



General Assembly

February Session, 2020

Raised Bill No. 5372

LCO No. 1976



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

AN ACT PROHIBITING INSURANCE COMPANIES FROM USING CREDIT HISTORY AS A FACTOR IN UNDERWRITING OR RATING PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURANCE POLICIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivisions (4) to (6), inclusive, of subsection (b) of section
2 38a-686 of the general statutes are repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2020*):

4 (4) (A) Each rating plan for private passenger nonfleet automobile
5 insurance that includes territorial classifications shall assign a weight of
6 seventy-five per cent to individual territorial loss cost indication and
7 twenty-five per cent to the state-wide average loss cost indication.

8 (B) An insurer shall not use an applicant's or insured's credit history
9 as a factor in underwriting or rating private passenger nonfleet
10 automobile insurance.

11 (5) Each rating plan shall establish appropriate eligibility criteria for
12 determining significant risks that are to qualify under the plan. Rating

13 plans that comply with the provisions of this subdivision shall be
14 deemed to produce rates that are not unfairly discriminatory.

15 (6) With respect to personal risk insurance other than private
16 passenger nonfleet automobile insurance, an insurer shall not use an
17 applicant's or insured's credit history as a factor in underwriting or
18 rating except in accordance with this subdivision. For the purposes of
19 this section, "credit history" means any credit-related information
20 derived from or found in a credit report or credit scoring program or
21 provided in an application for personal risk insurance, and "financial
22 history measurement program" means a program that uses an
23 applicant's credit history to measure such applicant's risk of loss.

24 (A) An insurer shall file with the commissioner any financial history
25 measurement program it uses to underwrite or rate risks for personal
26 risk insurance. Such filing shall (i) include a description of the program,
27 (ii) identify the characteristics used in such program from which a
28 measurement is derived, (iii) include the rules and procedures of such
29 program, and (iv) include an explanation of the impact of credit
30 information and items of public record on insurance rates over time.
31 Such program shall not unfairly discriminate among applicants or
32 produce rates that are excessive for the risk assumed. Any filing made
33 pursuant to this subparagraph shall be considered a trade secret for the
34 purposes of section 1-210.

35 (B) (i) An insurer that uses a financial history measurement program
36 shall submit to the commissioner documentation that demonstrates the
37 correlation between such program and the expected risk of loss, and
38 how such program impacts consumers (I) in urban territories, versus
39 consumers in nonurban territories, and (II) based on consumers' ages.
40 The commissioner may request the insurer to provide a financial history
41 measurement for a set of test examples that reflect various
42 characteristics.

43 (ii) An insurer that uses a financial history measurement program
44 shall disclose to each applicant for personal risk insurance, in writing,

45 by telephone, by electronic mail or orally, at the time of application that
46 the applicant's credit history may be used in the underwriting or rating
47 of such applicant's policy, and that the applicant has the right to request,
48 in writing, that the insurer consider, during its underwriting or rating
49 process or during a review requested by such applicant of a rate quote,
50 an extraordinary life circumstance, as set forth in subparagraph (D) of
51 this subdivision, if such applicant's credit history has been adversely
52 impacted by such extraordinary life circumstance and such
53 extraordinary life circumstance occurred within three years before the
54 date of the application. In addition, such insurer shall provide to each
55 purchaser of such policy, not later than the date of issuance of such
56 policy, a written disclosure that includes: (I) The name, address,
57 telephone number and toll-free telephone number, if applicable, of the
58 insurer; (II) detailed information about how the insurer uses credit
59 information to underwrite or rate such policies; and (III) a summary of
60 consumer protections regarding the use of credit, in a form determined
61 by the commissioner. Such written disclosure shall be printed in
62 reasonably conspicuous type and be provided by the insurer
63 electronically, by mail or by hand delivery.

64 (C) (i) An insurer may use a financial history measurement program
65 to underwrite or rate risks only (I) for new personal risk insurance
66 policies, or (II) upon renewal, either at the request of an insured or if
67 such use reduces the premium for the insured in accordance with the
68 insurer's filed rates and rules.

69 (ii) An insurer shall not use the following characteristics in a financial
70 history measurement program: (I) The number of credit inquiries in an
71 applicant's or insured's credit report or credit history; (II) the applicant's
72 or insured's use of a particular type of credit card, debit card or charge
73 card; (III) the applicant's or insured's total available line of credit; (IV)
74 any disputed credit information while such dispute is under review by
75 a credit reporting company, provided such information is identified in
76 an applicant's or insured's credit report or credit history as being in
77 dispute; (V) collection accounts identified with a medical industry code
78 in the applicant's or insured's credit report or credit history; and (VI) the

79 applicant's or insured's lack of credit history, unless the insurer treats
80 the applicant or insured as if such applicant or insured had neutral
81 credit information, as defined by the insurer.

82 (iii) A financial history measurement program shall give the same
83 weight to an applicant's or insured's purchase or financing of a specific
84 item regardless of the type of item purchased or financed.

85 (D) (i) Upon written request by an applicant, an insurer shall
86 consider, during its underwriting or rating process or during a review
87 requested by such applicant of a rate quote, an extraordinary life
88 circumstance of such applicant if such extraordinary life circumstance
89 occurred within three years before the date of application. If such
90 insurer determines that such applicant's credit history has been
91 adversely impacted by such extraordinary life circumstance, such
92 insurer shall grant a reasonable exception to such insurer's rates, rating
93 classifications or underwriting rules for such applicant. As used in this
94 subparagraph, "extraordinary life circumstance" means (I) a
95 catastrophic illness or injury, (II) divorce, (III) the death of a spouse,
96 child or parent, (IV) the involuntary loss of employment for more than
97 three consecutive months, (V) identity theft, (VI) total or other loss that
98 makes a home uninhabitable, (VII) other circumstances as may be
99 adopted in regulations by the commissioner, in accordance with chapter
100 54, or (VIII) any other circumstance an insurer may choose to recognize.

101 (ii) An insurer may require the applicant to provide reasonable,
102 independently verifiable written documentation of the extraordinary
103 life circumstance and the effect of such extraordinary life circumstance
104 on such applicant's credit report or credit history. Any such
105 documentation shall be kept confidential by the insurer.

106 (iii) If the insurer grants an exception pursuant to subparagraph (D)(i)
107 of this subdivision, the insurer shall (I) consider only credit information
108 that is not affected by the extraordinary life circumstance, or (II) treat
109 the applicant as if such applicant had neutral or better than neutral
110 credit information, as defined by the insurer.

111 (iv) An insurer shall not be deemed to be out of compliance with any
112 provision of the general statutes or regulations adopted thereunder
113 concerning underwriting, rating or rate filing solely on the basis of the
114 granting of an exception pursuant to this subparagraph.

115 (E) (i) If an insurer takes an adverse action that is due at least in part
116 to the information contained in an applicant's or insured's credit report,
117 such insurer shall disclose to such applicant or insured: (I) That such
118 adverse action was based on the credit report of such insured or
119 applicant; (II) that such applicant or insured is entitled to a free copy of
120 such credit report and where such report can be obtained; (III) the types
121 of extraordinary life circumstances set forth in subparagraph (D) of this
122 subdivision; and (IV) the procedures for an applicant to inform the
123 insurer of an extraordinary life circumstance and to submit any required
124 documentation pursuant to subparagraph (D) of this subdivision.

125 (ii) For the purposes of this subdivision, an "adverse action" means (I)
126 the denial of coverage to an applicant or insured or the offering of
127 restricted coverage, (II) the offering of a higher rate, (III) the assignment
128 of an applicant or insured to a higher rate tier or to a higher-priced
129 company within an insurer group, or (IV) any other action that
130 adversely impacts an applicant or insured due to the financial history
131 measurement program.

132 (F) After an insurer's financial history measurement program has
133 been in effect for two years, the commissioner may require such insurer
134 to submit a report to the commissioner on the use of such program in
135 the state. Such report shall include information that demonstrates that
136 such program results in rates that are supported by the data and that are
137 not unfairly discriminatory, and an analysis of consumer complaints
138 submitted in writing or by electronic mail to the insurer resulting from
139 such insurer's use of a financial history measurement program, such that
140 is sufficient to identify the basis for the complaints and any subsequent
141 insurer action.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	38a-686(b)(4) to (6)

Statement of Purpose:

To prohibit insurance companies from using an applicant's or insured's credit history as a factor in underwriting or rating private passenger nonfleet automobile insurance policies.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]