
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 94

Session of
2007

INTRODUCED BY YOUNGBLOOD, CRUZ, BISHOP, READSHAW, COHEN,
BLACKWELL, JAMES, JOSEPHS AND FABRIZIO, JANUARY 30, 2007

REFERRED TO COMMITTEE ON INSURANCE, JANUARY 30, 2007

AN ACT

1 Relating to the use of credit information by carriers of
2 personal lines insurance.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Use of Credit
7 Information in Personal Lines Insurance Underwriting Act.

8 Section 2. Purpose.

9 The purpose of this act is to regulate the use of credit
10 information for personal lines insurance so that consumers are
11 afforded certain protections with respect to the use of credit
12 information.

13 Section 3. Scope.

14 This act is limited to personal lines insurance.

15 Section 4. Definitions.

16 The following words and phrases when used in this act shall
17 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Adverse action." A denial of, an increase in any charge for
3 or a reduction or other adverse or unfavorable change in the
4 terms of coverage or amount of any insurance policy applied for
5 in connection with the underwriting of personal lines insurance,
6 including tier placement within an insurer and an affiliate.

7 "Affiliate." An insurer that controls, is controlled by or
8 is under common control with another insurer.

9 "Applicant." A person who has applied to be covered by a
10 personal lines insurance policy with an insurer.

11 "Commissioner." The Insurance Commissioner of the
12 Commonwealth.

13 "Consumer reporting agency." Any person which for monetary
14 fees, dues or on a cooperative nonprofit basis regularly engages
15 in whole or in part in the practice of assembling or evaluating
16 consumer credit information or other information on consumers
17 for the purpose of furnishing reports to third parties.

18 "Credit information." Any credit-related information derived
19 from a credit report, found on a credit report or provided on an
20 application for personal lines insurance. Information that is
21 not credit related shall not be considered credit information,
22 regardless of whether it is contained in a credit report or in
23 an application.

24 "Credit report." Information, including that obtained from a
25 consumer reporting agency, bearing on a consumer's
26 creditworthiness, credit standing or credit capacity, which is
27 used or expected to be used or collected in whole or in part for
28 the purpose of serving as a factor to determine personal lines
29 insurance, eligibility for coverage and tier or affiliate
30 placement.

1 "Department." The Insurance Department of the Commonwealth.

2 "Insurance score." A number or rating, including that which
3 is derived from an algorithm, computer application, model or
4 other process, that is based in whole or in part on credit
5 information.

6 "Insurer." Any individual, corporation, association,
7 partnership, reciprocal exchange, interinsurer, Lloyd's insurer,
8 or any other person engaged in writing personal lines insurance.

9 "Personal lines insurance." Homeowners, renters, dwelling,
10 fire, personal property and personal auto insurance. The term
11 shall not include title insurance, any commercial coverage or
12 any other insurance not specifically set forth in this
13 definition.

14 "Policy period." The term of any contract of insurance.

15 Section 5. Limitations on use of credit information.

16 An insurer shall not:

17 (1) use an insurance score that is calculated using any
18 factors prohibited by the laws of this Commonwealth;

19 (2) after the first 60 days, cancel a policy of personal
20 lines insurance on the basis of credit information;

21 (3) nonrenew a policy of personal lines insurance on the
22 basis of credit information;

23 (4) change an insured's renewal rates for personal lines
24 insurance on the basis of credit information;

25 (5) take an adverse action against an applicant solely
26 because he or she does not have any credit information;

27 (6) take adverse action against an applicant based on
28 credit information unless an insurer obtains and uses a
29 credit report and resulting insurance score calculated within
30 60 days from the date the application for insurance is first

1 written; or

2 (7) use any inquiries into credit information or
3 collection accounts with a medical industry code as a factor
4 in any insurance scoring methodology or in reviewing credit
5 information for the purpose of underwriting a policy of
6 personal lines insurance.

7 Section 6. Dispute resolution and error correction.

8 If it is determined through the dispute resolution process
9 set forth in section 611(a)(5) of the Fair Credit Reporting Act
10 (Public Law 91-508, 15 U.S.C. § 1681i(a)(5)) that the credit
11 information of a current insured was incorrect or incomplete and
12 if the insurer receives notice of such determination from either
13 the consumer reporting agency or from the insured, the insurer
14 shall reunderwrite the consumer within 30 days of receiving the
15 notice. After reunderwriting the insured, the insurer shall make
16 any adjustments necessary that are consistent with its
17 underwriting guidelines. If an insurer determines that the
18 insured has overpaid premium, the insurer shall refund to the
19 insured the amount of overpayment calculated back to the shorter
20 of either the last 12 months of coverage or the actual policy
21 period.

22 Section 7. Notification and reunderwriting requirement.

23 (a) Disclosure.--Notwithstanding the limitations set forth
24 in section 5, if an insurer writing personal lines insurance
25 uses credit information in underwriting, the insurer or its
26 agent shall disclose, either on the insurance application or at
27 the time the insurance application is taken:

28 (1) that the insurer may obtain credit information in
29 connection with such application; and

30 (2) if an applicant is issued a policy, that the insured

1 has a right to request, no more than one time per policy
2 period, that the insurer reunderwrite the policy if there is
3 a favorable change in the factors that were the primary
4 influences of an adverse action, as those factors are set
5 forth in the notification provided to the applicant pursuant
6 to section 8.

7 (b) Method of disclosure.--The disclosures required under
8 subsection (a) shall be either written or provided to an
9 applicant in the same medium as the application for insurance.

10 (c) Form of disclosure.--The following disclosure or a
11 substantially similar disclosure constitutes compliance with
12 subsection (a)(1):

13 In connection with this application for insurance, we may
14 review your credit report or obtain or use a credit-based
15 insurance score based on the information contained in
16 that credit report or application. We may use a third
17 party in connection with the development of your
18 insurance score.

19 (d) Reunderwrite.--Upon receipt of a request received under
20 subsection (a)(2), an insurer shall reunderwrite the policy and
21 may consider all underwriting factors, including, but not
22 limited to, the factors that were the primary influences of the
23 adverse action, provided, however, if the sole factor for the
24 adverse action was a credit report or credit information and the
25 favorable change would result in lesser premium, the insurer
26 shall reunderwrite the current policy and issue a new policy.

27 (e) Right of cancellation.--Any new policy issued under
28 subsection (d) shall not be subject to any 60-day right of
29 cancellation otherwise applicable to that policy.

30 Section 8. Adverse action notification.

1 If an insurer takes an adverse action based upon credit
2 information, the insurer must meet the notice requirements of
3 both paragraphs (1) and (2). Such insurer shall:

4 (1) Provide notification to the applicant that an
5 adverse action has been taken, in accordance with the
6 requirements of section 615(a) of the Fair Credit Reporting
7 Act (Public Law 91-508, 15 U.S.C. § 1681m(a)) including
8 instructions on how the applicant can obtain a copy of the
9 complete credit report used by the insurer at the insurer's
10 expense.

11 (2) Provide notification to the applicant explaining the
12 reason for the adverse action. The reasons must be provided
13 in sufficiently clear and specific language so that a person
14 can identify the basis for the insurer's decision to take an
15 adverse action. Such notification shall include a description
16 of the factors that were the primary influences of the
17 adverse action. The use of generalized terms such as "poor
18 credit history," "poor credit rating" or "poor insurance
19 score" does not meet the explanation requirements of this
20 section. Standardized credit explanations provided by
21 consumer reporting agencies or other third-party vendors are
22 deemed to comply with this section.

23 Section 9. Violations.

24 (a) Investigation.--The following provisions apply to
25 investigation:

26 (1) The commissioner may examine and investigate the
27 affairs of any insurer engaged in writing personal lines
28 insurance to determine whether such insurer has been or is
29 engaged in any practice prohibited by this act.

30 (2) The department may require an insurer to provide for

1 examination and investigation of all documents, materials or
2 other information relevant to the investigation, including,
3 but not limited to, credit information, credit reports and
4 insurance scores (and any algorithm, computer application,
5 model or other process from which the insurance scores are
6 derived) used by the insurer.

7 (3) Costs for any investigation instituted pursuant to
8 this act shall be borne by the insurer.

9 (4) Any document, material or other information in the
10 control or possession of the department which is furnished by
11 an insurer or which is obtained by the department in an
12 investigation pursuant to this act shall be confidential and
13 privileged, shall not be subject to the act of June 21, 1957
14 (P.L.390, No.212), referred to as the Right-to-Know Law,
15 shall not be subject to subpoena and shall not be subject to
16 discovery or admissible in evidence in any private civil
17 action. However, the department is authorized to use the
18 documents, materials or other information in the furtherance
19 of any regulatory or legal action brought as a part of the
20 department's duties.

21 (b) Enforcement.--The act may be enforced as follows:

22 (1) The department may impose a civil penalty of up to
23 \$5,000 for each violation of this act.

24 (2) The department may maintain an action in the name of
25 the Commonwealth for an injunction to prohibit any activity
26 that violates the provisions of this act.

27 (3) Any violation of this act shall be considered a
28 violation of the act of July 22, 1974 (P.L.589, No.205),
29 known as the Unfair Insurance Practices Act.

30 Section 10. Rules and regulations.

1 The department shall promulgate rules and regulations to
2 carry out the provisions of this act.

3 Section 11. Effective date.

4 This act shall take effect in 60 days.