

By Senator Farmer

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1 A bill to be entitled

2 An act relating to the use of credit information for
3 motor vehicle insurance; amending s. 626.9741, F.S.;
4 revising the purpose of the section; prohibiting
5 insurers from requesting or using credit reports or
6 credit scores of applicants or insureds for
7 underwriting or rating purposes as to personal lines
8 motor vehicle insurance; prohibiting insurers from
9 making adverse decisions against such applicants or
10 insureds based on the applicants' or insureds' credit
11 reports or credit scores; conforming provisions to
12 changes made by the act; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Section 626.9741, Florida Statutes, is amended
17 to read:

18 626.9741 Use of credit reports and credit scores by
19 insurers.—

20 (1) PURPOSE AND APPLICABILITY.—The purpose of this section
21 is to prohibit the use of credit reports and credit scores by
22 insurers for underwriting and rating purposes as to personal
23 lines motor vehicle insurance and to regulate and limit the use
24 of credit reports and credit scores by insurers for underwriting
25 and rating purposes as to personal lines residential insurance.
26 This section applies only to personal lines motor vehicle
27 insurance and personal lines residential insurance, which
28 includes homeowners, mobile home owners' dwelling, tenants,
29 condominium unit owners, cooperative unit owners, and similar

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30 types of insurance.

31 (2) DEFINITIONS.—As used in this section, the term:

32 (a) "Adverse decision" means a decision to refuse to issue
33 or renew a policy of insurance; to issue a policy with
34 exclusions or restrictions; to increase the rates or premium
35 charged for a policy of insurance; to place an insured or
36 applicant in a rating tier that does not have the lowest
37 available rates for which that insured or applicant is otherwise
38 eligible; or to place an applicant or insured with a company
39 operating under common management, control, or ownership which
40 does not offer the lowest rates available, within the affiliate
41 group of insurance companies, for which that insured or
42 applicant is otherwise eligible.

43 (b) "Credit report" means any written, oral, or other
44 communication of any information by a consumer reporting agency,
45 as defined in the federal Fair Credit Reporting Act, 15 U.S.C.
46 ss. 1681 et seq., bearing on a consumer's credit worthiness,
47 credit standing, or credit capacity, which is used or expected
48 to be used or collected as a factor to establish a person's
49 eligibility for credit or insurance, or any other purpose
50 authorized pursuant to the applicable provision of such federal
51 act. A credit score alone, as calculated by a credit reporting
52 agency or by or for the insurer, may not be considered a credit
53 report.

54 (c) "Credit score" means a score, grade, or value that is
55 derived by using any or all data from a credit report in any
56 type of model, method, or program, whether electronically, in an
57 algorithm, computer software or program, or any other process,
58 for the purpose of grading or ranking credit report data.

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

63 (3) PERSONAL LINES MOTOR VEHICLE INSURANCE.—As to personal
64 lines motor vehicle insurance, an insurer may not request or use
65 a credit report or credit score of any applicant or insured for
66 underwriting or rating purposes or make an adverse decision
67 against an applicant or insured based, in whole or in part, on
68 his or her credit report or credit score.

69 (4)~~(3)~~ PERSONAL LINES RESIDENTIAL INSURANCE.—

70 (a) As to personal lines residential insurance, an insurer
71 must inform an applicant or insured, in the same medium as the
72 application is taken, that a credit report or score is being
73 requested for underwriting or rating purposes. An insurer that
74 makes an adverse decision based, in whole or in part, upon a
75 credit report must provide at no charge, a copy of the credit
76 report to the applicant or insured or provide the applicant or
77 insured with the name, address, and telephone number of the
78 consumer reporting agency from which the insured or applicant
79 may obtain the credit report. The insurer must provide
80 notification to the consumer explaining the reasons for the
81 adverse decision. The reasons must be provided in sufficiently
82 clear and specific language so that a person can identify the
83 basis for the insurer's adverse decision. Such notification
84 shall include a description of the four primary reasons, or such
85 fewer number as existed, which were the primary influences of
86 the adverse decision. The use of generalized terms such as "poor
87 credit history," "poor credit rating," or "poor insurance score"

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88 does not meet the explanation requirements of this paragraph
89 ~~subsection~~. A credit score may not be used in underwriting or
90 rating insurance unless the scoring process produces information
91 in sufficient detail to permit compliance with the requirements
92 of this paragraph ~~subsection~~. It shall not be deemed an adverse
93 decision if, due to the insured's credit report or credit score,
94 the insured continues to receive a less favorable rate or
95 placement in a less favorable tier or company at the time of
96 renewal except for renewals or reunderwriting required by this
97 subsection ~~section~~.

98 (b)1. ~~(4)(a)~~ An insurer may not request a credit report or
99 score based upon the race, color, religion, marital status, age,
100 gender, income, national origin, or place of residence of the
101 applicant or insured.

102 2. ~~(b)~~ An insurer may not make an adverse decision solely
103 because of information contained in a credit report or score
104 without consideration of any other underwriting or rating
105 factor.

106 3. ~~(e)~~ An insurer may not make an adverse decision or use a
107 credit score that could lead to such a decision if based, in
108 whole or in part, on:

109 a.1. ~~(a)~~ The absence of, or an insufficient, credit history, in
110 which instance the insurer shall:

111 (I) ~~(a)~~ Treat the consumer as otherwise approved by the
112 Office of Insurance Regulation if the insurer presents
113 information that such an absence or inability is related to the
114 risk for the insurer;

115 (II) ~~(b)~~ Treat the consumer as if the applicant or insured
116 had neutral credit information, as defined by the insurer;

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117 (III)e. Exclude the use of credit information as a factor
118 and use only other underwriting criteria;

119 b.2. Collection accounts with a medical industry code, if
120 so identified on the consumer's credit report;

121 c.3. Place of residence; or

122 d.4. Any other circumstance that the Financial Services
123 Commission determines, by rule, lacks sufficient statistical
124 correlation and actuarial justification as a predictor of
125 insurance risk.

126 4.(d) An insurer may use the number of credit inquiries
127 requested or made regarding the applicant or insured except for:

128 a.1. Credit inquiries not initiated by the consumer or
129 inquiries requested by the consumer for his or her own credit
130 information.

131 b.2. Inquiries relating to insurance coverage, if so
132 identified on a consumer's credit report.

133 c.3. Collection accounts with a medical industry code, if
134 so identified on the consumer's credit report.

135 d.4. Multiple lender inquiries, if coded by the consumer
136 reporting agency on the consumer's credit report as being from
137 the home mortgage industry and made within 30 days of one
138 another, unless only one inquiry is considered.

139 e.5. Multiple lender inquiries, if coded by the consumer
140 reporting agency on the consumer's credit report as being from
141 the automobile lending industry and made within 30 days of one
142 another, unless only one inquiry is considered.

143 5.(e) An insurer must, upon the request of an applicant or
144 insured, provide a means of appeal for an applicant or insured
145 whose credit report or credit score is unduly influenced by a

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146 dissolution of marriage, the death of a spouse, or temporary
147 loss of employment. The insurer must complete its review within
148 10 business days after the request by the applicant or insured
149 and receipt of reasonable documentation requested by the
150 insurer, and, if the insurer determines that the credit report
151 or credit score was unduly influenced by any of such factors,
152 the insurer shall treat the applicant or insured as if the
153 applicant or insured had neutral credit information or shall
154 exclude the credit information, as defined by the insurer,
155 whichever is more favorable to the applicant or insured. An
156 insurer shall not be considered out of compliance with its
157 underwriting rules or rates or forms filed with the Office of
158 Insurance Regulation or out of compliance with any other state
159 law or rule as a result of granting any exceptions pursuant to
160 this paragraph subsection.

161 (c)~~(5)~~ A rate filing that uses credit reports or credit
162 scores must comply with the requirements of s. 627.062 or s.
163 627.0651 to ensure that rates are not excessive, inadequate, or
164 unfairly discriminatory.

165 (d)~~(6)~~ An insurer that requests or uses credit reports and
166 credit scoring in its underwriting and rating methods shall
167 maintain and adhere to established written procedures that
168 reflect the restrictions set forth in the federal Fair Credit
169 Reporting Act, this subsection section, and all rules related
170 thereto.

171 (e)1.~~(7)~~~~(a)~~ An insurer shall establish procedures to review
172 the credit history of an insured who was adversely affected by
173 the use of the insured's credit history at the initial rating of
174 the policy, or at a subsequent renewal thereof. This review must

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175 be performed at a minimum of once every 2 years or at the
176 request of the insured, whichever is sooner, and the insurer
177 shall adjust the premium of the insured to reflect any
178 improvement in the credit history. The procedures must provide
179 that, with respect to existing policyholders, the review of a
180 credit report will not be used by the insurer to cancel, refuse
181 to renew, or require a change in the method of payment or
182 payment plan.

183 2.~~(b)~~ However, as an alternative to the requirements of
184 subparagraph 1. ~~paragraph (a)~~, an insurer that used a credit
185 report or credit score for an insured upon inception of a
186 policy, who will not use a credit report or score for
187 reunderwriting, shall reevaluate the insured within the first 3
188 years after inception, based on other allowable underwriting or
189 rating factors, excluding credit information if the insurer does
190 not increase the rates or premium charged to the insured based
191 on the exclusion of credit reports or credit scores.

192 (5)~~(8)~~ RULES.—The commission may adopt rules to administer
193 this section. The rules may include, but need not be limited to:

194 (a) Information that must be included in filings to
195 demonstrate compliance with paragraph (4) (a) ~~subsection (3)~~.

196 (b) Statistical detail that insurers using credit reports
197 or scores under paragraph (4) (c) ~~subsection (5)~~ must retain and
198 report annually to the Office of Insurance Regulation.

199 (c) Standards that ensure that rates or premiums associated
200 with the use of a credit report or score are not unfairly
201 discriminatory, based upon race, color, religion, marital
202 status, age, gender, income, national origin, or place of
203 residence.

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

209 Section 2. This act shall take effect July 1, 2018.