1   AN ACT concerning the use of credit information and
2   insurance.

3   Be it enacted by the People of the State of Illinois,
4   represented in the General Assembly:

5   Section 1. Short title. This Act may be cited as the
6   Use of Credit Information in Personal Insurance Act.

7   Section 5. Purpose. The purpose of this Act is to
8   regulate the use of credit information for personal insurance
9   so that consumers are afforded certain protections with
10   respect to the use of that information.

11   Section 10. Scope. This Act applies to personal
12   insurance and not to commercial insurance. For purposes of
13   this Act, "personal insurance" means private passenger
14   automobile, homeowners, motorcycle, mobile-homeowners and
15   non-commercial dwelling fire insurance policies, and boat,
16   personal watercraft, snowmobile, and recreational vehicle
17   polices. Such policies must be individually underwritten for
18   personal, family, or household use. No other type of
19   insurance shall be included as personal insurance for the
20   purpose of this Act.

21   Section 15. Definitions. For the purposes of this Act,
22   these defined words have the following meanings:
23   "Adverse Action" means a denial or cancellation of, an
24   increase in any charge for, or a reduction or other adverse
25   or unfavorable change in the terms of coverage or amount of,
26   any insurance, existing or applied for, in connection with
27   the underwriting of personal insurance.
28   "Affiliate" means any company that controls, is
29   controlled by, or is under common control with another

1   company.

2   "Applicant" means an individual who has applied to be
3   covered by a personal insurance policy with an insurer.

4   "Consumer" means an insured or an applicant for a
5   personal insurance policy whose credit information is used or
6   whose insurance score is calculated in the underwriting or
7   rating of a personal insurance policy.

8   "Consumer reporting agency" means any person that, for
9   monetary fees or dues or on a cooperative nonprofit basis,
10 regularly engages in whole or in part in the practice of
11 assembling or evaluating consumer credit information or other
12 information on consumers for the purpose of furnishing
13 consumer reports to third parties.

14   "Credit information" means any credit-related information
15 derived from a credit report, found on a credit report
16 itself, or provided on an application for personal insurance.
17 Information that is not credit-related shall not be
18 considered "credit information," regardless of whether it is
19 contained in a credit report or in an application or is used
20 to calculate an insurance score.

21   "Credit report" means any written, oral, or other
22 communication of information by a consumer reporting agency
23 bearing on a consumer's credit worthiness, credit standing,
24 or credit capacity, that is used or expected to be used or
25 collected in whole or in part for the purpose of serving as a
26 factor to determine personal insurance premiums, eligibility
27 for coverage, or tier placement.

28   "Department" means the Department of Insurance.

29   "Insurance score" means a number or rating that is
30 derived from an algorithm, computer application, model, or
31 other process that is based in whole or in part on credit
32 information for the purposes of predicting the future
33 insurance loss exposure of an individual applicant or
34 insured.

1   Section 20. Use of credit information. An insurer
2   authorized to do business in this State that uses credit
3   information to underwrite or rate risks shall not:

4   (1) Use an insurance score that is calculated using
5   income, gender, address, ethnic group, religion, marital
6   status, or nationality of the consumer as a factor.

7   (2) Deny, cancel, or nonrenew a policy of personal
8   insurance solely on the basis of credit information,
9   without consideration of any other applicable
10   underwriting factor independent of credit information and
11   not expressly prohibited by item (1). An insurer shall
12   not be considered to have denied, cancelled, or
13   nonrenewed a policy if coverage is available through an
14   affiliate.

15   (3) Base an insured's renewal rates for personal
16   insurance solely upon credit information, without
17   consideration of any other applicable factor independent
18   of credit information. An insurer shall not be
19   considered to have based rates solely on credit
20   information if coverage is available in a different tier
21   of the same insurer.

22   (4) Take an adverse action against a consumer
23   solely because he or she does not have a credit card
24   account, without consideration of any other applicable
25   factor independent of credit information.

26   (5) Consider an absence of credit information or an
27   inability to calculate an insurance score in underwriting
28   or rating personal insurance, unless the insurer does one
29   of the following:

30   (A) Treats the consumer as otherwise approved
31   by the Department, if the insurer presents
32   information that such an absence or inability
33   relates to the risk for the insurer.

34   (B) Treats the consumer as if the applicant or

1   insured   had   neutral credit information, as defined

2   by the insurer.

3   (C) Excludes the use of credit information as

4   a factor and uses only other underwriting criteria.

5   (6) Take an adverse action against a consumer based

6   on credit information, unless an insurer obtains and uses

7   a credit report issued or an insurance score calculated

8   within 90 days from the date the policy is first written

9   or renewal is issued.

10   (7) Use credit information unless not later than

11   every 36 months following the last time that the insurer

12   obtained current credit information for the insured, the

13   insurer recalculates the insurance score or obtains an

14   updated   credit   report.   Regardless   of   the other

15   requirements of this Section:

16   (A) At annual renewal, upon the request of a

17   consumer or the consumer's agent, the insurer shall

18   re-underwrite and re-rate the policy based upon a

19   current credit report or insurance score. An insurer

20   need not recalculate the insurance score or obtain

21   the updated credit report of a consumer   more

22   frequently than once in a 12-month period.

23   (B) The insurer shall have the discretion to

24   obtain current credit information upon any renewal

25   before the expiration of 36 months, if consistent

26   with its underwriting guidelines.

27   (C) An insurer is not required to obtain

28   current credit information for an insured, despite

29   the requirements of subitem (A) of item (7) of this

30   Section if one of the following applies:

31   (a) The insurer is treating the consumer

32   as otherwise approved by the Department.

33   (b) The insured is in the most

34   favorably-priced tier of the insurer, within a

1   group of affiliated insurers. However, the
2   insurer shall have the discretion to order
3   credit information, if consistent with its
4   underwriting guidelines.

5   (c) Credit was not used for underwriting
6   or rating the insured when the policy was
7   initially written. However, the insurer shall
8   have the discretion to use credit for
9   underwriting or rating the insured upon
10   renewal, if consistent with its underwriting
11   guidelines.

12   (d) The insurer re-evaluates the insured
13   beginning no later than 36 months after
14   inception and thereafter based upon other
15   underwriting or rating factors, excluding
16   credit information.

17   (8) Use the following as a negative factor in any
18   insurance scoring methodology or in reviewing credit
19   information for the purpose of underwriting or rating a
20   policy of personal insurance:

21   (A) Credit inquiries not initiated by the
22   consumer or inquiries requested by the consumer for
23   his or her own credit information.

24   (B) Inquiries relating to insurance coverage,
25   if so identified on a consumer's credit report.

26   (C) Collection accounts with a medical
27   industry code, if so identified on the consumer's
28   credit report.

29   (D) Multiple lender inquiries, if coded by the
30   consumer reporting agency on the consumer's credit
31   report as being from the home mortgage industry and
32   made within 30 days of one another, unless only one
33   inquiry is considered.

34   (E) Multiple lender inquiries, if coded by the

1   consumer reporting agency on the consumer's credit
2   report as being from the automobile lending industry
3   and made within 30 days of one another, unless only
4   one inquiry is considered.

5   Section 25. Dispute resolution and error correction. If
6 it is determined through the dispute resolution process set
7 forth in the federal Fair Credit Reporting Act, 15 U.S.C.
8 1681i (a)(5), that the credit information of a current
9 insured was incorrect or incomplete and if the insurer
10 receives notice of that determination from either   the
11 consumer reporting agency or from the insured, the insurer
12 shall re-underwrite and re-rate the consumer within 30 days
13 after   receiving   the   notice. After re-underwriting or
14 re-rating the insured, the insurer shall make any adjustments
15 necessary, consistent with its underwriting and   rating
16 guidelines. If an insurer determines that the insured has
17 overpaid premium, the insurer shall refund to the insured the
18 amount of overpayment calculated back to the shorter of
19 either the last 12 months of coverage or the actual policy
20 period.

21   Section 30. Initial notification.
22   (a) If an insurer writing personal insurance uses credit
23 information in underwriting or rating a consumer, the insurer
24 or its agent shall disclose, either on the   insurance
25 application or at the time the insurance application is
26 taken, that it may obtain credit information in connection
27 with the application. The disclosure shall be either written
28 or provided to an applicant in the same medium as the
29 application for insurance. The insurer need not provide the
30 disclosure statement required under this Section to any
31 insured on a renewal policy, if the consumer has previously
32 been provided a disclosure statement.

1   (b) Use of the following example disclosure statement
2   constitutes compliance with this Section: "In connection with
3   this application for insurance, we may review your credit
4   report or obtain or use a credit-based insurance score based
5   on the information contained in that credit report. We may
6   use a third party in connection with the development of your
7   insurance score.".

8   Section 35. Adverse action notification. If an insurer
9   takes an adverse action based upon credit information, the
10 insurer must meet all of the notice requirements of this
11 Section. The insurer shall:
12   (1) Provide notification to the consumer that an
13   adverse action has been taken, in accordance with the
14   requirements of the federal Fair Credit Reporting Act, 15
15   U.S.C. 1681m(a).
16   (2) Provide notification to the consumer explaining
17   the reason for the adverse action. The reasons must be
18   provided in sufficiently clear and specific language so
19   that a person can identify the basis for the insurer's
20   decision to take an adverse action. The notification
21   shall include a description of up to 4 factors that were
22   the primary influences of the adverse action. The use of
23   generalized terms such as "poor credit history", "poor
24   credit rating", or "poor insurance score" does not meet
25   the explanation requirements of this Section.
26   Standardized credit explanations provided by consumer
27   reporting agencies or other third party vendors are
28   deemed to comply with this Section.

29   Section 40. Filing.
30   (a) Insurers that use insurance scores to underwrite and
31   rate risks must file their scoring models (or other scoring
32   processes) with the Department. A third party may file

1   scoring models on behalf of insurers. A filing that includes
2   insurance scoring may include loss experience justifying the
3   use of credit information.

4   (b) Any filing relating to credit information is
5   considered to be a trade secret under the Illinois Trade
6   Secrets Act.

7   Section 45. Enforcement; rates not regulated.
8   (a) The Department shall enforce the provisions of this
9   Act pursuant to the enforcement powers granted to it under
10   the Illinois Insurance Code. The Department may promulgate
11   rules necessary to enforce and administer this Act.

12   (b) Nothing contained in this Act shall be construed to
13   empower the Department to regulate or set the rates of any
14   insurer pursuant to this Act.

15   Section 50. Sale of policy term information by consumer
16   reporting agency.
17   (a) No consumer reporting agency shall provide or sell
18   data or lists that include any information that in whole or
19   in part was submitted in conjunction with an insurance
20   inquiry about a consumer's credit information or a request
21   for a credit report or insurance score. Such information
22   includes, but is not limited to, the expiration dates of an
23   insurance policy or any other information that may identify
24   time periods during which a consumer's insurance may expire
25   and the terms and conditions of the consumer's insurance
26   coverage.
27   (b) The restrictions provided in subsection (a) of this
28   Section do not apply to data or lists the consumer reporting
29   agency supplies to the insurance agent or producer from whom
30   information was received, the insurer on whose behalf the
31   agent or producer acted, or the insurer's affiliates or
32   holding companies.

1   (c) Nothing in this Section shall be construed to

2   restrict any insurer from being able to obtain a claims

3   history report or a motor vehicle report.

4   Section 55. Severability. If any Section, paragraph,

5   sentence, clause, phrase, or part of this Act is declared

6   invalid due to an interpretation of or a future change in the

7   federal Fair Credit Reporting Act, the remaining Sections,

8   paragraphs, sentences, clauses, phrases, or parts thereof

9   shall be in no manner affected thereby but shall remain in

10 full force and effect.

11   (215 ILCS 5/155.38 rep)

12   Section 95. The Illinois Insurance Code is amended by

13 repealing Section 155.38.

14   Section 99. Effective date. This Act takes effect on

15 October 1, 2003.