

CS FOR HOUSE BILL NO. 5(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/16/03

Referred: Labor and Commerce

Sponsor(s): REPRESENTATIVES CRAWFORD, Gara, Gruenberg, Croft

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to using credit history or insurance scoring for insurance purposes;
2 and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 21.36 is amended by adding a new section to read:

5 **Sec. 21.36.460. Restrictions on credit history or insurance scoring**
6 **applicable to personal insurance.** (a) An insurer may not use credit scoring in the
7 underwriting process applicable to personal insurance unless the insurer or the
8 insurer's agent obtains written permission from the applicant.

9 (b) An insurer that takes adverse action involving personal insurance against a
10 consumer based in whole or in part on credit history or insurance score shall provide
11 written notice to the applicant or named insured. The notice must state the significant
12 factors of the credit history or insurance score that resulted in the adverse action. The
13 insurer shall also inform the consumer that the consumer is entitled to a free copy of
14 the consumer's report under 15 U.S.C. 1681 - 1681v (Fair Credit Reporting Act).

1 (c) Except as provided in (d)(3) of this section an insurer may not cancel or
 2 fail to renew personal insurance based in whole or in part on a consumer's credit
 3 history or insurance score. An offer of placement with an affiliate insurer does not
 4 constitute cancellation or failure to renew under this section.

5 (d) An insurer may use credit history to deny personal insurance only in
 6 combination with other substantive underwriting factors. For the purposes of this
 7 subsection,

8 (1) refusal to offer personal insurance coverage to a consumer
 9 constitutes denial of personal insurance;

10 (2) an offer of placement with an affiliate insurer does not constitute
 11 denial of coverage; and

12 (3) an insurer may reject an application when coverage is not bound or
 13 cancel an insurance contract within the first 60 days after the effective date of the
 14 contract.

15 (e) An insurer may not deny personal insurance coverage based in whole or in
 16 part on

17 (1) the absence of credit history or the inability to determine the
 18 consumer's credit history if the insurer has received accurate and complete information
 19 from the consumer;

20 (2) the number of credit inquiries;

21 (3) credit history or an insurance score based on medical bills;

22 (4) the consumer's use of a particular type of credit card, charge card,
 23 or debit card; or

24 (5) the consumer's total available line of credit.

25 (f) If disputed credit history is used to determine eligibility for personal
 26 insurance coverage and a consumer is placed with an affiliate that charges higher
 27 premiums or offers less favorable policy terms, the insurer shall reissue or reate the
 28 policy retroactive to the effective date of the current policy term and the policy, as
 29 reissued or rerated, shall provide premiums and policy terms the consumer would have
 30 been eligible for if accurate credit history had been used to determine eligibility. This
 31 subsection only applies if the consumer resolves the dispute under the process in 15

1 U.S.C. 1681 - 1681v (Fair Credit Reporting Act) and notifies the insurer in writing
2 that the dispute has been resolved.

3 (g) In this section,

4 (1) "adverse action" has the meaning given in 15 U.S.C. 1681a (Fair
5 Credit Reporting Act) and includes

6 (A) cancellation, denial, or failure to renew personal insurance
7 coverage;

8 (B) charging a higher insurance premium for personal
9 insurance than would have been offered if the credit history or insurance score
10 had been more favorable, whether the charge is by

11 (i) application of a rating rule;

12 (ii) assignment to a rating tier that does not have the
13 lowest available rates; or

14 (iii) placement with an affiliate company that does not
15 offer the lowest rates available to the consumer within the affiliate
16 group of insurance companies; or

17 (C) any reduction or adverse or unfavorable change in the
18 terms of coverage or amount of personal insurance due to a consumer's credit
19 history or insurance score; a reduction or adverse or unfavorable change in the
20 terms of coverage occurs when

21 (i) coverage provided to the consumer is not as broad in
22 scope as coverage requested by the consumer but available to other
23 insureds of the insurer or any affiliate; or

24 (ii) the consumer is not eligible for benefits that are
25 available through affiliate insurers;

26 (2) "affiliate" has the meaning given in AS 21.22.200;

27 (3) "cancel" or "cancellation" includes a reduction in coverage below
28 the full replacement value of the item insured;

29 (4) "consumer" means an individual policyholder or applicant for
30 insurance;

31 (5) "consumer report" has the meaning given in 15 U.S.C. 1681a (Fair

1 Credit Reporting Act);

2 (6) "credit history" means written, oral, or other communication of
3 information by a consumer reporting agency bearing on a consumer's
4 creditworthiness, credit standing, or credit capacity that is used or expected to be used,
5 or collected in whole or in part, for the purpose of serving as a factor in determining
6 personal insurance premiums or eligibility for coverage;

7 (7) "insurance score" means a number or rating that is derived from an
8 algorithm, computer application, model, or other process that is based in whole or in
9 part on credit history;

10 (8) "personal insurance" means

11 (A) private passenger automobile coverage;

12 (B) homeowner coverage, including mobile homeowner's,
13 manufactured homeowner's, condominium owner's, and renter's coverage;

14 (C) dwelling property coverage;

15 (D) earthquake coverage for a residence or personal property;

16 (E) personal liability and theft coverage;

17 (F) personal inland marine coverage;

18 (G) mechanical breakdown coverage for personal auto or home
19 appliances; and

20 (H) flood insurance;

21 (9) "tier" means a category within a single insurer into which insureds
22 with substantially like insuring, risk or exposure factors, and expense elements are
23 placed for purposes of determining rate or premium.

24 * **Sec. 2.** AS 21.39 is amended by adding a new section to read:

25 **Sec. 21.39.035. Making of rates; personal insurance.** (a) Credit history
26 may not be used to determine personal insurance rates, premiums, or eligibility for
27 coverage unless the insurance scoring models are filed with the director. Insurance
28 scoring models include all attributes and factors used in the calculation of an insurance
29 score.

30 (b) Information filed under (a) of this section

31 (1) is confidential, and the information is not subject to public

1 inspection under AS 40.25.100 - 40.20.140;

2 (2) shall be considered a trade secret under AS 45.50.910;

3 (3) may be made public by the director for the sole purpose of
4 enforcement actions taken by the director; and

5 (4) may be disclosed by the insurer that files the information.

6 (c) An insurer may not use the following types of credit history to calculate a
7 personal insurance score or determine personal insurance premiums or rates:

8 (1) the absence of credit history or the inability to determine the
9 consumer's credit history unless the insurer has filed actuarial data segmented by
10 demographic factors in a manner prescribed by the director that demonstrates
11 compliance with AS 21.39.030;

12 (2) the number of credit inquiries;

13 (3) credit history or an insurance score based on medical bills;

14 (4) the consumer's use of a particular type of credit card, charge card,
15 or debit card; or

16 (5) the consumer's total available line of credit; however, an insurer
17 may consider the total amount of outstanding debt in relation to the total available line
18 of credit.

19 (d) If a consumer is charged higher premiums due to disputed credit history,
20 the insurer shall rerate the policy retroactive to the effective date of the current policy
21 term. As rerated, the consumer shall be charged the same premiums that would have
22 been charged if the accurate credit history was used to calculate an insurance score.
23 This subsection applies only if the consumer resolves the dispute under the process set
24 out in 15 U.S.C. 1681 - 1681v (Fair Credit Reporting Act) and notifies the insurer in
25 writing that the dispute has been resolved.

26 (e) In this section,

27 (1) "consumer" means an individual policyholder or applicant for
28 insurance;

29 (2) "credit history" has the meaning given in AS 21.36.460;

30 (3) "insurance score" has the meaning given in AS 21.36.460;

31 (4) "personal insurance" has the meaning given in AS 21.36.460.

1 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 REPORT. The director of the division of insurance shall report to the legislature by
4 January 1, 2005, on issues related to the use of credit history in personal insurance
5 underwriting and rating and the implementation of this Act. The report must include

6 (1) a review of how this Act has been implemented and how it has affected
7 consumers; and

8 (2) a review and analysis of insurance scoring that includes

9 (A) which types of consumers, based on demographic factors, benefit
10 from or are harmed by the use of credit history in personal insurance rating and
11 underwriting;

12 (B) the extent to which the use of credit history affects rates charged to
13 the consumer; and

14 (C) other issues as determined by the director.

15 * **Sec. 4.** This Act takes effect January 1, 2005.