

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 policies. 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.