

House File 228 - Introduced

HOUSE FILE _____
BY ANDERSON

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act making the use of credit information for underwriting or
2 rating risks for personal insurance an unfair insurance
3 practice and providing penalties and an applicability date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1827HH 83
6 av/rj/14

PAG LIN

1 1 Section 1. Section 507B.4, Code 2009, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 19. USE OF CREDIT INFORMATION. Any
1 4 violation of section 515.103.

1 5 Sec. 2. Section 515.103, subsections 1 and 2, Code 2009,
1 6 are amended to read as follows:

1 7 1. DEFINITIONS. As used in this section unless the
1 8 context otherwise requires:

1 9 a. "Adverse action" means a denial of issuance,
1 10 cancellation, or refusal to renew, an increase in any charge
1 11 for, or a reduction or other unfavorable change in the terms
1 12 of coverage or amount of any personal insurance existing or
1 13 applied for, or in connection with the underwriting of
1 14 personal insurance.

~~1 15 b. "Affiliate" means any company that controls, is
1 16 controlled by, or is under common control with another
1 17 company.~~

1 18 ~~c.~~ b. "Applicant" means an individual who has applied to
1 19 be covered by a personal insurance policy with an insurer.

1 20 ~~d.~~ c. "Consumer" means an insured whose credit
1 21 information is used or whose insurance score is calculated in
1 22 the underwriting or rating of a personal insurance policy or
1 23 an applicant for such a personal insurance policy.

1 24 ~~e.~~ d. "Consumer reporting agency" means any person that,
1 25 for monetary fees, dues, or on a cooperative nonprofit basis,
1 26 regularly engages in whole or in part in the practice of
1 27 assembling or evaluating consumer credit information or other
1 28 information concerning consumers for the purpose of furnishing
1 29 consumer credit reports to third parties.

1 30 ~~f.~~ e. "Credit information" means any information related
1 31 to credit that is contained in or derived from a credit
1 32 report, or provided in an application for personal insurance.
1 33 Information that is not related to credit shall not be
1 34 considered "credit information" regardless of whether the
1 35 information is contained in or derived from a credit report or
2 1 an application for credit or is used to calculate an insurance
2 2 score.

2 3 ~~g.~~ f. "Credit report" means any written, oral, or other
2 4 communication of information by a consumer reporting agency
2 5 that relates to a consumer's creditworthiness, credit
2 6 standing, or credit capacity and that is used or expected to
2 7 be used or is collected, in whole or in part, for the purpose
2 8 of serving as a factor in determining personal insurance
2 9 premiums, eligibility for personal insurance coverage, or tier
2 10 placement.

2 11 ~~h.~~ g. "Insurance score" means a number or rating that is
2 12 derived from an algorithm, computer application, model, or
2 13 other process that is based in whole or in part on credit
2 14 information for the purposes of predicting the future
2 15 insurance loss exposure of a consumer.

2 16 ~~i.~~ h. "Insured" means an individual who is covered by a
2 17 personal insurance policy.

2 18 ~~j.~~ i. "Personal insurance" means personal insurance and
2 19 not commercial insurance and is limited to private passenger

2 20 automobile, homeowners, farm owners, personal farm liability,
2 21 motorcycle, mobile home owners, noncommercial dwelling fire,
2 22 boat, personal watercraft, snowmobile, and recreational
2 23 vehicle insurance policies, that are individually underwritten
2 24 for personal, family, farm, or household use. No other type
2 25 of insurance is included as personal insurance for the
2 26 purposes of this section.

2 27 2. USE OF CREDIT INFORMATION == PROHIBITED. An insurer
2 28 authorized to do business in Iowa ~~that uses shall not use~~
2 29 credit information to underwrite or rate risks for a policy of
2 30 personal insurance ~~shall not do including but not limited to~~
2 31 ~~doing any of the following:~~

~~2 32 a. Use Using an insurance score that is calculated using
2 33 income, gender, address, zip code, ethnic group, religion,
2 34 marital status, race, or nationality of a consumer as a
2 35 factor.~~

~~3 1 b. Deny Denying issuance of, cancel canceling, or refuse
3 2 refusing to renew a policy of personal insurance solely based
3 3 on the basis any consideration of credit information, without
3 4 consideration of any other applicable underwriting factors
3 5 independent of credit information that are not otherwise
3 6 prohibited under paragraph "a".~~

~~3 7 c. Base Basing a consumer's renewal rates for personal
3 8 insurance solely on the basis any consideration of credit
3 9 information, without consideration of any other applicable
3 10 underwriting factors independent of credit information that
3 11 are not otherwise prohibited under paragraph "a".~~

~~3 12 d. Take Taking adverse action against a consumer solely
3 13 because based on any consideration of the fact that the
3 14 consumer does not have a credit card account, without
3 15 consideration of any other applicable underwriting factors
3 16 independent of credit information that are not otherwise
3 17 prohibited under paragraph "a".~~

~~3 18 e. Consider Considering an absence of credit information
3 19 or an inability to calculate an insurance score in
3 20 underwriting or rating personal insurance unless the insurer
3 21 does one of the following:~~

~~3 22 (1) Treats the consumer as if the consumer has neutral
3 23 credit information, as defined by the insurer.~~

~~3 24 (2) Excludes the use of credit information as an
3 25 underwriting factor and only uses other underwriting criteria.~~

~~3 26 f. Take Taking adverse action against a consumer based on
3 27 credit information, unless the insurer obtains and uses a
3 28 credit report issued or an insurance score calculated within
3 29 ninety days before the date a personal insurance policy is
3 30 first written or a renewal is issued.~~

~~3 31 g. Use credit information unless not later than every
3 32 thirty-six months following the last time that the insurer
3 33 obtained current credit information for the insured, the
3 34 insurer recalculates the insurance score or obtains an updated
3 35 credit report for the insured. Regardless of the requirements
4 1 of this paragraph:~~

~~4 2 (1) At annual renewal, upon the request of the consumer or
4 3 the consumer's agent, the insurer shall re-underwrite and
4 4 re-rate the personal insurance policy based upon a current
4 5 credit report or insurance score. An insurer is not required
4 6 to recalculate an insurance score or obtain a current credit
4 7 report more than once in a twelve-month period.~~

~~4 8 (2) The insurer shall have the discretion to obtain
4 9 current credit information for a consumer more frequently than
4 10 every thirty-six months, if consistent with the insurer's
4 11 underwriting guidelines.~~

~~4 12 (3) Notwithstanding subparagraph (1), an insurer is not
4 13 required to obtain current credit information for a consumer
4 14 if any of the following applies:~~

~~4 15 (a) The insurer is treating the consumer as otherwise
4 16 approved by the commissioner of insurance.~~

~~4 17 (b) The consumer is in the most favorably priced tier of
4 18 the insurer, within a group of affiliated insurers. However,
4 19 the insurer shall have the discretion to obtain current credit
4 20 information, if consistent with the insurer's underwriting
4 21 guidelines.~~

~~4 22 (c) Credit information was not used for underwriting or
4 23 rating the insured when the personal insurance policy was
4 24 initially written. However, the insurer shall have the
4 25 discretion to use current credit information for underwriting
4 26 or rating the insured upon renewal of the policy, if
4 27 consistent with the insurer's underwriting guidelines.~~

~~4 28 (d) The insurer reevaluates the insured beginning no later
4 29 than thirty-six months after the personal insurance policy was
4 30 initially written and thereafter, based on other underwriting~~

~~4 31 or rating factors, excluding credit information.~~

4 32 h- g. Use Using any of the following as a negative factor
4 33 in any insurance scoring methodology or in reviewing credit
~~4 34 information used for the purpose of underwriting or rating a~~
4 35 personal insurance policy:

5 1 (1) Credit inquiries not initiated by the consumer or
5 2 inquiries requested by the consumer for the consumer's own
5 3 credit information.

5 4 (2) Inquiries relating to insurance coverage, if so
5 5 identified on a consumer's credit report.

5 6 (3) Collection accounts with a medical industry code, if
5 7 so identified on a consumer's credit report.

5 8 (4) Multiple lender inquiries, if coded by a consumer
5 9 reporting agency on the consumer's credit report as being from
5 10 the home mortgage industry and made within thirty days of one
5 11 another, unless only one inquiry is considered.

5 12 (5) Multiple lender inquiries, if coded by a consumer
5 13 reporting agency on the consumer's credit report as being from
5 14 the automobile lending industry and made within thirty days of
5 15 one another, unless only one inquiry is considered.

5 16 Sec. 3. Section 515.103, subsections 3 through 8, Code
5 17 2009, are amended by striking the subsections.

5 18 Sec. 4. Section 515.103, subsection 9, Code 2009, is
5 19 amended by striking the subsection and inserting in lieu
5 20 thereof the following:

5 21 9. VIOLATIONS. A violation of this section is an unfair
5 22 insurance practice as provided in chapter 507B.

5 23 Sec. 5. Section 515.103, subsection 10, Code 2009, is
5 24 amended to read as follows:

5 25 10. APPLICABILITY DATE. This section applies to personal
5 26 insurance contracts or policies delivered, issued for
5 27 delivery, continued, or renewed in this state on or after
5 28 October 1, ~~2004~~ 2009.

5 29 EXPLANATION

5 30 This bill amends Code section 515.103 to prohibit the use
5 31 of credit information by insurers for underwriting or rating
5 32 risks for personal insurance. Currently, the use of credit
5 33 information for such purposes is allowed under certain
5 34 circumstances.

5 35 Uses of credit information prohibited by the bill include
6 1 using an insurance score; denying issuance of, canceling, or
6 2 refusing to renew a personal insurance policy based on any
6 3 consideration of credit information; basing a consumer's
6 4 insurance renewal rates on any consideration of credit
6 5 information; taking any adverse action against a consumer
6 6 based on any consideration of the fact that the consumer does
6 7 not have a credit card account; considering an absence of
6 8 credit information or an inability to calculate an insurance
6 9 score in underwriting or rating personal insurance; and taking
6 10 any adverse action against a consumer based on credit
6 11 information. For purposes of the bill, "adverse action" means
6 12 a denial of issuance, cancellation, or refusal to renew, an
6 13 increase in any charge for, or a reduction or other
6 14 unfavorable change in the terms of coverage or amount of any
6 15 personal insurance existing or applied for, or in connection
6 16 with, the underwriting of personal insurance.

6 17 The bill provides that a violation of Code section 515.103
6 18 is an unfair insurance practice as provided in Code chapter
6 19 507B and the proceedings, orders, and penalties contained in
6 20 Code chapter 507B are applicable to violations of the bill.

6 21 The bill is applicable to personal insurance contracts or
6 22 policies delivered, issued for delivery, continued, or renewed
6 23 in this state on or after October 1, 2009.

6 24 LSB 1827HH 83

6 25 av/rj/14