

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 771
Commerce Committee Substitute Adopted 4/23/03

Short Title: Credit Scoring Limitation.

(Public)

Sponsors:

Referred to:

April 3, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT THE USE OF A PERSON'S CREDIT HISTORY FOR
3 DISCOUNTING RATES ON AUTOMOBILE AND HOMEOWNERS'
4 INSURANCE AND TO PROHIBIT THE USE OF A PERSON'S CREDIT
5 HISTORY AS A SOLE BASIS FOR TERMINATING INSURANCE COVERAGE
6 OR SUBJECTING A POLICY TO CONSENT TO RATE.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. Article 36 of Chapter 58 of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 58-36-90. Prohibitions on using credit scoring to rate nonfleet private passenger
11 motor vehicle and residential property insurance; exceptions.**

12 (a) Definitions. – As used in this section:

13 (1) "Adverse action" has the same meaning as in section 1681a(k) of the
14 federal Fair Credit Reporting Act and includes a denial or cancellation
15 of, an increase in any charge for, or a reduction or other adverse or
16 unfavorable change in the terms of coverage or amount of any
17 insurance, existing or applied for, in connection with the underwriting
18 of insurance.

19 (2) "Credit report" means any written, oral, or other communication of any
20 information by a consumer reporting agency that bears on a
21 consumer's credit worthiness, credit standing, or credit capacity. Credit
22 report does not include accident or traffic violation records as
23 maintained by the North Carolina Division of Motor Vehicles or any
24 other law enforcement agency, a property loss report or claims history
25 that does not include information that bears on a consumer's credit
26 worthiness, credit standing, or credit capacity, or any report containing
27 information solely as to transactions or experiences between the
28 consumer and the person making the report.

1 (3) "Credit score" means a score that is derived by utilizing data from an
2 individual's credit report in an algorithm, computer program, model, or
3 other process that reduces the data to a number or rating.

4 (4) "Private passenger motor vehicle" has the same meaning as set forth in
5 G.S. 58-40-10.

6 (5) "Residential property" means real property with not more than four
7 housing units located in this State, the contents thereof and valuable
8 interest therein, and insurance coverage written in connection with the
9 sale of that property. It also includes mobile homes, modular homes,
10 townhomes, condominiums, and insurance on contents of apartments
11 and rental property used for residential purposes.

12 (b) Prohibitions; Exceptions. – In the rating and underwriting of private
13 passenger motor vehicle and residential property insurance coverage, insurers shall not
14 use credit scoring as the sole basis for either of the following:

15 (1) Terminating an existing policy or any coverage in an existing policy.

16 (2) Subjecting a policy to consent to rate, as specified in G.S. 58-36-30(b).

17 For the rating and underwriting of private passenger motor vehicle and residential
18 property insurance coverage, credit scoring may be used only to discount rates.

19 (c) Notification. – If a credit report is used in conjunction with other criteria to
20 take an adverse action, the insurer shall provide the applicant or policyholder with
21 written notice of the action taken, in a form approved by the Commissioner. The
22 notification shall include, in easily understandable language:

23 (1) The specific reason for the adverse action and, if the adverse action
24 was based upon a credit score, a description of the factors that were the
25 primary influence on the score.

26 (2) The name, address, and toll-free telephone number of the credit bureau
27 that provided the insurer with the credit-based information.

28 (3) The fact that the consumer has the right to obtain a free copy of the
29 consumer's credit report from the appropriate credit bureau.

30 (4) The fact that the consumer has the right to challenge information
31 contained in the consumer's credit report.

32 (d) Disputed Credit Report Information. – An applicant or policyholder who
33 disputes the credit report information used with other criteria by the insurer to take an
34 adverse action against the applicant or policyholder shall have the rights afforded an
35 individual under G.S. 58-39-50. The Commissioner may enforce the provisions of this
36 section by all means allowed by law, including the authority granted in G.S. 58-39-70.
37 For purposes of the operation of this subsection, credit report information shall
38 constitute "recorded personal information".

39 (e) Filing. – Insurers that use insurance scores to underwrite and rate risks shall
40 file their scoring models, or other scoring processes, with the Department. A filing that
41 includes insurance scoring may include loss experience justifying the applicable
42 surcharge or credit. A filer may request that its credit score data be considered a trade
43 secret and may designate parts of its filings accordingly."

1 **SECTION 2.** This act becomes effective January 1, 2004, and applies to
2 policies issued or renewed on or after that date and to applications for coverage made on
3 or after that date.