

By the Committees on Commerce, Economic Opportunities, and Consumer Services; Banking and Insurance; and Senator Miller

310-2023-03

1 A bill to be entitled
2 An act relating to the use of credit reports
3 and credit scores by insurers; creating s.
4 626.9741, F.S.; specifying that the act's
5 purpose is to regulate and limit the use of
6 credit reports and credit scores by insurers
7 for underwriting and rating purposes;
8 specifying the types of insurance to which the
9 act applies; defining terms; requiring that an
10 insurer identify the items in a credit report
11 which resulted in an adverse decision;
12 prohibiting an insurer from making an adverse
13 decision based solely on a credit report or
14 score or certain other factors; requiring an
15 insurer to provide a means for appeal to an
16 applicant or insured under certain
17 circumstances; prohibiting the use of a credit
18 report or score unless the Office of Insurance
19 Regulation determines, based on a filing by the
20 insurer, that such use is valid and reasonable;
21 authorizing the Office of Insurance Regulation
22 to disapprove such filings; requiring an
23 insurer to adhere to certain laws and rules;
24 requiring an insurer to provide for an
25 adjustment in the premium of an insured to
26 reflect an improvement in credit history;
27 authorizing the Financial Services Commission
28 to adopt rules; providing for application;
29 providing an effective date.

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31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 626.9741, Florida Statutes, is
2 created to read:

3 626.9741 Use of credit reports and credit scores by
4 insurers.--

5 (1) The purpose of this section is to regulate and
6 limit the use of credit reports and credit scores by insurers
7 for underwriting and rating purposes. This section applies
8 only to personal lines motor vehicle insurance and personal
9 lines residential insurance, which includes homeowners, mobile
10 homeowners dwelling, tenants, condominium unit owners,
11 cooperative unit owners, and similar types of insurance.

12 (2) As used in this section, the term:

13 (a) "Adverse decision" means a decision to refuse to
14 issue or renew a policy of insurance; to issue a policy with
15 exclusions or restrictions; to increase the rates or premium
16 charged for a policy of insurance; to place an insured or
17 applicant in a rating tier that does not have the lowest
18 available rates for which that insured or applicant is
19 otherwise eligible; or to place an applicant or insured with a
20 company operating under common management, control, or
21 ownership which does not offer the lowest rates available,
22 within the affiliate group of insurance companies, for which
23 that insured or applicant is otherwise eligible.

24 (b) "Credit report" means any written, oral, or other
25 communication of any information by a consumer reporting
26 agency, as defined in the federal Fair Credit Reporting Act,
27 15 U.S.C. s. 1681, et seq., bearing on a consumer's credit
28 worthiness, credit standing, or credit capacity, which is used
29 or expected to be used or collected as a factor to establish a
30 person's eligibility for credit or insurance, or any other
31 purpose authorized pursuant to the applicable provision of

1 such federal act. A credit score alone, as calculated by a
2 credit reporting agency or by or for the insurer, may not be
3 considered a credit report.

4 (c) "Credit score" means a score, grade, or value that
5 is derived by using any or all data from a credit report in
6 any type of model, method, or program, whether electronically,
7 in an algorithm, computer software or program, or any other
8 process, for the purpose of grading or ranking credit report
9 data.

10 (d) "Tier" means a category within a single insurer
11 into which insureds with substantially similar risk, exposure,
12 or expense factors are placed for purposes of determining rate
13 or premium.

14 (3) An insurer must inform an applicant or insured, in
15 the same medium as the application is taken, that a credit
16 report or score is being requested for underwriting or rating
17 purposes. An insurer that makes an adverse decision based, in
18 whole or in part, upon a credit report must provide at no
19 charge, a copy of the credit report to the applicant or
20 insured or provide the applicant or insured with the name,
21 address, and telephone number of the consumer reporting agency
22 from which the insured or applicant may obtain the credit
23 report. The insurer must provide notification to the consumer
24 explaining the reasons for the adverse decision. The reasons
25 must be provided in sufficiently clear and specific language
26 so that a person can identify the basis for the insurer's
27 adverse decision. Such notification shall include a
28 description of the four primary reasons, or such fewer number
29 as existed, which were the primary influences of the adverse
30 decision. The use of generalized terms such as "poor credit
31 history," "poor credit rating," or "poor insurance score" does

1 not meet the explanation requirements of this paragraph. A
2 credit score may not be used in underwriting or rating
3 insurance unless the scoring process produces information in
4 sufficient detail to permit compliance with the requirements
5 of this subsection. It shall not be deemed an adverse decision
6 if, due to the insured's credit report or credit score, the
7 insured continues to receive a less favorable rate or
8 placement in a less favorable tier or company at the time of
9 renewal except for renewals or re-underwriting required by
10 this section.

11 (4)(a) An insurer may not request a credit report or
12 score based upon the race, color, religion, marital status,
13 age, gender, income, national origin, or place of residence of
14 the applicant or insured.

15 (b) An insurer may not make an adverse decision solely
16 because of information contained in a credit report or score
17 without consideration of any other underwriting or rating
18 factor.

19 (c) An insurer may not make an adverse decision or use
20 a credit score that could lead to such a decision if based, in
21 whole or in part, on:

22 1. The absence of, or an insufficient, credit history,
23 in which instance the insurer shall treat the applicant or
24 insured as if the applicant or insured had neutral credit
25 information as defined by the insurer;

26 2. The number of credit reports or credit inquiries
27 requested or made regarding the applicant or insured;

28 3. Collection accounts with a medical industry code,
29 if so identified on the consumer's credit report;

30 4. Place of residence; or
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1 5. Any other circumstance that the Financial Services
2 Commission determines, by rule, lacks sufficient statistical
3 correlation and actuarial justification as a predictor of
4 insurance risk.

5 (d) An insurer must, upon the request of an applicant
6 or insured, provide a means of appeal for an applicant or
7 insured whose credit report or credit score is unduly
8 influenced by the death of a spouse or temporary loss of
9 employment. The insurer must complete its review within 10
10 business days after the request by the applicant or insured
11 and receipt of reasonable documentation requested by the
12 insurer, and, if the insurer determines that the credit report
13 or credit score was unduly influenced by either of such
14 factors, the insurer shall treat the applicant or insured as
15 if the applicant or insured had neutral credit information or
16 shall exclude the credit information, as defined by the
17 insurer, whichever is more favorable to the applicant or
18 insured.

19 (5) A rate filing that uses credit reports or credit
20 scores must comply with the requirements of s. 627.062 or s.
21 627.0651 to ensure that rates are not excessive, inadequate,
22 or unfairly discriminatory.

23 (6) An insurer that requests or uses credit reports
24 and credit scoring in its underwriting and rating methods
25 shall maintain and adhere to established written procedures
26 that reflect the restrictions set forth in the federal Fair
27 Credit Reporting Act, this section, and all rules related
28 thereto.

29 (7)(a) An insurer shall establish procedures that
30 provide that at least every 3 years, or upon the request of
31 the insured, the insurer shall review the credit history of an

1 insured who was adversely impacted by the use of the insured's
2 credit history at the initial rating of the policy, or at a
3 subsequent renewal thereof, and shall adjust the premium of
4 the insured to reflect any improvement in the credit history.
5 The procedures must provide that with respect to existing
6 policyholders, the review of a credit report will not be used
7 by the insurer to cancel, refuse to renew, or require a change
8 in the method of payment or payment plan. An insurer shall not
9 be deemed out of compliance with its underwriting rules or
10 rates or forms filed with the Office of Insurance Regulation
11 or out of compliance with any other state law or rule as a
12 result of granting any exceptions pursuant to this subsection.

13 (b) However, as an alternative to the requirements of
14 paragraph (a), an insurer that used a credit report or credit
15 score for an insured upon inception of a policy may reevaluate
16 the insured within the first 3 years after inception, based on
17 other allowable underwriting or rating factors, excluding
18 credit information if the insurer does not increase the rates
19 or premium charged to the insured based on the exclusion of
20 credit reports or credit scores.

21 (8) The commission may adopt rules to administer this
22 section. The rules may include, but need not be limited to:

23 (a) Information that must be included in filings to
24 demonstrate compliance with subsection (3).

25 (b) Statistical detail that insurers using credit
26 reports or scores under subsection (5) must retain and report
27 annually to the Office of Insurance Regulation.

28 (c) Standards that ensure that rates or premiums
29 associated with the use of a credit report or score are not
30 unfairly discriminatory, based upon race, color, religion,
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1 marital status, age, gender, income, national origin, or place
2 of residence.

3 (d) Standards for review of models, methods, programs,
4 or any other process by which to grade or rank credit report
5 data and which may produce credit scores in order to ensure
6 that the insurer demonstrates that such grading, ranking, or
7 scoring is valid in predicting insurance risk of an applicant
8 or insured.

9 Section 2. This act shall take effect January 1, 2004,
10 and shall apply to policies issued or renewed on or after that
11 date.

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13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
14 COMMITTEE SUBSTITUTE FOR
15 CS/SB 204

16 Committee substitute for committee substitute for SB 204 makes
17 the following changes:

- 18 1. Removes from the legislation a public records exemption
19 for certain credit scoring methods filed by insurers with
20 the Office of Insurance Regulation;
- 21 2. Provides that applicants or insureds with little or no
22 credit history will be deemed to have a neutral credit
23 history for credit scoring purposes;
- 24 3. Requires certain decisions by an insurer to have a
25 statistical correlation or actuarial justification to
26 insurance risk;
- 27 4. Provides that the time during which an insurer must take
28 action on an appeal from certain adverse decisions begins
29 after the insurer receives documentation of the death of
30 a spouse or temporary loss of employment; and
- 31 5. Provides that an insurer will not be out of compliance
with its underwriting rules or rates or forms by
adjusting the premium charged to an insured because of an
improvement in an insured's credit history.