

SENATE BILL No. 257

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-2-21.

Synopsis: Use of credit information in insurance. Prohibits an insurer's use of credit information in underwriting or rating risks. Repeals obsolete provisions.

Effective: July 1, 2019.

Taylor G

January 3, 2019, read first time and referred to Committee on Insurance and Financial Institutions.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 257

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 27-2-21-1 IS REPEALED [EFFECTIVE JULY 1,
- 2 2019]. Sec. 1: As used in this chapter, "adverse action" means:
- 3 (1) a denial or cancellation of;
- 4 (2) an increase in a charge for; or
- 5 (3) a reduction or other adverse or unfavorable change in the
- 6 terms of coverage or amount of;
- 7 insurance in connection with the underwriting of a personal insurance
- 8 policy.
- 9 SECTION 2. IC 27-2-21-3 IS REPEALED [EFFECTIVE JULY 1,
- 10 2019]. Sec. 3: As used in this chapter, "applicant" means an individual
- 11 who has applied with an insurer for coverage under a personal
- 12 insurance policy.
- 13 SECTION 3. IC 27-2-21-4 IS REPEALED [EFFECTIVE JULY 1,
- 14 2019]. Sec. 4: As used in this chapter, "commissioner" refers to the
- 15 insurance commissioner appointed under IC 27-1-1-2.
- 16 SECTION 4. IC 27-2-21-9 IS REPEALED [EFFECTIVE JULY 1,
- 17 2019]. Sec. 9: As used in this chapter, "department" refers to the



1 department of insurance created by IC 27-1-1-1.

2 SECTION 5. IC 27-2-21-16, AS AMENDED BY P.L.84-2009,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2019]: Sec. 16. (a) An insurer that uses **may not use** credit
5 information to underwrite or rate risks. ~~shall not do the following:~~

6 (1) Use an insurance score that is calculated using income;
7 gender, address, ZIP code, ethnic group, religion, marital status;
8 or nationality of the consumer as a factor.

9 (2) ~~Deny, cancel, or decline to renew a personal insurance policy~~
10 ~~solely on the basis of credit information.~~

11 (3) ~~Base an insured's renewal rate for a personal insurance policy~~
12 ~~solely on credit information.~~

13 (4) ~~Take an adverse action against a consumer solely because the~~
14 ~~consumer does not have a credit card account.~~

15 (5) Consider an absence of credit information or an inability to
16 calculate an insurance score in underwriting or rating a personal
17 insurance policy, unless the insurer does one (1) of the following:

18 (A) Presents to the commissioner information that the absence
19 or inability relates to the risk for the insurer and treats the
20 consumer as approved by the commissioner.

21 (B) Treats the consumer as if the consumer had neutral credit
22 information, as defined by the insurer.

23 (6) Take an adverse action against a consumer based on credit
24 information unless the insurer obtains and uses:

25 (A) a credit report issued; or

26 (B) an insurance score calculated;

27 not more than ninety (90) days before the date the personal
28 insurance policy is first written or the renewal is issued:

29 (7) Use the following as a negative factor in an insurance scoring
30 methodology or in reviewing credit information for the purpose
31 of underwriting or rating a personal insurance policy:

32 (A) A credit inquiry:

33 (i) not initiated by the consumer; or

34 (ii) requested by the consumer for the consumer's own credit
35 information.

36 (B) A credit inquiry relating to insurance coverage.

37 (C) A late payment or a collection account with a medical
38 industry code on the consumer's credit report.

39 (D) Multiple lender inquiries:

40 (i) coded by the consumer reporting agency on the
41 consumer's credit report as being from the home mortgage
42 industry; and



1 (ii) made within thirty (30) days of one another.

2 (E) Multiple lender inquiries:

3 (i) coded by the consumer reporting agency on the
4 consumer's credit report as being from the automobile
5 lending industry; and

6 (ii) made within thirty (30) days of one another.

7 (b) An insurer that uses credit information to underwrite or rate risks
8 shall, at annual renewal upon the request of an insured or an insured's
9 agent, re-underwrite and re-rate the insured's personal insurance policy
10 based on a current credit report or insurance score unless one (1) of the
11 following applies:

12 (1) The insurer's treatment of the consumer is otherwise approved
13 by the commissioner.

14 (2) The insured is in the most favorably priced tier of the insurer;
15 within a group of affiliated insurers.

16 (3) Credit information was not used for underwriting or rating the
17 insured when the personal insurance policy was initially written.

18 (4) The insurer reevaluates the insured at least every thirty-six
19 (36) months after a personal insurance policy is issued based on
20 underwriting or rating factors other than credit information.

21 (5) The insurer has re-underwritten and re-rated the insured's
22 personal insurance policy based on a credit report obtained or an
23 insurance score recalculated less than twelve (12) months before
24 the date of the request by the insured or the insured's agent.

25 (c) An insurer that uses credit information to underwrite or rate risks
26 may obtain current credit information upon the renewal of a personal
27 insurance policy when renewal occurs more frequently than every
28 thirty-six (36) months if consistent with the insurer's underwriting
29 guidelines.

30 SECTION 6. IC 27-2-21-17 IS REPEALED [EFFECTIVE JULY 1,
31 2019]. Sec. 17. (a) If:

32 (1) a determination is made through the dispute resolution process
33 set forth in the federal Fair Credit Reporting Act, 15 U.S.C.
34 1681i(a)(5); that the credit information of a current insured was
35 incorrect or incomplete; and

36 (2) the insurer receives notice of the determination from the
37 consumer reporting agency or the insured;

38 the insurer shall re-underwrite and re-rate the insured not more than
39 thirty (30) days after receiving the notice.

40 (b) After an insurer re-underwrites or re-rates an insured as
41 described in subsection (a); the insurer shall:

42 (1) make necessary adjustments; consistent with the insurer's



1 underwriting and rating guidelines; and
 2 (2) if the insurer determines that the insured has overpaid a
 3 premium; refund to the insured the amount of overpayment
 4 calculated back to the shorter of the:

5 (A) immediately preceding twelve (12) month period of
 6 coverage; or

7 (B) actual policy period.

8 SECTION 7. IC 27-2-21-18 IS REPEALED [EFFECTIVE JULY 1,
 9 2019]. Sec. 18: (a) If an insurer uses credit information in underwriting
 10 or rating a consumer; the insurer or the insurer's agent shall disclose;
 11 either on the insurance application or at the time the insurance
 12 application is taken; that the insurer may obtain credit information in
 13 connection with the application. The disclosure must be:

14 (1) written; or

15 (2) provided to the consumer in the same medium as the
 16 application for insurance.

17 The insurer is not required to provide the disclosure statement required
 18 under this section to an insured on a renewal policy if the insured has
 19 previously been provided a disclosure statement.

20 (b) Use of the following sample disclosure statement constitutes
 21 compliance with this section: "In connection with this application for
 22 insurance, we may review your credit report or obtain or use a credit
 23 based insurance score based on the information contained in that credit
 24 report. We may use a third party in connection with the development
 25 of your insurance score."

26 SECTION 8. IC 27-2-21-19 IS REPEALED [EFFECTIVE JULY 1,
 27 2019]. Sec. 19: (a) If an insurer takes an adverse action based on credit
 28 information; the insurer shall:

29 (1) provide notice to the consumer that an adverse action has been
 30 taken; in accordance with the requirements of the federal Fair
 31 Credit Reporting Act, 15 U.S.C. 1681m(a); and

32 (2) provide notice to the consumer explaining the reason for the
 33 adverse action.

34 (b) The reason provided under subsection (a)(2) must be provided
 35 in sufficiently clear and specific language so that an individual can
 36 identify the basis for the insurer's decision to take an adverse action.
 37 The notice must include a description of all factors up to four (4)
 38 primary factors that were the primary influences of the adverse action.
 39 The use of generalized terms such as "poor credit history", "poor credit
 40 rating", or "poor insurance score" does not meet requirements of this
 41 subsection. A standardized credit explanation provided by a consumer
 42 reporting agency or other third party vendor meets the requirements of



- 1 this section:
2 SECTION 9. IC 27-2-21-20 IS REPEALED [EFFECTIVE JULY 1,
3 2019]. Sec. 20: (a) An insurer that uses an insurance score to
4 underwrite and rate risks shall file the insurer's scoring models or other
5 scoring processes with the department:
6 (b) A third party may file a scoring model or scoring process on
7 behalf of an insurer:
8 (c) A filing that includes insurance scoring may include loss
9 experience justifying the use of credit information:
10 (d) A filing related to credit information is confidential:
11 SECTION 10. IC 27-2-21-21 IS REPEALED [EFFECTIVE JULY
12 1, 2019]. Sec. 21: (a) An insurer shall indemnify and defend an
13 insurance producer and hold an insurance producer harmless from and
14 against liability, fees, and costs arising out of or related to the actions,
15 errors, or omissions of the insurance producer relating to a use of credit
16 information if the insurance producer:
17 (1) obtains or uses credit information or insurance scores for the
18 insurer;
19 (2) follows the instructions of or procedures established by the
20 insurer; and
21 (3) complies with applicable laws and regulations.
22 (b) This section does not provide a consumer with a cause of action
23 that does not exist in the absence of this section:

