



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5750

by Rep. Deborah L. Graham

SYNOPSIS AS INTRODUCED:

215 ILCS 157/20
215 ILCS 157/22
215 ILCS 157/25
215 ILCS 157/30

Amends the Credit Information in Personal Insurance Act. Provides that an insurer that uses credit information to underwrite risks shall not (i) take an adverse action against a consumer solely because he or she does not have a credit card account; (ii) take an adverse action against a consumer based on credit information, unless and until the insurer satisfies certain conditions, and (iii) use certain credit information as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy of personal insurance. Provides that an insurer authorized to do business in this State may not take adverse action against a consumer who has tendered notice of an extraordinary life event unless and until the insurer has reviewed the consumer's notification and provided the consumer with a written explanation for its decision. Provides that if the insured has overpaid premium due to incorrect or incomplete credit information, the insurer shall refund to the insured the amount of overpayment calculated back to the shorter of either the last 12 months of coverage or the actual policy period. Provides that the insurer must provide the disclosure statement required under the provision each time the insurer obtains the consumer's credit report. Makes other changes. Effective immediately.

LRB095 16287 KBJ 42307 b

1 AN ACT concerning regulation.

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

4 Section 5. The Use of Credit Information in Personal
5 Insurance Act is amended by changing Sections 20, 22, 25, and
6 30 as follows:

7 (215 ILCS 157/20)

8 Sec. 20. Use of credit information. An insurer authorized
9 to do business in this State that uses credit information to
10 underwrite or rate risks shall not:

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

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

21 (3) Base an insured's renewal rates for personal
22 insurance solely upon credit information, without
23 consideration of any other applicable factor independent

1 of credit information. An insurer shall not be considered
2 to have based rates solely on credit information if
3 coverage is available in a different tier of the same
4 insurer.

5 (4) Take an adverse action against a consumer solely
6 because he or she does not have a credit card account,
7 ~~without consideration of any other applicable factor~~
8 ~~independent of credit information.~~

9 (5) Consider an absence of credit information or an
10 inability to calculate an insurance score in underwriting
11 or rating personal insurance, unless the insurer does one
12 of the following:

13 (A) Treats the consumer as otherwise filed with the
14 Department, if the insurer presents information that
15 such an absence or inability relates to the risk for
16 the insurer and submits a filing certification form
17 signed by an officer for the insurer certifying that
18 such treatment is actuarially justified.

19 (B) Treats the consumer as if the applicant or
20 insured had neutral credit information, as defined by
21 the insurer.

22 (C) Excludes the use of credit information as a
23 factor and uses only other underwriting criteria.

24 (6) Take an adverse action against a consumer based on
25 credit information, unless and until an insurer completes
26 all of the following:

1 (i) obtains and uses a credit report issued or an
2 insurance score calculated within 90 days from the date
3 the policy is first written or renewal is issued; -

4 (ii) notifies the consumer, in writing, that the
5 insurer has obtained the consumer's credit report;

6 (iii) informs the consumer, in writing, what
7 information from the consumer's credit report would
8 trigger a potentially adverse action; and

9 (iv) offers the consumer an opportunity to
10 respond, within 30 days, to the negative or derogatory
11 information from the credit report.

12 The insurer shall then consider the consumer's
13 response prior to taking action. If the insurer decides to
14 take negative action, the insurer must communicate that
15 fact and its rationale for doing so in writing.

16 (7) Use credit information unless not later than every
17 36 months following the last time that the insurer obtained
18 current credit information for the insured, the insurer
19 recalculates the insurance score or obtains an updated
20 credit report. Regardless of the other requirements of this
21 Section:

22 (A) At annual renewal, upon the request of a
23 consumer or the consumer's agent, the insurer shall
24 re-underwrite and re-rate the policy based upon a
25 current credit report or insurance score. An insurer
26 need not recalculate the insurance score or obtain the

1 updated credit report of a consumer more frequently
2 than once in a 12-month period.

3 (B) The insurer shall have the discretion to obtain
4 current credit information upon any renewal before the
5 expiration of 36 months, if consistent with its
6 underwriting guidelines.

7 (C) An insurer is not required to obtain current
8 credit information for an insured, despite the
9 requirements of subitem (A) of item (7) of this Section
10 if one of the following applies:

11 (a) The insurer is treating the consumer as
12 otherwise filed with the Department.

13 (b) The insured is in the most
14 favorably-priced tier of the insurer, within a
15 group of affiliated insurers. However, the insurer
16 shall have the discretion to order credit
17 information, if consistent with its underwriting
18 guidelines.

19 (c) Credit was not used for underwriting or
20 rating the insured when the policy was initially
21 written. However, the insurer shall have the
22 discretion to use credit for underwriting or
23 rating the insured upon renewal, if consistent
24 with its underwriting guidelines.

25 (d) The insurer re-evaluates the insured
26 beginning no later than 36 months after inception

1 and thereafter based upon other underwriting or
2 rating factors, excluding credit information.

3 (8) Use the following as a negative factor in any
4 insurance scoring methodology or in reviewing credit
5 information for the purpose of underwriting or rating a
6 policy of personal insurance:

7 (A) Credit inquiries not initiated by the consumer
8 or inquiries requested by the consumer for his or her
9 own credit information.

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

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

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

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

24 (F) Any credit information that the consumer is
25 disputing or has disputed, or any credit information
26 for a dispute that is under review by the credit

1 reporting agency or creditor.

2 (G) Information related to the financing of a
3 primary residence if the consumer occupies the
4 premises and is not in default on the financing
5 agreement.

6 (Source: P.A. 93-114, eff. 10-1-03; 93-477, eff. 10-1-03.)

7 (215 ILCS 157/22)

8 Sec. 22. Extraordinary life events.

9 (a) An insurer authorized to do business in this State that
10 uses credit information to underwrite or rate risks shall
11 review and consider an exception to the risk score based upon
12 extraordinary life events after receiving a written and signed
13 notification from the applicant or insured explaining how the
14 applicant or insured believes the extraordinary life event
15 adversely impacts the applicant's or insured's insurance risk
16 score. An insurer authorized to do business in this State may
17 not take adverse action against a consumer who has tendered
18 notice of an extraordinary life event unless and until the
19 insurer has reviewed the consumer's notification and provided
20 the consumer with a written explanation for its decision.

21 (b) For the purposes of this Section, "extraordinary life
22 event" means the following:

23 (1) a catastrophic illness or injury to an applicant or
24 insured or an immediate family member of an applicant or
25 insured;

1 (2) the death of a spouse, child, or parent of an
2 applicant or insured;

3 (3) involuntary loss of employment for a period of 3
4 months or more by an applicant or insured;

5 (4) identity theft of an applicant or insured; or

6 (5) dissolution of marriage of an applicant or insured.

7 (Source: P.A. 94-245, eff. 7-1-06.)

8 (215 ILCS 157/25)

9 Sec. 25. Dispute resolution and error correction. If it is
10 determined through any ~~the~~ dispute resolution process,
11 including, but not limited to the process set forth in the
12 federal Fair Credit Reporting Act, 15 U.S.C. 1681i(a)(5), that
13 the credit information of a current insured was incorrect or
14 incomplete and if the insurer receives notice of that
15 determination from either the consumer reporting agency or from
16 the insured, the insurer shall re-underwrite and re-rate the
17 consumer within 30 days after receiving the notice. After
18 re-underwriting or re-rating the insured, the insurer shall
19 make any adjustments necessary, consistent with its
20 underwriting and rating guidelines. If ~~an insurer determines~~
21 ~~that~~ the insured has overpaid premium due to incorrect or
22 incomplete credit information, the insurer shall refund to the
23 insured the amount of overpayment calculated back to the
24 shorter of either the last 12 months of coverage or the actual
25 policy period.

1 (Source: P.A. 93-114, eff. 10-1-03.)

2 (215 ILCS 157/30)

3 Sec. 30. Initial notification.

4 (a) If an insurer writing personal insurance uses credit
5 information in underwriting or rating a consumer, the insurer
6 or its agent shall disclose, either on the insurance
7 application or at the time the insurance application is taken,
8 that it may obtain credit information in connection with the
9 application. The disclosure shall be either written or provided
10 to an applicant in the same medium as the application for
11 insurance. The insurer must ~~need not~~ provide the disclosure
12 statement required under this Section each time the insurer
13 obtains the consumer's credit report ~~to any insured on a~~
14 ~~renewal policy, if the consumer has previously been provided a~~
15 ~~disclosure statement.~~

16 (b) Use of the following example disclosure statement
17 constitutes compliance with this Section: "In connection with
18 this application for insurance, we may review your credit
19 report or obtain or use a credit-based insurance score based on
20 the information contained in that credit report. We may use a
21 third party in connection with the development of your
22 insurance score. Negative information obtained from your
23 credit report may cause you to pay higher insurance premiums.
24 Accordingly, you should be aware of the contents of your credit
25 report so that you can review it periodically. Federal law

1 gives you the right to dispute inaccurate or incomplete
2 information on you credit reports."

3 (Source: P.A. 93-114, eff. 10-1-03.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.