



House Bill 195: Insurer's Use of Credit History/Scores
Sectional Analysis

Section 1

The subsection is amended to require an insurer writing personal insurance that uses credit information in underwriting or rating a consumer at the time of renewal to disclose to the consumer that the insurer will obtain credit information in connection with the renewal. It also replaces the word "applicant's" with "consumer's" because the requirement now applies to both new applicants and existing policyholders.

Section 2

The subsection amends the notice required when an adverse action is taken and to provide notice informing the consumer of extraordinary life circumstance exemptions, the process for requesting such an exemption, and that they must request an exemption within 60 days. The amendment also clarifies that the notice of adverse action must be in writing.

Section 3

The subsection is amended to clarify the statute by adding that an insurer may, in addition to credit history, use a consumer's insurance score to cancel, deny, nonrenew, underwrite, or rate personal insurance only in combination with other substantive underwriting factors.

The subsection is also amended to provide that if an insurer uses a consumer's credit history or insurance score, then not later than 24 months after the insurer most recently used the consumer's credit history or insurance score to underwrite or rate a policy, the insurer shall reunderwrite and rerate the policy based on the consumer's current (1) credit history or insurance score and current risk characteristics; or (2) risk characteristics but not including, in whole or in part, the consumer's credit history or insurance score.

Section 4

This section eliminates the requirement that an insurer first obtain a written waiver at each renewal from a consumer to underwrite or rate a personal insurance policy based on the consumer's credit history or insurance score. The remaining paragraphs in the subsection are renumbered accordingly. This section is amended to provide that the prohibitions on the use of credit scores by insurers set forth in the paragraph also apply to nonrenewals. This section also establishes that an insurer may not use credit history to cancel, deny, nonrenew, underwrite, or rate a personal insurance policy if the history is obtained more than 90 days before the policy is canceled, denied, nonrenewed, underwritten, or rated. It further clarifies that the paragraph does not require an insurer to reevaluate a consumer's credit history more frequently than is required under AS 21.36.460(c).

Section 5

Section 5 is a new section which requires (except as provided under AS 21.36.460(d)) an insurer that uses a consumer's credit history or insurance score to provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced, and whose credit history or insurance score has been affected by one or more of the following extraordinary life circumstances:

- a catastrophe, as declared by the director under AS 21.06.080;
- a serious illness or injury, or a serious illness of or injury to an immediate family member;
- the death of a spouse, child, or parent;
- divorce or the involuntary interruption of spousal support or maintenance payments;
- identity theft;
- loss of employment for three months or more as a result of involuntary termination;
- military overseas deployment; or
- other extraordinary life circumstances where a prudent person would consider an exception to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines to be reasonable.

AS 21.36.461(b)

This subsection allows an insurer to require a consumer requesting an exemption under 21.36.461(a) to provide reasonable written and independently verifiable documentation of the extraordinary life circumstances and demonstrate that the circumstances had a direct and meaningful effect on the consumer's credit information.

AS 21.36.461(c)

This subsection describes situations where an insurer may grant an exception when a consumer requests an exception under AS 21.36.460(b).

AS 21.36.461(d)

This subsection provides that an insurer may not be considered out of compliance with a law or rule relating to underwriting, rating, or rate filing as a result of granting an exception under this section. The subsection allows an insurer to grant an exception notwithstanding its approved filings and rates and does not require the insurer to have to submit filing or rate amendments to the division for approval in order to grant the exception.

AS 21.36.461(e)

This subsection requires the insurer to provide notice to the consumer in writing of its decision in granting or not granting the request for an exception not later than 30 days after the insurer receives sufficient documentation of the information requested from the consumer under AS 21.36.461(b).

AS 21.36.461(f)

If an exception is denied and an adverse action will be maintained by the insurer, this subsection requires the insurer's notice under AS 21.36.461(e) to include the insurer's reason for denying the request for an exception and for maintaining the adverse action and notice of the consumer's right to appeal the denial to the director of the division of insurance.

AS 21.36.461(g)

This subsection provides that the consumer can appeal the adverse action to the director not later than 30 days after receiving the insurer's notice.

AS 21.36.461(h)

This subsection requires the director of the division of insurance to make a decision on the consumer's appeal not later than 30 days after receiving the appeal and requires the director to provide the decision to both the insurer and to the consumer and outlines requirements for the basis of the decision.

AS 21.36.461(i)

This subsection provides that the hearing and appeal procedures provided for in AS 21.06.180 – 21.06.230 do not apply to consumer appeals submitted to the director under AS 21.36.461(g).

AS 21.36.461(j)

This subsection makes clear that nothing in AS 21.36.461 may be construed to provide a consumer with a cause of action that does not exist in the absence of this AS 21.36.461.

AS 21.36.461(j)

This subsection provides that the term "adverse action" as used in AS 21.36.461 is limited to an adverse action defined under AS 21.36.460(i) that is based in whole or in part on the insured's credit history or insurance score as affected by one or more extraordinary life circumstances.

The subsection also provides that the term "consumer" has the meaning given in AS 21.36.460 and the term "director" has the meaning given in AS 21.97.900.

AS 21.36.461(k)

The subsection is amended to replace the term "insured" with the term "consumer" for consistency.

Section 6

This section is amended to exclude the exception appeal process under AS 21.36.461 from the jurisdiction of Department of Administration Office of Administrative Hearings (OAH).