

SENATE BILL NO. 98

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/23/17

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to insurer actions based on credit history and insurance scores at
2 insurance policy renewal; and providing for insurer consideration of consumer requests
3 for exceptions of credit history or insurance scores."

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

5 * **Section 1.** AS 21.36.460 is amended to read:

6 (a) If an insurer writing personal insurance uses credit information in
7 underwriting or rating a consumer, the insurer shall disclose, either on the insurance
8 application or, at the time the insurance application is taken, **and at the time of**
9 **renewal**, that the insurer will obtain credit information in connection with the
10 application **or renewal**. The disclosure required under this subsection shall be in
11 writing or in the same medium as the application for insurance **or the notice of**
12 **renewal**. Use of the following statement constitutes compliance with this subsection:
13 "In connection with this application for insurance **or notice of renewal**, we will
14 review your credit report or obtain or use a credit-based insurance score based on the

1 information contained in your credit report. We may use this information to decide
 2 whether to insure you or how much to charge." If an insurer uses a third party to
 3 calculate the **consumer's** [APPLICANT'S] insurance score, the disclosure required
 4 under this subsection must also contain language similar to: "We may use a third party
 5 in connection with the development of your insurance score."

6 * **Sec. 2.** AS 21.36.460(b) is amended to read:

7 (b) An insurer that takes adverse action involving personal insurance against a
 8 consumer based in whole or in part on credit history or insurance score shall provide
 9 **notice of the adverse action, in writing, to** the consumer [THE OPPORTUNITY TO
 10 REQUEST RECONSIDERATION OF THE ADVERSE ACTION AND PROVIDE
 11 WRITTEN NOTICE TO THE APPLICANT OR NAMED INSURED]. The notice
 12 must

13 (1) clearly and specifically state the significant factors of the credit
 14 history or insurance score that resulted in the adverse action, in a manner that allows
 15 the consumer to identify the basis for the adverse action;

16 (2) inform the consumer that the consumer is entitled to

17 (A) request reconsideration of the adverse action; and

18 (B) a free copy of the consumer's report under 15 U.S.C. 1681
 19 et seq. (Fair Credit Reporting Act);

20 (3) inform the consumer that the consumer has the right to correct
 21 errors in the credit report;

22 (4) advise the consumer on ways to improve the consumer's insurance
 23 score; [AND]

24 (5) provide information to assist the consumer with the error correction
 25 process; **and**

26 **(6) inform the consumer**

27 **(A) that reasonable exceptions to the insurer's rates, rating**
 28 **classifications, company or tier placement, or underwriting rules or**
 29 **guidelines are available for a consumer who has experienced, and whose**
 30 **credit history has been affected by, one or more extraordinary life**
 31 **circumstances listed under AS 21.36.461;**

1 (B) how the consumer may request an exception from the
 2 insurer; and

3 (C) that for the request for an exception to be considered by
 4 the insurer, the consumer must submit the request to the insurer not later
 5 than 60 days after receiving the notice under this section.

6 * **Sec. 3.** AS 21.36.460(c) is amended to read:

7 (c) An insurer may use a consumer's credit history or insurance score to
 8 cancel, deny, nonrenew, underwrite, or rate personal insurance only in combination
 9 with other substantive underwriting factors. If an insurer uses a consumer's credit
 10 history or insurance score, then not later than 24 months after the insurer most
 11 recently used the consumer's credit history or insurance score to underwrite or
 12 rate a policy, the insurer shall reunderwrite and rerate the policy based on the
 13 consumer's current

14 (1) credit history or insurance score and current risk
 15 characteristics; or

16 (2) risk characteristics but not including, in whole or in part, the
 17 consumer's credit history or insurance score; for [FOR] the purposes of this
 18 subsection,

19 (A) [(1)] refusal to offer personal insurance coverage to a
 20 consumer constitutes denial of personal insurance; and

21 (B) [(2)] an offer of placement with an affiliate insurer does not
 22 constitute denial of coverage.

23 * **Sec. 4.** AS 21.36.460(d) is amended to read:

24 (d) An insurer may not

25 (1) [FAIL TO RENEW OR, AT RENEWAL, AGAIN
 26 UNDERWRITE OR RATE A PERSONAL INSURANCE POLICY BASED IN
 27 WHOLE OR IN PART ON A CONSUMER'S CREDIT HISTORY OR INSURANCE
 28 SCORE; THE PROHIBITION IN THIS PARAGRAPH AGAINST
 29 UNDERWRITING OR RATING A PERSONAL INSURANCE POLICY AT
 30 RENEWAL MAY BE WAIVED BY THE CONSUMER; WAIVER ALLOWED
 31 UNDER THIS PARAGRAPH MUST OCCUR AT EACH RENEWAL;

1 (2)] cancel, deny, nonrenew, underwrite, or rate personal insurance
2 coverage based in whole or in part on

3 (A) the absence of credit history or the inability to determine
4 the consumer's credit history if the insurer has received accurate and complete
5 information from the consumer; this subparagraph does not apply if the insurer
6 treats the consumer as if the consumer had neutral credit information as
7 approved by the director;

8 (B) credit inquiries not initiated by the consumer;

9 (C) credit inquiries relating to insurance coverage if identified
10 on a consumer's credit report;

11 (D) credit inquiries by the consumer for the consumer's own
12 credit information;

13 (E) multiple lender inquiries if coded on the consumer's credit
14 report as being for automobile, boat, recreation vehicle, or home mortgage
15 loans, unless all inquiries under that code within a 30-day period are counted
16 as one;

17 (F) credit history or an insurance score based on collection
18 accounts identified with a medical industry code;

19 (G) the consumer's use of a particular type of credit card,
20 charge card, or debit card or the absence of a credit card;

21 (H) the consumer's total available line of credit; however, the
22 consumer's ratio of debt to total available line of credit may be considered;

23 (I) the age of the most recent automobile or home loan obtained
24 by the consumer; however, an insurer may consider the bill payment history or
25 total number of loans; or

26 (J) the person's age when credit is established;

27 (2) [(3)] use the credit history of the consumer when the consumer is
28 adversely affected by a joint account owner who was the spouse of the consumer or a
29 joint account owner who is the spouse of the consumer and who is a party to a divorce
30 or dissolution action against the consumer; this paragraph applies only if the consumer
31 provides written notice to the insurer that identifies the credit information that is

1 adversely affected by the joint account owner; this paragraph does not prevent the use
2 of credit history that is not identified by the consumer as required by this paragraph;

3 **(3)** [(4)] use an insurance score that is calculated using the income,
4 age, sex, address, zip code, census block, ethnic group, religion, marital status, or
5 nationality of the consumer as a factor;

6 **(4)** [(5)] use credit history to **cancel, deny, nonrenew, underwrite, or**
7 **rate a personal insurance policy** [DETERMINE AN INSURANCE SCORE] if the
8 history is obtained more than 90 days before the policy is [ISSUED] **cancelled,**
9 **denied, nonrenewed, underwritten, or rated; this paragraph does not require an**
10 **insurer to reevaluate a consumer's credit history more frequently than is**
11 **required under (c) of this section;**

12 **(5)** [(6)] use an insurance score derived from an insurance scoring
13 model to determine eligibility for an insurance payment plan; this paragraph does not
14 prohibit the use of credit history to evaluate the ability of the consumer to make
15 payments.

16 * **Sec. 5.** AS 21.36 is amended by adding a new section to read:

17 **Sec. 21.36.461. Extraordinary life circumstances.** (a) Except as provided in
18 AS 21.36.460(d), an insurer that uses a consumer's credit history or insurance score
19 shall provide reasonable exceptions to the insurer's rates, rating classifications,
20 company or tier placement, or underwriting rules or guidelines for a consumer who
21 has experienced, and whose credit history or insurance score has been affected by one
22 or more of the following extraordinary life circumstances:

23 (1) a catastrophe, as declared by the director under AS 21.06.080;

24 (2) a serious illness or injury, or a serious illness of or injury to an
25 immediate family member;

26 (3) the death of a spouse, child, or parent;

27 (4) divorce or the involuntary interruption of spousal support or
28 maintenance payments;

29 (5) identity theft;

30 (6) loss of employment for three months or more as a result of
31 involuntary termination;

1 (7) military overseas deployment; or
 2 (8) other extraordinary life circumstances where a prudent person
 3 would consider an exception to the insurer's rates, rating classifications, company or
 4 tier placement, or underwriting rules or guidelines to be reasonable.

5 (b) If a consumer submits a request for an exception under AS 21.36.460(b),
 6 an insurer may require the consumer to

7 (1) provide reasonable written and independently verifiable
 8 documentation of the extraordinary life circumstances;

9 (2) demonstrate that the circumstances had a direct and meaningful
 10 effect on the consumer's credit information.

11 (c) If a consumer submits a request for an exception under AS 21.36.460(b),
 12 an insurer may

13 (1) grant an exception;

14 (2) grant an exception if the consumer asks for consideration of
 15 repeated events; and

16 (3) grant an exception if the insurer previously had considered a
 17 request.

18 (d) An insurer may not be considered out of compliance with a law or rule
 19 relating to underwriting, rating, or rate filing as a result of granting an exception under
 20 this section.

21 (e) Not later than 30 days after the insurer receives sufficient documentation
 22 of the information requested from the consumer under (b) of this section, the insurer
 23 shall provide notice to the consumer, in writing, that

24 (1) the exception is granted and the adverse action will not be taken; or

25 (2) the exception is denied and the adverse action will be maintained.

26 (f) If an exception is denied and the adverse action will be maintained, the
 27 insurer's notice under (e) of this section must include

28 (1) the insurer's reason for denying the request for an exception and for
 29 maintaining the adverse action; and

30 (2) information notifying the consumer of the consumer's right to
 31 appeal the adverse action resulting from the denial of the consumer's request for an

1 exception to the director.

2 (g) A consumer, aggrieved by an adverse action resulting from the denial of
3 the consumer's request for an exception may appeal the adverse action to the director
4 not later than 30 days after receiving the insurer's notice under (e) of this section. The
5 appeal must include the consumer's reason for opposing the adverse action and for
6 requesting the exception.

7 (h) The director shall make a decision on the consumer's appeal not later than
8 30 days after receiving the appeal and shall provide the decision to both the insurer
9 and the consumer. The decision must include an explanation of the decision and must
10 be based on

11 (1) what a prudent person would consider to be a fair and reasonable
12 decision given the consumer's circumstances; and

13 (2) the record, which must be limited to the following:

14 (A) the insurer's notice of adverse action provided to the
15 consumer under AS 21.36.460(b);

16 (B) the consumer's request for an exception submitted to the
17 insurer under AS 21.36.460(b);

18 (C) any information submitted by the consumer to the insurer
19 under (b) of this section;

20 (D) the insurer's notice provided to the consumer under (e) of
21 this section;

22 (E) the consumer's appeal submitted to the director under (g) of
23 this section; and

24 (F) if requested by the director, additional information
25 necessary to make a fair and reasonable decision.

26 (i) The hearing and appeal procedures provided for in AS 21.06.180 -
27 21.06.230 do not apply to consumer appeals submitted to the director under (g) of this
28 section.

29 (j) Nothing in this section may be construed to provide a consumer with a
30 cause of action that does not exist in the absence of this section.

31 (k) In this section,

1 (1) "adverse action" is limited to an adverse action defined under
 2 AS 21.36.460(i) that is based in whole or in part on the consumer's credit history or
 3 insurance score as affected by one or more extraordinary life circumstances;

4 (2) "consumer" has the meaning given in AS 21.36.460;

5 (3) "director" has the meaning given in AS 21.97.900.

6 * **Sec. 6.** AS 44.64.030(a) is amended to read:

7 (a) The office shall conduct all adjudicative administrative hearings required
 8 under the following statutes or under regulations adopted to implement the statutes:

9 (1) AS 04.11.510(b)(1) and (c) (alcoholic beverages license);

10 (2) AS 05.15 (charitable gaming);

11 (3) AS 05.20 (recreational devices);

12 (4) AS 05.90.001 (special racing events);

13 (5) AS 06 (banks, financial institutions, and fund claims), except as
 14 provided otherwise by AS 06.60.590;

15 (6) AS 08 (occupational licensing), other than AS 08.08,
 16 AS 08.18.125, and AS 08.62.046;

17 (7) AS 10.06 (Alaska Corporations Code);

18 (8) AS 10.13 (Alaska BIDCO Act);

19 (9) AS 10.25.375 (Electric and Telephone Cooperative Act);

20 (10) AS 10.50.408 (limited liability companies);

21 (11) AS 14.11.016 (education-related facility grants);

22 (12) AS 14.18 (discrimination in public education);

23 (13) AS 14.25.006 (teachers' retirement system);

24 (14) AS 14.25.175 (waiver of adjustments under teachers' defined
 25 benefit plan);

26 (15) AS 14.40.155 (suspension and removal of regents);

27 (16) AS 14.48 (postsecondary educational institutions);

28 (17) AS 17.20 (Alaska Food, Drug, and Cosmetic Act), other than
 29 AS 17.20.060 and 17.20.360;

30 (18) AS 18.07 (certificate of need program);

31 (19) AS 18.20 (hospitals and nursing facilities);

- 1 (20) AS 21.09, AS 21.22.190, AS 21.27, except under
 2 AS 21.27.420(d), AS 21.34, AS 21.36, except under AS 21.36.461, AS 21.69,
 3 AS 21.86.200, AS 21.87, and AS 21.96 (insurance);
- 4 (21) AS 25.27 (child support services);
- 5 (22) AS 32.06 (Uniform Partnership Act);
- 6 (23) AS 34.45 (unclaimed property);
- 7 (24) AS 34.55.024 and 34.55.026 (Uniform Land Sales Practices Act);
- 8 (25) AS 36.30 (State Procurement Code), other than
 9 AS 36.30.627(a)(2);
- 10 (26) AS 38.05.065 (contracts for sale of state land);
- 11 (27) AS 39.30.165 (supplemental benefits system);
- 12 (28) AS 39.30.335 (teachers' and public employees' health
 13 reimbursement arrangement plan);
- 14 (29) AS 39.35.006 (public employees' retirement system);
- 15 (30) AS 39.35.522 (waiver of adjustments under public employees'
 16 defined benefit plan);
- 17 (31) AS 39.45.055 (public employees' deferred compensation
 18 program);
- 19 (32) AS 39.52 (Alaska Executive Branch Ethics Act);
- 20 (33) AS 43.23 (permanent fund dividends);
- 21 (34) AS 43.70 (Alaska Business License Act);
- 22 (35) AS 44.50 (notaries public);
- 23 (36) AS 44.77 (claims against the state);
- 24 (37) AS 45.30.040 (mobile homes);
- 25 (38) AS 45.48.080(c) (breach of security involving personal
 26 information);
- 27 (39) AS 45.55 (Alaska Securities Act);
- 28 (40) AS 45.57 (Takeover Bid Disclosure Act);
- 29 (41) AS 46 (water, air, energy, and environmental conservation), other
 30 than AS 46.03.820, 46.03.850, AS 46.39, and AS 46.40;
- 31 (42) AS 47.05 (assistance programs);

- 1 (43) AS 47.07 (medical assistance for needy persons);
- 2 (44) AS 47.25 (public assistance);
- 3 (45) AS 47.27 (Alaska temporary assistance program);
- 4 (46) AS 47.32 (licensing by the Department of Health and Social
- 5 Services);
- 6 (47) AS 47.37.130 (alcohol safety action program);
- 7 (48) AS 47.37.140 (treatment facilities);
- 8 (49) AS 47.45.050 (longevity bonuses);
- 9 (50) AS 47.45.306 (Alaska senior benefits payment program).