



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2105

Introduced 2/20/2009, by Sen. Mattie Hunter

SYNOPSIS AS INTRODUCED:

215 ILCS 157/10
215 ILCS 157/15
215 ILCS 157/20
215 ILCS 157/22
215 ILCS 157/25
215 ILCS 157/30
215 ILCS 157/40
215 ILCS 157/45

Amends the Use of Credit Information in Personal Insurance Act. In the provision concerning scope, includes non-commercial farm owners insurance policies and personal umbrella policies in the definition of "personal insurance". Makes changes in the provision concerning definitions. Makes changes in the provision concerning the use of credit information. Sets forth the methods that an insurer may use in its credit-related underwriting and rating of consumers. Sets forth disclosure requirements. Adds military deployment of a consumer to the definition of "extraordinary life event". Provides that an insurer must file language in its underwriting guidelines acknowledging the requirement to review and consider extraordinary life events. Provides that an insurer shall re-underwrite the consumer within 30 days if it is determined through any dispute resolution process (instead of the dispute resolution process set forth in the federal Fair Credit Reporting Act) that the credit information of a consumer was incorrect. Provides that scoring models filed by third parties are considered as filed by insurers and subject to the requirements of the Act. Provides that all rate, rating rule, underwriting guideline, and scoring model filings relating to credit information will be deemed to be public information and not considered to be a trade secret under the Illinois Trade Secrets Act. Makes other changes. Effective immediately.

LRB096 03039 RPM 13054 b

1 AN ACT concerning insurance.

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 10, 15, 20, 22,
6 25, 30, 40, and 45 as follows:

7 (215 ILCS 157/10)

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

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

19 (215 ILCS 157/15)

20 Sec. 15. Definitions. For the purposes of this Act, these
21 defined words have the following meanings:

22 "Adverse action" means a denial, ~~or~~ cancellation, or

1 nonrenewal of, an increase in any charge for, or a reduction or
2 other adverse or unfavorable change in the terms of coverage or
3 amount of, any insurance, existing or applied for, in
4 connection with the underwriting of personal insurance.

5 "Affiliate" means any company that controls, is controlled
6 by, or is under common control with another company.

7 "Affiliated group of insurers" means any group of insurers
8 under common control that, whether by means of underwriting or
9 rating, is used to place an applicant or insured in a specific
10 company within the affiliated group.

11 "Applicant" means an individual who has applied for the
12 first time to be covered by a personal insurance policy with an
13 insurer.

14 "Consumer" means an insured or an applicant for a personal
15 insurance policy whose credit information is used or whose
16 insurance score is calculated in the underwriting or rating of
17 a personal insurance policy.

18 "Consumer reporting agency" means any person that, for
19 monetary fees or dues or on a cooperative nonprofit basis,
20 regularly engages in whole or in part in the practice of
21 assembling or evaluating consumer credit information or other
22 information on consumers for the purpose of furnishing consumer
23 reports or credit or insurance scores to third parties.

24 "Credit information" means any credit-related information
25 derived from a credit report, found on a credit report itself,
26 or provided on an application for personal insurance.

1 Information that is not credit-related shall not be considered
2 "credit information," regardless of whether it is contained in
3 a credit report or in an application or is used to calculate an
4 insurance score.

5 "Credit report" means any written, oral, or other
6 communication of information by a consumer reporting agency
7 bearing on a consumer's credit worthiness, credit standing, or
8 credit capacity, that is used or expected to be used or
9 collected in whole or in part for the purpose of serving as a
10 factor to determine personal insurance premiums, eligibility
11 for coverage, or tier placement.

12 "Director" means the Director of the Division of Insurance
13 within the Department of Financial and Professional
14 Regulation.

15 "Division Department" means the Division Department of
16 Insurance within the Department of Financial and Professional
17 Regulation.

18 "Domestic partner" means an individual in a domestic
19 partnership or civil union as recognized by a state or local
20 law or ordinance.

21 "Insurance score" means a number or rating that is derived
22 from an algorithm, computer application, model, or other
23 process that is based in whole or in part on credit information
24 for the purposes of predicting the future insurance loss
25 exposure of an individual applicant or insured.

26 "Insurer" means any person, firm, corporation,

1 association, or aggregation of persons, including affiliated
2 groups of insurers, doing or proposing to do an insurance
3 business and subject to the insurance supervisory authority of,
4 or to liquidation, rehabilitation, reorganization or
5 conservation by, the commissioner of insurance or equivalent
6 insurance supervisory official of a state.

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

8 (215 ILCS 157/20)

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

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

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

24 (3) Base an insured's renewal rates for personal
25 insurance solely upon credit information, without

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

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

10 (5) Use credit information or an insurance score in
11 such a way that the difference between the total premium of
12 2 identical risks, one rated using credit and the other one
13 rated without the use of credit, is greater than 10%.
14 Insurers may not attempt to circumvent this provision by
15 separating multi-car policies into separate policies if
16 the insurer has historically written multiple vehicles on
17 one policy, by separating combination policies into
18 separate policies, or similar activities that otherwise
19 circumvent this provision.

20 (6) Consider an absence of credit information or an
21 inability to calculate an insurance score in underwriting
22 or rating personal insurance, unless the insurer treats the
23 consumer neutrally or better with respect to credit
24 information. For purposes of this Section, a consumer shall
25 be deemed to be treated neutrally by the insurer if and
26 only if the insurer underwrites and rates the consumer

1 using the median between the insurer's treatment of
2 consumers with the worst credit and consumers with the best
3 credit. Insurers must file for approval by the Director any
4 rates and underwriting, rate, and rule guidelines that
5 implement such neutral treatment. ~~does one of the~~
6 ~~following:~~

7 ~~(A) Treats the consumer as otherwise filed with the~~
8 ~~Department, if the insurer presents information that~~
9 ~~such an absence or inability relates to the risk for~~
10 ~~the insurer and submits a filing certification form~~
11 ~~signed by an officer for the insurer certifying that~~
12 ~~such treatment is actuarially justified.~~

13 ~~(B) Treats the consumer as if the applicant or~~
14 ~~insured had neutral credit information, as defined by~~
15 ~~the insurer.~~

16 ~~(C) Excludes the use of credit information as a~~
17 ~~factor and uses only other underwriting criteria.~~

18 (76) Take an adverse action against a consumer based on
19 credit information, unless and until an insurer obtains and
20 uses a credit report issued or an insurance score
21 calculated within 90 days from the date the policy is first
22 written or renewal is issued, and completes all of the
23 following requirements:-

24 (A) notifies the consumer, in writing, that the
25 insurer has obtained the consumer's credit
26 information;

1 (B) informs the consumer, in writing, what
2 information from the consumer's credit information
3 would trigger a potentially adverse action;

4 (C) offers the consumer an opportunity to respond
5 within 30 days to the potentially adverse credit
6 information; and

7 (D) considers the consumer's response prior to
8 taking an adverse action; if the insurer decides to
9 take an adverse action, the insurer must communicate
10 that fact and its rationale for doing so in writing.

11 (87) Do any of the following:

12 (A) Use credit information or an insurance score
13 unless not later than every 12 ~~36~~ months following the
14 last time that the insurer obtained current credit
15 information or a current insurance score for the
16 insured, the insurer re-underwrites and re-rates the
17 policy based upon current credit information and a
18 current insurance score. An insurer need not
19 re-underwrite and re-rate the policy based on current
20 credit information and a current insurance score more
21 frequently than once in a 12-month period. After
22 re-underwriting and re-rating: ~~recalculates the~~
23 ~~insurance score or obtains an updated credit report.~~
24 Regardless of the other requirements of this Section:

25 (1) An insurer may not use an insured's current
26 credit information or current insurance score

1 obtained pursuant to this Section if the use of the
2 current information or score would be to the
3 detriment of the insured.

4 (2) If the insured's current credit
5 information or current insurance score would
6 result in any more favorable treatment to the
7 insured's benefit, the insurer must adjust the
8 insured's treatment to the insured's benefit
9 unless the insured is already receiving the
10 insurer's most favorable treatment related to
11 credit information or insurance score, including,
12 but not limited to, the best rate, best tier, or
13 most favorable company or tier within an
14 affiliated group of insurers. In making any such
15 adjustment, the insurer must give the insured the
16 full adjustment warranted by the current credit
17 information or current insurance score and may not
18 limit or cap the impact of the current information
19 or score, or spread the impact over multiple policy
20 periods.

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

1 ~~than once in a 12-month period.~~

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

6 (BE) An insurer is not required to obtain current
7 credit information or a current insurance score for an
8 insured, despite the requirements of subitem (A) of
9 item (87) of this Section if one of the following
10 applies:

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

13 (1b) The insured is already receiving the
14 insurer's most favorable treatment related to
15 credit information, including but not limited to
16 the best rate, best tier, or most favorable company
17 or tier in the most favorably priced tier of the
18 insurer, within a group of affiliated insurers.
19 However, the insurer shall have the discretion to
20 order current credit information and a current
21 insurance score, if consistent with its filed
22 rates, rating rules, and filed underwriting
23 guidelines related to use of credit information,
24 and the insurer complies with provisions in
25 subitem (A) of item (8) of this Section in any use
26 of the current credit information and insurance

1 score.

2 (2e) Credit information was not used for
3 underwriting or rating the insured when the policy
4 was initially written. However, the insurer shall
5 have the discretion to use credit information for
6 underwriting or rating the insured upon renewal,
7 if consistent with its rates and its underwriting,
8 rate, and rule guidelines, and if the insurer
9 complies with this Act, including subitem (A) of
10 item (8) of this Section.

11 (3d) The insurer ceases to use credit
12 information or insurance scores for underwriting
13 and rating all insureds and files for approval by
14 the Director an acceptable plan, methodology, or
15 process, including, but not limited to, revised
16 underwriting guidelines, rates, and rating rules,
17 for removing use of credit information or
18 insurance scores for underwriting and rating
19 purposes. No plan, methodology, process,
20 underwriting guidelines, rates, or rating rules
21 shall in any way be calculated using or based on
22 credit information or insurance scores, including,
23 but not limited to, charging consumers different
24 rates based on their prior credit information or
25 insurance scores, placing consumers into tiers or
26 affiliated insurers based on prior credit

1 information or insurance scores, or providing
2 discounts or surcharges based on credit
3 information or insurance scores ~~re-evaluates the~~
4 ~~insured beginning no later than 36 months after~~
5 ~~inception and thereafter based upon other~~
6 ~~underwriting or rating factors, excluding credit~~
7 ~~information.~~

8 (98) Use the following as a negative factor in any
9 insurance scoring methodology or in reviewing credit
10 information for the purpose of underwriting or rating a
11 policy of personal insurance:

12 (A) Credit inquiries not initiated by the consumer
13 or inquiries requested by the consumer for his or her
14 own credit information.

15 (B) Inquiries relating to insurance coverage, if
16 so identified on a consumer's credit report or if
17 properly identified by the consumer as such.

18 (C) Collection accounts with a medical industry
19 code, if so identified on the consumer's credit report
20 or if properly identified by the consumer as such.

21 (D) Multiple lender inquiries, if coded by the
22 consumer reporting agency on the consumer's credit
23 report as being from the home mortgage industry and
24 made within 30 days of one another, unless only one
25 inquiry is considered, or if properly identified by the
26 consumer as such.

1 (E) Multiple lender inquiries, if coded by the
2 consumer reporting agency on the consumer's credit
3 report as being from the automobile lending industry
4 and made within 30 days of one another, unless only one
5 inquiry is considered, or if properly identified by the
6 consumer as such.

7 (F) Home mortgage foreclosures.

8 (G) Lack of a home mortgage if the reason for the
9 lack of mortgage is that the consumer has paid off a
10 home mortgage in full.

11 (H) Lack of an automobile loan if the reason for
12 the lack of an automobile loan is that the consumer has
13 paid off an automobile loan in full.

14 (I) Existence of a student loan used to pay
15 expenses associated with post-secondary education.

16 (J) Any credit information that the consumer is
17 disputing or has disputed, or any credit information
18 for a dispute that is under review by the credit
19 reporting agency or creditor.

20 (K) Information related to the financing of a
21 primary residence if the consumer occupies the
22 premises and is not in default on the financing
23 agreement.

24 (10) Use credit information or an insurance score to
25 determine the coverage or coverages, or policy or coverage
26 limits available to the consumer, or to limit or restrict

1 the payment plans available to the consumer.

2 (11) Consider for underwriting or rating purposes the
3 credit information of any of the following in addition to
4 the credit information of the named insured; if any of the
5 following are listed as or considered to be named insureds
6 under the policy, and the insurer considers the credit
7 information of all named insureds under the policy, the
8 insurer shall consider only the credit information of the
9 named insured whose credit information results in the most
10 favorable underwriting treatment of the consumer:

11 (A) An individual who is not the named insured
12 under the policy.

13 (B) The spouse or other family member of the named
14 insured.

15 (C) A domestic partner who resides in the same
16 household of the named insured.

17 (12) Use different credit or insurance scoring methods
18 or models to underwrite or rate the same named insured
19 under various personal lines insurance policies with the
20 insurer, unless the insurer underwrites or rates the named
21 insured using only the most favorable credit.

22 (13) Include non-credit factors within a scoring model
23 if such factors or similar factors are already being
24 considered for purposes of underwriting or rating the
25 consumer.

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

1 (215 ILCS 157/22)

2 Sec. 22. Extraordinary life events.

3 (a) An insurer authorized to do business in this State that
4 uses credit information or an insurance score to underwrite or
5 rate risks shall review and consider an exception to its
6 credit-related underwriting and rating treatment of a consumer
7 ~~the risk score~~ based upon extraordinary life events after
8 receiving a written and signed notification from the consumer
9 ~~applicant or insured~~ explaining how the consumer ~~applicant or~~
10 ~~insured~~ believes the extraordinary life event adversely
11 impacts the consumer's credit information or applicant's or
12 ~~insured's~~ insurance ~~risk~~ score.

13 (b) For the purposes of this Section, "extraordinary life
14 event" includes, but is not limited to, ~~means~~ the following:

15 (1) a catastrophic illness or injury to a consumer ~~an~~
16 ~~applicant or insured~~ or an immediate family member of a
17 consumer ~~an applicant or insured~~;

18 (2) the death of a spouse, child, or parent of a
19 consumer ~~an applicant or insured~~;

20 (3) involuntary loss of employment for a period of 3
21 months or more by a consumer ~~an applicant or insured~~;

22 (4) identity theft of a consumer ~~an applicant or~~
23 ~~insured~~; ~~or~~

24 (5) dissolution of marriage of a consumer; ~~or an~~
25 ~~applicant or insured.~~

1 (6) military deployment of a consumer.

2 (c) An insurer must file language in its underwriting
3 guidelines and in its rate and rule manual acknowledging the
4 requirement to review and consider extraordinary life events.
5 An insurer's case-by-case consideration and resulting
6 treatment of consumers with extraordinary life events is an
7 individual risk rating situation. Pursuant to 50 IL Adm. Code
8 754.10(b), an insurer must maintain documentary information
9 regarding any such individual risk rates for review by the
10 Division's Property and Casualty Evaluation Section. Such
11 individual risk rates do not require filing under 50 IL Adm.
12 Code 754.

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

14 (215 ILCS 157/25)

15 Sec. 25. Dispute resolution and error correction. If it is
16 determined through any ~~the~~ dispute resolution process,
17 including, but not limited to, the process set forth in the
18 federal Fair Credit Reporting Act, 15 U.S.C. 1681i(a)(5), that
19 the credit information of a consumer ~~current insured~~ was
20 incorrect or incomplete and if the insurer receives notice of
21 that determination from either the consumer reporting agency or
22 from the consumer ~~insured~~, the insurer shall re-underwrite and
23 re-rate the consumer within 30 days after receiving the notice.
24 After re-underwriting and ~~or~~ re-rating the consumer ~~insured~~,
25 the insurer shall make any adjustments necessary to ensure that

1 the incorrect or incomplete credit information no longer
2 adversely affects the consumer , ~~consistent with its~~
3 ~~underwriting and rating guidelines.~~ If the consumer ~~an insurer~~
4 ~~determines that the insured~~ has overpaid premium, the insurer
5 shall refund to the insured the amount of overpayment
6 calculated back to the shorter of either the last 12 months of
7 coverage or the actual policy period.

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

9 (215 ILCS 157/30)

10 Sec. 30. Initial notification.

11 (a) If an insurer writing personal insurance uses credit
12 information in underwriting or rating a consumer, the insurer
13 or its agent shall disclose, either on the insurance
14 application or at the time the insurance application is taken,
15 that it may obtain credit information in connection with the
16 application. The disclosure shall be either written or provided
17 to an applicant in the same medium as the application for
18 insurance. The insurer need not provide the disclosure
19 statement required under this Section to any insured on a
20 renewal policy, if the consumer has previously been provided a
21 disclosure statement.

22 (b) Use of the following example disclosure statement
23 constitutes compliance with this Section: "In connection with
24 this application for insurance, we may review your credit
25 report or obtain or use a credit-based insurance score based on

1 the information contained in that credit report. We may use a
2 third party in connection with the development of your
3 insurance score. Negative information obtained from your
4 credit report or credit information may cause you to be denied,
5 rejected, canceled, or nonrenewed for insurance coverage, or
6 cause you to pay higher insurance premiums. Accordingly, you
7 should be aware of the contents of your credit report so that
8 you can review it periodically. Federal law gives you the right
9 to dispute inaccurate or incomplete information on your credit
10 report."

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

12 (215 ILCS 157/40)

13 Sec. 40. Filing.

14 (a) Insurers that use credit information or insurance
15 scores to underwrite or ~~and~~ rate consumers risks must file
16 their rates, rating rules, credit-related underwriting
17 guidelines, and credit or insurance scoring models (or other
18 scoring processes) with the Division ~~Department~~. A third party
19 may file scoring models on behalf of insurers. However, for
20 purposes of this Act, scoring models filed by third parties are
21 considered as filed by insurers and subject to the same
22 requirements under this Act. All credit-related filings,
23 including scoring models, must be complete, concise, and easily
24 comprehensible by both the Division and consumers. Insurers may
25 not file rates, or underwriting, rate, or rule guidelines, or

1 scoring models that contain unnecessarily complex algorithms
2 or an unreasonable number of pages in an attempt to circumvent
3 the requirement that such filings be complete, concise, and
4 easily comprehensible by both the Division and consumers. A
5 ~~filing that includes insurance scoring may include loss~~
6 ~~experience justifying the use of credit information.~~

7 (b) In any filing that includes use of credit information
8 or insurance scoring, an insurer may include loss experience
9 and actuarial information justifying the use of credit
10 information, and must make such information available to the
11 Division upon request.

12 ~~(c)~~ In order that consumers may understand the various
13 ways credit information and insurance scores affect insurance
14 acceptance, rejection, or rates, all rate, rating rule,
15 underwriting guideline, and scoring model filings ~~Any filing~~
16 relating to credit information will be deemed to be public
17 information and not ~~is~~ considered to be a trade secret under
18 the Illinois Trade Secrets Act.

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

20 (215 ILCS 157/45)

21 Sec. 45. Enforcement; ~~rates not regulated.~~

22 (a) The Division ~~Department~~ shall enforce the provisions of
23 this Act pursuant to the enforcement powers granted to it under
24 the Illinois Insurance Code. The Division ~~Department~~ may
25 promulgate rules necessary to enforce and administer this Act.

1 (b) Nothing contained in this Act shall be construed to
2 empower the Division to ~~Department to regulate or~~ set the rates
3 of any insurer pursuant to this Act.

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

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