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COMMERCE, REGULATION & LABOR

HOUSE FILE 2019
BY ZIRKELBACH

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:

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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
6 Supplement 2005, 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 boat, personal watercraft, snowmobile, and recreational
23 vehicle insurance policies, that are individually underwritten
24 for personal, family, farm, or household use. No other type
25 of insurance is included as personal insurance for the
26 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 of, ~~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 Supplement 2005, are amended by striking the subsections.

18 Sec. 4. Section 515.109A, subsection 9, Code Supplement
19 2005, is amended by striking the subsection and inserting in
20 lieu 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 Supplement
24 2005, is 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~~ 2006.

29 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 of, 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, 2006.

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