OF A PERSON'S CREDIT HISTORY FOR DISCOUNTING RATES ON AUTOMOBILE AND HOMEOWNERS' INSURANCE AND TO PROHIBIT THE USE OF A PERSON'S CREDIT HISTORY AS A SOLE BASIS FOR TERMINATING INSURANCE COVERAGE, CEDING AN AUTOMOBILE INSURANCE POLICY TO THE REINSURANCE FACILITY, OR SUBJECTING A POLICY TO CONSENT TO RATE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 36 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-36-90. Prohibitions on using credit scoring to rate nonfleet private passenger motor vehicle and residential property insurance; exceptions.

(a) Definitions. – As used in this section:

(1) "Adverse Action" has the same meaning as in section 1681a(k) of the federal Fair Credit Reporting Act and including a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of any insurance, existing or applied for, in connection with the underwriting of insurance.

(2) "Credit report" means any written, oral, or other communication of any information by a consumer reporting agency that bears on a consumer's credit worthiness, credit standing, or credit capacity. Credit report does not include accident or traffic violation records as maintained by the North Carolina Division of Motor Vehicles or any other law enforcement agency, a property loss report or claims history that does not include information that bears on a consumer's credit worthiness, credit standing, or credit capacity, or any report containing

1 information solely as to transactions or experiences between the
2 consumer and the person making the report.

3 (3) "Credit score" means a score that is derived by utilizing data from an
4 individual's credit report in an algorithm, computer program, model, or
5 other process that reduces the data to a number or rating.

6 (4) "Private passenger motor vehicle" has the same meaning as set forth in
7 G.S. 58-40-10.

8 (5) "Residential property" means real property with not more than four
9 housing units located in this State, the contents thereof and valuable
10 interest therein, and insurance coverage written in connection with the
11 sale of that property. It also includes mobile homes, modular homes,
12 townhomes, condominiums, and insurance on contents of apartments
13 and rental property used for residential purposes.

14 (b) Prohibitions; Exceptions. – In the rating and underwriting of private
15 passenger motor vehicle and residential property insurance coverage, insurers shall not
16 use credit scoring as the sole basis for any of the following:

17 (1) Terminating an existing policy or any coverage in an existing policy.

18 (2) Ceding motor vehicle liability coverage to the North Carolina Motor
19 Vehicle Reinsurance Facility.

20 (3) Subjecting a policy to consent to rate, as specified in G.S. 58-36-30(b).

21 For the rating and underwriting of private passenger motor vehicle and residential
22 property insurance coverage, credit scoring may be used only to discount rates.

23 (c) Notification. – If a credit report is used in conjunction with other criteria to
24 take an adverse action, the insurer shall provide the applicant or policyholder with
25 written notice of the action taken, in a form approved by the Commissioner. The
26 notification shall include, in easily understandable language:

27 (1) The specific reason for the adverse action and, if the adverse action
28 was based upon a credit score, a description of the factors that were the
29 primary influence on the score.

30 (2) The name, address, and toll-free telephone number of the credit bureau
31 that provided the insurer with the credit-based information.

32 (3) The fact that the consumer has the right to obtain a free copy of the
33 consumer's credit report from the appropriate credit bureau.

34 (4) The fact that the consumer has the right to challenge information
35 contained in the consumer's credit report.

36 (d) Disputed Credit Report Information. – An applicant or policyholder who
37 disputes the credit report information used with other criteria by the insurer to take an
38 adverse action against the applicant or policyholder shall have the rights afforded an
39 individual under G.S. 58-39-50. The Commissioner may enforce the provisions of this
40 section by all means allowed by law, including the authority granted in G.S. 58-39-70.
41 For purposes of the operation of this subsection, credit report information shall
42 constitute "recorded personal information".

43 (e) Filing. – Insurers that use insurance scores to underwrite and rate risks shall
44 file their scoring models, or other scoring processes, with the Department. A filing that

1 includes insurance scoring may include loss experience justifying the applicable
2 surcharge or credit. A filer may request that its credit score data be considered a trade
3 secret and may designate parts of its filings accordingly."

4 **SECTION 2.** This act becomes effective January 1, 2004, and applies to
5 policies issued or renewed on or after that date and to applications for coverage made on
6 or after that date.