



Thursday, June 24, 2004

**Bill Text - A04754**

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Bill Summary](#)

S T A T E O F N E W Y O R K

4754--D

R. R. 231

2003-2004 Regular Sessions

I N A S S E M B L Y

February 19, 2003

Introduced by M. of A. P. RIVERA, J. RIVERA, TOWNS, POWELL, LAFAYETTE, ORTIZ, PERALTA, L. DIAZ, R. DIAZ, LOPEZ, RAMOS, ESPAILLAT, GRANNIS, ENGLEBRIGHT, KAUFMAN -- Multi-Sponsored by -- M. of A. ALFANO, ARROYO, BRENNAN, CLARK, A. COHEN, COLTON, COOK, GLICK, GORDON, GREEN, HEASTIE, KOON, LIFTON, McENENY, MILLMAN, NORMAN, O'DONNELL, PEOPLES, PERRY, PHEFFER, PRETLOW, ROBINSON, SCARBOROUGH, SEDDIO, WEINSTEIN -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Rules in accordance with Assembly Rule 3, sec. 2 -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading -- again amended on special order of third reading, ordered reprinted, retaining its place on the special order of third reading

AN ACT to amend the insurance law, in relation to the use of credit information derived from an application for personal property or casualty insurance

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The insurance law is amended by adding a new article 28 to  
 2 read as follows:  
 3  
 4 ARTICLE 28  
 4 USE OF CREDIT INFORMATION  
 5 SECTION 2801. DEFINITIONS.  
 6 2802. USE OF CREDIT INFORMATION.  
 7 2803. DISPUTE RESOLUTION AND ERROR CORRECTION.  
 8 2804. INITIAL NOTIFICATION.  
 9 2805. ADVERSE ACTION NOTIFICATION.  
 10 2806. FILING.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets { } is old law to be omitted.

LBD08428-13-4

A. 4754--D

2

1 2807. SALE OF INFORMATION BY CONSUMER REPORTING AGENCY.  
 2 2808. INDEMNIFICATION.  
 3 2809. SEVERABILITY.

4 S 2801. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING  
 5 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

6 (A) "ADVERSE ACTION" SHALL MEAN A DENIAL OR CANCELLATION OF, AN  
 7 INCREASE IN ANY CHARGE FOR, OR A REDUCTION OR OTHER ADVERSE OR UNFAVORA-  
 8 BLE CHANGE IN THE TERMS OF COVERAGE OR AMOUNT OF, ANY INSURANCE, EXIST-  
 9 ING OR APPLIED FOR, IN CONNECTION WITH THE UNDERWRITING OF PERSONAL  
 10 INSURANCE.

11 (B) "AFFILIATE" SHALL MEAN ANY COMPANY THAT CONTROLS, IS CONTROLLED  
 12 BY, OR IS UNDER COMMON CONTROL WITH ANOTHER COMPANY.

13 (C) "APPLICANT" SHALL MEAN AN INDIVIDUAL WHO HAS APPLIED TO BE COVERED  
 14 BY A PERSONAL LINES INSURANCE POLICY WITH AN INSURER.

15 (D) "CONSUMER" SHALL MEAN AN INSURED WHOSE CREDIT INFORMATION IS USED  
 16 OR WHOSE INSURANCE SCORE IS CALCULATED IN THE UNDERWRITING OR RATING OF  
 17 A PERSONAL LINES INSURANCE POLICY OR AN APPLICANT FOR SUCH A POLICY.

18 (E) "CONSUMER REPORTING AGENCY" SHALL MEAN ANY PERSON WHO, FOR MONE-  
 19 TARY FEES, DUES, OR ON A COOPERATIVE NONPROFIT BASIS, REGULARLY ENGAGES  
 20 IN WHOLE OR IN PART IN THE PRACTICE OF ASSEMBLING OR EVALUATING CONSUMER  
 21 CREDIT INFORMATION OR OTHER INFORMATION ON CONSUMERS FOR THE PURPOSE OF  
 22 FURNISHING CONSUMER REPORTS TO THIRD PARTIES.

23 (F) "CREDIT INFORMATION" SHALL MEAN ANY CREDIT-RELATED INFORMATION  
 24 DERIVED FROM A CREDIT REPORT, FOUND ON A CREDIT REPORT ITSELF, OR  
 25 PROVIDED ON AN APPLICATION FOR PERSONAL LINES INSURANCE. INFORMATION  
 26 THAT IS NOT CREDIT-RELATED SHALL NOT BE CONSIDERED "CREDIT INFORMATION",  
 27 REGARDLESS OF WHETHER IT IS CONTAINED IN A CREDIT REPORT OR IN AN APPLI-  
 28 CATION, OR IS USED TO CALCULATE AN INSURANCE SCORE.

29 (G) "CREDIT REPORT" SHALL MEAN ANY WRITTEN, ORAL, OR OTHER COMMUNI-  
 30 CATION OF INFORMATION BY A CONSUMER REPORTING AGENCY BEARING ON A  
 31 CONSUMER'S CREDIT WORTHINESS, CREDIT STANDING OR CREDIT CAPACITY WHICH  
 32 IS USED OR EXPECTED TO BE USED OR COLLECTED IN WHOLE OR IN PART FOR THE  
 33 PURPOSE OF SERVING AS A FACTOR TO DETERMINE PERSONAL LINES INSURANCE  
 34 PREMIUMS, ELIGIBILITY FOR COVERAGE, OR TIER PLACEMENT.

35 (H) "INSURANCE SCORE" SHALL MEAN A NUMBER OR RATING THAT IS DERIVED  
 36 FROM AN ALGORITHM, COMPUTER APPLICATION, MODEL, OR OTHER PROCESS THAT IS  
 37 BASED IN WHOLE OR IN PART ON CREDIT INFORMATION FOR THE PURPOSES OF  
 38 PREDICTING THE FUTURE INSURANCE LOSS EXPOSURE OF AN INDIVIDUAL APPLICANT  
 39 OR INSURED.

40 (I) "PERSONAL LINES INSURANCE" SHALL MEAN PROPERTY/CASUALTY INSURANCE  
 41 COVERAGE SOLD TO INDIVIDUALS AND FAMILIES FOR PRIMARILY NONCOMMERCIAL  
 42 PURPOSES.

43 S 2802. USE OF CREDIT INFORMATION. AN INSURER DOING BUSINESS IN THIS  
 44 STATE THAT USES CREDIT INFORMATION TO UNDERWRITE OR RATE RISKS FOR  
 45 PERSONAL LINES INSURANCE, SHALL NOT:

46 (A) USE AN INSURANCE SCORE THAT IS CALCULATED USING INCOME, GENDER,  
 47 ADDRESS, ZIP CODE, ETHNIC GROUP, RELIGION, MARITAL STATUS, OR NATIONALI-  
 48 TY OF THE CONSUMER AS A FACTOR;

49 (B) DENY A POLICY OF PERSONAL LINES INSURANCE SOLELY ON THE BASIS OF  
 50 CREDIT INFORMATION, WITHOUT CONSIDERATION OF ANY OTHER APPLICABLE UNDER-  
 51 WRITING FACTOR INDEPENDENT OF CREDIT INFORMATION, PROVIDED THAT AN OFFER  
 52 BY AN INSURER TO PROVIDE COVERAGE BY WRITING A POLICY THROUGH AN AFFIL-  
 53 IATE INSURER OR A TIER WITHIN THE INSURER SHALL NOT CONSTITUTE A DENIAL  
 54 OF A POLICY;

55 (C) USE CREDIT INFORMATION TO CANCEL OR NONRENEW A POLICY OR INCREASE  
 56 AN INSURED'S PREMIUM FOR PERSONAL LINES INSURANCE ON RENEWAL PROVIDED

A. 4754--D

3

1 THAT NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT AN INSURER  
 2 FROM CONSIDERING AN INSURED'S TIER PLACEMENT PURSUANT TO SECTION TWO  
 3 THOUSAND THREE HUNDRED FORTY-NINE OF THIS CHAPTER OR PLACEMENT WITH A

4 COMPANY WITHIN A GROUP OF AFFILIATED COMPANIES IN CONJUNCTION WITH  
5 FACTORS OTHER THAN CREDIT INFORMATION AS PART OF ITS RENEWAL PROCESS;  
6 (D) TAKE AN ADVERSE ACTION AGAINST A CONSUMER SOLELY BECAUSE HE OR SHE  
7 DOES NOT HAVE A CREDIT CARD ACCOUNT, WITHOUT CONSIDERATION OF ANY OTHER  
8 APPLICABLE FACTOR INDEPENDENT OF CREDIT INFORMATION;  
9 (E) CONSIDER AN ABSENCE OF CREDIT INFORMATION OR AN INABILITY TO  
10 CALCULATE AN INSURANCE SCORE IN UNDERWRITING OR RATING PERSONAL INSUR-  
11 ANCE, UNLESS THE INSURER DOES ONE OF THE FOLLOWING:  
12 (1) TREATS THE CONSUMER AS IF THE APPLICANT OR INSURED HAD NEUTRAL  
13 CREDIT INFORMATION, AS DEFINED BY THE INSURER;  
14 (2) EXCLUDES THE USE OF CREDIT INFORMATION AS A FACTOR AND USES ONLY  
15 OTHER UNDERWRITING CRITERIA; OR  
16 (3) TREATS THE CONSUMER AS OTHERWISE APPROVED BY THE SUPERINTENDENT,  
17 IF THE INSURER PRESENTS INFORMATION THAT SUCH AN ABSENCE OR INABILITY  
18 RELATES TO THE RISK FOR THE INSURER;  
19 (F) TAKE AN ADVERSE ACTION AGAINST A CONSUMER BASED ON CREDIT INFORMA-  
20 TION, UNLESS AN INSURER OBTAINS AND USES A CREDIT REPORT ISSUED OR AN  
21 INSURANCE SCORE CALCULATED WITHIN NINETY DAYS FROM THE DATE THE POLICY  
22 IS FIRST WRITTEN;  
23 (G) USE CREDIT INFORMATION UNLESS AT LEAST ONCE EVERY THIRTY-SIX  
24 MONTHS, UPON THE REQUEST OF A CONSUMER OR THE CONSUMER'S AGENT, THE  
25 INSURER SHALL RE-UNDERWRITE AND RE-RATE THE POLICY BASED UPON A CURRENT  
26 CREDIT REPORT OR INSURANCE SCORE PROVIDED, HOWEVER, THAT THIS SHALL NOT  
27 RESULT IN A PREMIUM INCREASE FOR THE INSURED. AN INSURER NEED NOT RECAL-  
28 CULATE THE INSURANCE SCORE OR OBTAIN THE UPDATED CREDIT REPORT OF A  
29 CONSUMER MORE FREQUENTLY THAN ONCE IN A THIRTY-SIX-MONTH PERIOD.  
30 REGARDLESS OF THE REQUIREMENTS OF THIS SUBSECTION:  
31 (1) THE INSURER SHALL HAVE THE DISCRETION TO OBTAIN CURRENT CREDIT  
32 INFORMATION UPON ANY RENEWAL, IF CONSISTENT WITH ITS UNDERWRITING GUIDE-  
33 LINES PROVIDED THAT SUCH INFORMATION MAY BE USED ONLY TO REDUCE PREMIUMS  
34 FOR THE INSURED; AND  
35 (2) NO INSURER NEED OBTAIN CURRENT CREDIT INFORMATION FOR AN INSURED,  
36 DESPITE THE REQUIREMENTS OF THIS SUBSECTION, IF ONE OF THE FOLLOWING  
37 APPLIES:  
38 (A) THE INSURED IS IN THE MOST FAVORABLY-PRICED TIER OF THE INSURER,  
39 WITHIN A GROUP OF AFFILIATED INSURERS; OR  
40 (B) CREDIT WAS NOT USED FOR UNDERWRITING OR RATING SUCH INSURED WHEN  
41 THE POLICY WAS INITIALLY WRITTEN. HOWEVER, THE INSURER SHALL HAVE THE  
42 DISCRETION TO USE CREDIT FOR UNDERWRITING OR RATING SUCH INSURED UPON  
43 RENEWAL, IF SUCH USE WOULD REDUCE PREMIUMS FOR THE INSURED;  
44 (H) USE ANY OF THE FOLLOWING AS A NEGATIVE FACTOR IN ANY INSURANCE  
45 SCORING METHODOLOGY OR IN REVIEWING CREDIT INFORMATION FOR THE PURPOSE  
46 OF UNDERWRITING OR RATING A POLICY OF PERSONAL LINES INSURANCE:  
47 (1) CREDIT INQUIRIES NOT INITIATED BY THE CONSUMER OR INQUIRIES  
48 REQUESTED BY THE CONSUMER FOR HIS OR HER OWN CREDIT INFORMATION;  
49 (2) INQUIRIES RELATING TO INSURANCE COVERAGE, IF SO IDENTIFIED ON A  
50 CONSUMER'S CREDIT REPORT;  
51 (3) COLLECTION ACCOUNTS WITH A MEDICAL INDUSTRY CODE, IF SO IDENTIFIED  
52 ON THE CONSUMER'S CREDIT REPORT;  
53 (4) MULTIPLE LENDER INQUIRIES, IF CODED BY THE CONSUMER REPORTING  
54 AGENCY ON THE CONSUMER'S CREDIT REPORT AS BEING FROM THE HOME MORTGAGE  
55 INDUSTRY AND MADE WITHIN THIRTY DAYS OF ONE ANOTHER, UNLESS ONLY ONE  
56 INQUIRY IS CONSIDERED; OR

A. 4754--D

4

1 (5) MULTIPLE LENDER INQUIRIES, IF CODED BY THE CONSUMER REPORTING  
2 AGENCY ON THE CONSUMER'S CREDIT REPORT AS BEING FROM THE AUTOMOBILE  
3 LENDING INDUSTRY AND MADE WITHIN THIRTY DAYS OF ONE ANOTHER, UNLESS ONLY  
4 ONE INQUIRY IS CONSIDERED.

5 S 2803. DISPUTE RESOLUTION AND ERROR CORRECTION. IF IT IS DETERMINED  
6 THROUGH THE DISPUTE RESOLUTION PROCESS SET FORTH IN THE FEDERAL FAIR  
7 CREDIT REPORTING ACT, 15 USC 1681I(A)(5), THAT THE CREDIT INFORMATION OF  
8 A CURRENT INSURED WAS INCORRECT OR INCOMPLETE AND IF THE INSURER  
9 RECEIVES NOTICE OF SUCH DETERMINATION FROM EITHER THE CONSUMER REPORTING

10 AGENCY OR FROM THE INSURED, THE INSURER SHALL RE-UNDERWRITE AND RE-RATE  
 11 THE CONSUMER WITHIN THIRTY DAYS OF RECEIVING SUCH NOTICE. AFTER RE-UN-  
 12 DERWRITING OR RE-RATING THE INSURED, THE INSURER SHALL MAKE ANY ADJUST-  
 13 MENTS NECESSARY, CONSISTENT WITH ITS UNDERWRITING AND RATING GUIDELINES.  
 14 IF AN INSURER DETERMINES THAT THE INSURED HAS OVERPAID PREMIUM, THE  
 15 INSURER SHALL REFUND TO THE INSURED THE AMOUNT OF OVERPAYMENT CALCULATED  
 16 BACK TO THE LAST THIRTY-SIX MONTHS OF COVERAGE PROVIDED BY SUCH INSURER.

17 S 2804. INITIAL NOTIFICATION. AN INSURER WRITING PERSONAL LINES  
 18 INSURANCE WHICH USES CREDIT INFORMATION IN UNDERWRITING OR RATING A  
 19 CONSUMER, SHALL DISCLOSE SUCH FACT TO THE CONSUMER. THE INSURER SHALL  
 20 PROVIDE THE DISCLOSURE REQUIRED UNDER THIS SECTION TO ANY INSURED ON NEW  
 21 AND RENEWAL POLICIES.

22 (A) THE DISCLOSURE MUST BE PROVIDED IN A SEPARATE WRITTEN DOCUMENT,  
 23 WHICH NEED NOT BE PROVIDED IN A SEPARATE MAILING AS ANOTHER DOCUMENT AS  
 24 LONG AS IT IS PROVIDED ON A SEPARATE PIECE OF PAPER, EXCEPT THAT FOR NEW  
 25 BUSINESS IT MAY BE PROVIDED EITHER IN WRITING OR IN THE SAME MEDIUM AS  
 26 THE APPLICATION FOR INSURANCE.

27 (B) THE DISCLOSURE MUST, IN CLEAR AND SPECIFIC LANGUAGE, COMPLY WITH  
 28 THE FOLLOWING:

29 (1) INFORM THE CONSUMER THAT IT MAY OBTAIN CREDIT INFORMATION IN  
 30 CONNECTION WITH THE APPLICATION OR RENEWAL;

31 (2) GIVE AN EXPLANATION OF INSURANCE SCORING;

32 (3) LIST TYPICAL ITEMS RELATIVE TO A CONSUMER'S CREDIT HISTORY THAT  
 33 COULD AFFECT SUCH SCORE; AND

34 (4) PROVIDE THE NAME OF THE CONSUMER REPORTING AGENCY SUPPLYING THE  
 35 CREDIT DATA USED IN DETERMINING THE SCORE.

36 (C) USE OF ONE OF THE FOLLOWING EXAMPLE DISCLOSURE STATEMENTS CONSTI-  
 37 TUTES COMPLIANCE WITH THIS SECTION:

38 (1) "IN CONNECTION WITH THIS INSURANCE, WE MAY REVIEW YOUR CREDIT  
 39 REPORT OR OBTAIN OR USE A CREDIT-BASED INSURANCE SCORE BASED ON INFORMA-  
 40 TION CONTAINED IN THAT REPORT. AN INSURANCE SCORE USES INFORMATION FROM  
 41 YOUR CREDIT REPORT TO HELP PREDICT HOW OFTEN YOU ARE LIKELY TO FILE  
 42 CLAIMS AND HOW EXPENSIVE THOSE CLAIMS WILL BE. TYPICAL ITEMS FROM A  
 43 CREDIT REPORT THAT COULD AFFECT A SCORE INCLUDE, BUT ARE NOT LIMITED TO,  
 44 THE FOLLOWING: PAYMENT HISTORY, NUMBER OF REVOLVING ACCOUNTS, NUMBER OF  
 45 NEW ACCOUNTS, THE PRESENCE OF COLLECTION ACCOUNTS, BANKRUPTCIES AND  
 46 FORECLOSURES. THE INFORMATION USED TO DEVELOP THE INSURANCE SCORE COMES  
 47 FROM (INSERT NAME.)"; OR

48 (2) USE OF THE FOLLOWING EXAMPLE DISCLOSURE STATEMENT FOR RENEWAL  
 49 BUSINESS CONSTITUTES COMPLIANCE WITH THIS SECTION: "IN CONNECTION WITH  
 50 THIS INSURANCE, WE PREVIOUSLY USED A CREDIT REPORT OR OBTAINED OR USED A  
 51 CREDIT-BASED INSURANCE SCORE BASED ON INFORMATION CONTAINED IN THAT  
 52 REPORT. WE MAY OBTAIN OR USE CREDIT INFORMATION AGAIN PROVIDED, HOWEVER,  
 53 THAT UPON RENEWAL SUCH INFORMATION MAY ONLY BE USED TO REDUCE PREMIUMS.  
 54 AN INSURANCE SCORE USES INFORMATION FROM YOUR CREDIT REPORT TO HELP  
 55 PREDICT HOW OFTEN YOU ARE LIKELY TO FILE CLAIMS AND HOW EXPENSIVE THOSE  
 56 CLAIMS WILL BE. TYPICAL ITEMS FROM A CREDIT REPORT THAT COULD AFFECT A

A. 4754--D

5

1 SCORE INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING: PAYMENT HISTORY,  
 2 NUMBER OF REVOLVING ACCOUNTS, NUMBER OF NEW ACCOUNTS, THE PRESENCE OF  
 3 COLLECTION ACCOUNTS, BANKRUPTCIES AND FORECLOSURES. THE INFORMATION USED  
 4 TO DEVELOP THE INSURANCE SCORE COMES FROM (INSERT NAME.)".

5 (D) IF A NEW BUSINESS APPLICATION IS TAKEN OVER THE TELEPHONE, AN ORAL  
 6 DISCLOSURE MAY BE PROVIDED BY ONE OF THE FOLLOWING APPROACHES:

7 (1) AS DESCRIBED IN SUBSECTIONS (A) THROUGH (C) OF THIS SECTION; OR

8 (2) (A) BY FIRST DISCLOSING THE FACT THAT THE INSURER MAY OBTAIN CRED-  
 9 IT INFORMATION IN CONNECTION WITH SUCH APPLICATION, AS INDICATED IN  
 10 PARAGRAPH ONE OF SUBSECTION (B) OF THIS SECTION. USE OF THE FOLLOWING  
 11 EXAMPLE DISCLOSURE CONSTITUTES COMPLIANCE WITH THIS PROVISION: "IN  
 12 CONNECTION WITH THIS APPLICATION FOR INSURANCE, WE MAY REVIEW YOUR CRED-  
 13 IT REPORT OR OBTAIN OR USE A CREDIT-BASED INSURANCE SCORE BASED ON THE  
 14 INFORMATION CONTAINED IN THAT CREDIT REPORT."; AND

15 (B) IF A POLICY IS ISSUED, BY SUPPLYING THE INFORMATION REQUIRED UNDER

16 PARAGRAPHS TWO, THREE AND FOUR OF SUBSECTION (B) OF THIS SECTION. THE  
 17 DISCLOSURE MUST BE PROVIDED IN A SEPARATE WRITTEN DOCUMENT, WHICH NEED  
 18 NOT BE PROVIDED IN A SEPARATE MAILING AS ANOTHER DOCUMENT AS LONG AS IT  
 19 IS PROVIDED ON A SEPARATE PIECE OF PAPER. USE OF THE FOLLOWING EXAMPLE  
 20 DISCLOSURE CONSTITUTES COMPLIANCE WITH THIS PROVISION: "IN CONNECTION  
 21 WITH THIS INSURANCE, WE REVIEWED YOUR CREDIT REPORT OR OBTAINED OR USED  
 22 A CREDIT-BASED INSURANCE SCORE BASED ON INFORMATION CONTAINED IN THAT  
 23 REPORT. AN INSURANCE SCORE USES INFORMATION FROM YOUR CREDIT REPORT TO  
 24 HELP PREDICT HOW OFTEN YOU ARE LIKELY TO FILE CLAIMS AND HOW EXPENSIVE  
 25 THOSE CLAIMS WILL BE. TYPICAL ITEMS FROM A CREDIT REPORT THAT COULD  
 26 AFFECT A SCORE INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING: PAYMENT  
 27 HISTORY, NUMBER OF REVOLVING ACCOUNTS, NUMBER OF NEW ACCOUNTS, THE PRES-  
 28 ENCE OF COLLECTION ACCOUNTS, BANKRUPTCIES AND FORECLOSURES. THE INFORMA-  
 29 TION USED TO DEVELOP THE INSURANCE SCORE COMES FROM (INSERT NAME.)".  
 30 S 2805. ADVERSE ACTION NOTIFICATION. IF AN INSURER TAKES AN ADVERSE  
 31 ACTION BASED UPON CREDIT INFORMATION, THE INSURER SHALL:

32 (A) PROVIDE NOTIFICATION TO THE CONSUMER THAT AN ADVERSE ACTION HAS  
 33 BEEN TAKEN, IN ACCORDANCE WITH THE REQUIREMENTS OF THE FEDERAL FAIR  
 34 CREDIT REPORTING ACT, 15 USC 1681M(A); AND

35 (B) PROVIDE NOTIFICATION TO THE CONSUMER EXPLAINING THE REASON FOR THE  
 36 ADVERSE ACTION. THE REASONS MUST BE PROVIDED IN SUFFICIENTLY CLEAR AND  
 37 SPECIFIC LANGUAGE SO THAT A PERSON CAN IDENTIFY THE BASIS FOR THE INSUR-  
 38 ER'S DECISION TO TAKE AN ADVERSE ACTION. SUCH NOTIFICATION SHALL INCLUDE  
 39 A DESCRIPTION OF UP TO FOUR FACTORS THAT WERE THE PRIMARY INFLUENCES OF  
 40 THE ADVERSE ACTION. THE USE OF GENERALIZED TERMS SUCH AS "POOR CREDIT  
 41 HISTORY", "POOR CREDIT RATING", OR "POOR INSURANCE SCORE" DOES NOT MEET  
 42 THE EXPLANATION REQUIREMENTS OF THIS SUBSECTION. STANDARDIZED CREDIT  
 43 EXPLANATIONS PROVIDED BY CONSUMER REPORTING AGENCIES OR OTHER THIRD  
 44 PARTY VENDORS ARE DEEMED TO COMPLY WITH THIS SECTION.

45 S 2806. FILING. (A) INSURERS THAT USE INSURANCE SCORES TO UNDERWRITE  
 46 AND RATE RISKS MUST FILE THEIR SCORING MODELS (OR OTHER SCORING PROC-  
 47 ESSES) WITH THE SUPERINTENDENT. ANY SUBSEQUENT REVISION TO THE SCORING  
 48 MODELS WILL REQUIRE THE INSURER TO FILE A SUMMARY OF THE REVISION WITH  
 49 THE SUPERINTENDENT WITHIN FORTY-FIVE DAYS. A THIRD PARTY MAY FILE SCOR-  
 50 ING MODELS ON BEHALF OF INSURERS. A FILING THAT INCLUDES INSURANCE SCOR-  
 51 ING MAY INCLUDE LOSS EXPERIENCE JUSTIFYING THE USE OF CREDIT INFORMA-  
 52 TION.

53 (B) ANY FILING RELATING TO CREDIT INFORMATION FILED AND IN THE  
 54 POSSESSION OF THE SUPERINTENDENT SHALL REMAIN THE PROPERTY OF THE INSUR-  
 55 ER AND SHALL NOT BE SUBJECT TO ANY DISCLOSURE OR PRODUCTION UNDER ARTI-  
 56 CLE SIX OR SIX-A OF THE PUBLIC OFFICERS LAW OR ANY OTHER LAW OF THE

A. 4754--D

6

1 STATE WHICH AUTHORIZES OR REQUIRES THE SUPERINTENDENT TO DISCLOSE OR  
 2 PRODUCE RECORDS TO AN OUTSIDE PARTY. THIS INFORMATION IS PRIVILEGED  
 3 INFORMATION AND IS NOT DISCOVERABLE OR ADMISSIBLE AS EVIDENCE IN ANY  
 4 LEGAL ACTION IN ANY CIVIL, CRIMINAL OR ADMINISTRATIVE PROCEEDING. THE  
 5 PRIVILEGE CREATED HEREIN IS A MATTER OF SUBSTANTIVE LAW OF THIS STATE  
 6 AND IS NOT MERELY A PROCEDURAL MATTER GOVERNING CIVIL OR CRIMINAL PROCE-  
 7 DURES IN THE COURTS OF THIS STATE AND THIS INFORMATION SHALL REMAIN  
 8 SUBJECT TO ALL APPLICABLE STATUTORY OR COMMON LAW PRIVILEGES.

9 S 2807. SALE OF INFORMATION BY CONSUMER REPORTING AGENCY. (A) NO  
 10 CONSUMER REPORTING AGENCY SHALL PROVIDE OR SELL DATA OR LISTS THAT  
 11 INCLUDE ANY INFORMATION THAT IN WHOLE OR IN PART WAS SUBMITTED IN  
 12 CONJUNCTION WITH AN INSURANCE INQUIRY ABOUT A CONSUMER'S CREDIT INFORMA-  
 13 TION OR A REQUEST FOR A CREDIT REPORT OR INSURANCE SCORE. SUCH INFORMA-  
 14 TION INCLUDES, BUT IS NOT LIMITED TO, THE EXPIRATION DATES OF AN INSUR-  
 15 ANCE POLICY OR ANY OTHER INFORMATION THAT MAY IDENTIFY TIME PERIODS  
 16 DURING WHICH A CONSUMER'S INSURANCE MAY EXPIRE AND THE TERMS AND CONDI-  
 17 TIONS OF THE CONSUMER'S INSURANCE COVERAGE.

18 (B) THE RESTRICTIONS PROVIDED IN SUBSECTION (A) OF THIS SECTION DO NOT  
 19 APPLY TO DATA OR LISTS THE CONSUMER REPORTING AGENCY SUPPLIES TO THE  
 20 INSURANCE AGENT OR BROKER FROM WHOM INFORMATION WAS RECEIVED, THE INSUR-  
 21 ER ON WHOSE BEHALF SUCH AGENT OR BROKER ACTED, OR SUCH INSURER'S AFFIL-

22 IATES OR HOLDING COMPANIES.

23 (C) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RESTRICT ANY INSURER  
24 FROM BEING ABLE TO OBTAIN A CLAIMS HISTORY REPORT OR A MOTOR VEHICLE  
25 REPORT.

26 S 2808. INDEMNIFICATION. AN INSURER SHALL INDEMNIFY, DEFEND AND HOLD  
27 AGENTS HARMLESS FROM AND AGAINST ALL LIABILITY, FEES AND COSTS ARISING  
28 OUT OF OR RELATING TO THE ACTIONS, ERRORS OR OMISSIONS OF THE AGENT  
29 RESULTING FROM OBTAINING OR USING CREDIT INFORMATION AND/OR INSURANCE  
30 SCORES FOR AN INSURER, PROVIDED THE AGENT FOLLOWS THE INSTRUCTIONS OF OR  
31 PROCEDURES ESTABLISHED BY THE INSURER, WORKS WITHIN THE AUTHORITY GRANT-  
32 ED BY THE INSURER TO THE AGENT AND COMPLIES WITH ANY APPLICABLE LAW OR  
33 REGULATION. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROVIDE A  
34 CONSUMER OR OTHER INSURED WITH A CAUSE OF ACTION THAT DOES NOT EXIST IN  
35 THE ABSENCE OF THIS SECTION.

36 S 2809. SEVERABILITY. IF ANY SECTION, PARAGRAPH, SENTENCE, CLAUSE,  
37 PHRASE, OR ANY PART OF THIS ARTICLE IS DECLARED INVALID DUE TO AN INTER-  
38 PRETATION OF OR A FUTURE CHANGE IN THE FEDERAL FAIR CREDIT REPORTING ACT  
39 OR IS ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID,  
40 SUCH JUDGMENT, INTERPRETATION OR CHANGE SHALL NOT AFFECT, IMPAIR OR  
41 INVALIDATE THE REMAINDER THEREOF AND THE REMAINING SECTIONS, PARAGRAPHS,  
42 SENTENCES, CLAUSES, PHRASES, OR PARTS THEREOF SHALL BE IN NO MANNER  
43 AFFECTED THEREBY BUT SHALL REMAIN IN FULL FORCE AND EFFECT.

44 S 2. This act shall take effect on the two hundred seventieth day  
45 after it shall have become a law and shall apply to policies issued  
46 and/or renewed on and after such date; provided that the superintendent  
47 of insurance shall promulgate rules and regulations necessary to effec-  
48 tuate the provisions of this act at least sixty days prior to such  
49 effective date.

.SO DOC A 4754D

\*END\*

BTXT

2003

Contact Webmaster