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COMMERCE, REGULATION & LABOR

HOUSE FILE

665

BY FORD

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
 Approved \_\_\_\_\_

**A BILL FOR**

1 An Act prohibiting the use of credit information for underwriting  
 2 or rating risks for personal insurance and providing penalties  
 3 and an applicability date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 665

1 Section 1. Section 507B.4, Code 2005, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 15. USE OF CREDIT INFORMATION. Any  
4 violation of section 515.109A.

5 Sec. 2. Section 515.109A, subsections 1 and 2, Code 2005,  
6 are amended to read as follows:

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

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

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

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

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

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

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

1 an application for credit or is used to calculate an insurance  
2 score.

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

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

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

18 j- i. "Personal insurance" means personal insurance and  
19 not commercial insurance and is limited to private passenger  
20 automobile, homeowners, farm owners, personal farm liability,  
21 motorcycle, mobile home owners, noncommercial dwelling fire  
22 insurance, boat, personal watercraft, snowmobile, and  
23 recreational vehicle policies, that are individually  
24 underwritten for personal, family, farm, or household use. No  
25 other type of insurance is included as personal insurance for  
26 the purposes of this section.

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

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

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

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

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

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

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

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

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

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

1 of this paragraph:

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

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

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

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

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

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

28 (d)--The insurer reevaluates the insured beginning no later  
29 than thirty-six months after the personal insurance policy was  
30 initially written and thereafter, based on other underwriting  
31 or rating factors, excluding credit information.

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

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

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

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

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

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

16 Sec. 3. Section 515.109A, subsections 3 through 8, Code  
17 2005, are amended by striking the subsections.

18 Sec. 4. Section 515.109A, subsection 9, Code 2005, is  
19 amended by striking the subsection and inserting in lieu  
20 thereof the following:

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

23 Sec. 5. Section 515.109A, subsection 10, Code 2005, is  
24 amended to read as follows:

25 10. APPLICABILITY DATE. This section applies to personal  
26 insurance contracts or policies delivered, issued for  
27 delivery, continued, or renewed in this state on or after  
28 October 1, ~~2004~~ 2005.

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#### EXPLANATION

30 This bill amends Code section 515.109A to prohibit the use  
31 of credit information by insurers for underwriting or rating  
32 risks for personal insurance. Currently, the use of credit  
33 information for such purposes is allowed under certain  
34 circumstances.

35 Uses of credit information prohibited by the bill include

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

17 The bill provides that a violation of Code section 515.109A  
18 is an unfair insurance practice as provided in Code chapter  
19 507B and the proceedings, orders, and penalties contained in  
20 Code chapter 507B are applicable to violations of the bill.

21 The bill is applicable to personal insurance contracts or  
22 policies delivered, issued for delivery, continued, or renewed  
23 in this state on or after October 1, 2005.

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