

# SENATE BILL No. 345

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## 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, 2018.

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## Taylor G

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January 4, 2018, read first time and referred to Committee on Insurance and Financial Institutions.

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Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# SENATE BILL No. 345

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 IC 27-2-21-1 IS REPEALED [EFFECTIVE JULY 1,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 2018]. 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 IC 27-2-21-2 IS REPEALED [EFFECTIVE JULY 1,
- 10 2018]. Sec. 2: As used in this chapter, "affiliate" means a company that
- 11 controls; is controlled by; or is under common control with another
- 12 company.
- 13 SECTION 3. IC 27-2-21-3 IS REPEALED [EFFECTIVE JULY 1,
- 14 2018]. Sec. 3: As used in this chapter, "applicant" means an individual
- 15 who has applied with an insurer for coverage under a personal
- 16 insurance policy.
- 17 SECTION 4. IC 27-2-21-4 IS REPEALED [EFFECTIVE JULY 1,



1 2018]. Sec. 4: As used in this chapter, "commissioner" refers to the  
 2 insurance commissioner appointed under IC 27-1-1-2.

3 SECTION 5. IC 27-2-21-9 IS REPEALED [EFFECTIVE JULY 1,  
 4 2018]. Sec. 9: As used in this chapter, "department" refers to the  
 5 department of insurance created by IC 27-1-1-1.

6 SECTION 6. IC 27-2-21-10 IS REPEALED [EFFECTIVE JULY 1,  
 7 2018]. Sec. 10: As used in this chapter, "insurance producer" has the  
 8 meaning set forth in IC 27-1-15.6-2.

9 SECTION 7. IC 27-2-21-12 IS REPEALED [EFFECTIVE JULY 1,  
 10 2018]. Sec. 12: As used in this chapter, "insured" means an individual  
 11 entitled to coverage under a personal insurance policy.

12 SECTION 8. IC 27-2-21-16, AS AMENDED BY P.L.84-2009,  
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2018]: Sec. 16. (a) An insurer that uses **may not use** credit  
 15 information to underwrite or rate risks. ~~shall not do the following:~~

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

19 (2) Deny; cancel; or decline to renew a personal insurance policy  
 20 solely on the basis of credit information.

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

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

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

28 (A) Presents to the commissioner information that the absence  
 29 or inability relates to the risk for the insurer and treats the  
 30 consumer as approved by the commissioner.

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

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

35 (A) a credit report issued; or

36 (B) an insurance score calculated;

37 not more than ninety (90) days before the date the personal  
 38 insurance policy is first written or the renewal is issued.

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

42 (A) A credit inquiry:



- 1 (i) not initiated by the consumer; or  
 2 (ii) requested by the consumer for the consumer's own credit  
 3 information.  
 4 (B) A credit inquiry relating to insurance coverage.  
 5 (C) A late payment or a collection account with a medical  
 6 industry code on the consumer's credit report.  
 7 (D) Multiple lender inquiries:  
 8 (i) coded by the consumer reporting agency on the  
 9 consumer's credit report as being from the home mortgage  
 10 industry; and  
 11 (ii) made within thirty (30) days of one another.  
 12 (E) Multiple lender inquiries:  
 13 (i) coded by the consumer reporting agency on the  
 14 consumer's credit report as being from the automobile  
 15 lending industry; and  
 16 (ii) made within thirty (30) days of one another.  
 17 (b) An insurer that uses credit information to underwrite or rate risks  
 18 shall, at annual renewal upon the request of an insured or an insured's  
 19 agent, re-underwrite and re-rate the insured's personal insurance policy  
 20 based on a current credit report or insurance score unless one (1) of the  
 21 following applies:  
 22 (1) The insurer's treatment of the consumer is otherwise approved  
 23 by the commissioner.  
 24 (2) The insured is in the most favorably priced tier of the insurer;  
 25 within a group of affiliated insurers.  
 26 (3) Credit information was not used for underwriting or rating the  
 27 insured when the personal insurance policy was initially written.  
 28 (4) The insurer reevaluates the insured at least every thirty-six  
 29 (36) months after a personal insurance policy is issued based on  
 30 underwriting or rating factors other than credit information.  
 31 (5) The insurer has re-underwritten and re-rated the insured's  
 32 personal insurance policy based on a credit report obtained or an  
 33 insurance score recalculated less than twelve (12) months before  
 34 the date of the request by the insured or the insured's agent.  
 35 (c) An insurer that uses credit information to underwrite or rate risks  
 36 may obtain current credit information upon the renewal of a personal  
 37 insurance policy when renewal occurs more frequently than every  
 38 thirty-six (36) months if consistent with the insurer's underwriting  
 39 guidelines.  
 40 SECTION 9. IC 27-2-21-17 IS REPEALED [EFFECTIVE JULY 1,  
 41 2018]. See: 17. (a) If:  
 42 (1) a determination is made through the dispute resolution process



1 set forth in the federal Fair Credit Reporting Act, 15 U.S.C.  
 2 1681i(a)(5); that the credit information of a current insured was  
 3 incorrect or incomplete; and

4 (2) the insurer receives notice of the determination from the  
 5 consumer reporting agency or the insured;  
 6 the insurer shall re-underwrite and re-rate the insured not more than  
 7 thirty (30) days after receiving the notice.

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

10 (1) make necessary adjustments; consistent with the insurer's  
 11 underwriting and rating guidelines; and

12 (2) if the insurer determines that the insured has overpaid a  
 13 premium; refund to the insured the amount of overpayment  
 14 calculated back to the shorter of the:

15 (A) immediately preceding twelve (12) month period of  
 16 coverage; or

17 (B) actual policy period.

18 SECTION 10. IC 27-2-21-18 IS REPEALED [EFFECTIVE JULY  
 19 1, 2018]. Sec. 18: (a) If an insurer uses credit information in  
 20 underwriting or rating a consumer; the insurer or the insurer's agent  
 21 shall disclose; either on the insurance application or at the time the  
 22 insurance application is taken; that the insurer may obtain credit  
 23 information in connection with the application. The disclosure must be:

24 (1) written; or

25 (2) provided to the consumer in the same medium as the  
 26 application for insurance.

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

30 (b) Use of the following sample disclosure statement constitutes  
 31 compliance with this section: "In connection with this application for  
 32 insurance; we may review your credit report or obtain or use a credit  
 33 based insurance score based on the information contained in that credit  
 34 report. We may use a third party in connection with the development  
 35 of your insurance score."

36 SECTION 11. IC 27-2-21-19 IS REPEALED [EFFECTIVE JULY  
 37 1, 2018]. Sec. 19: (a) If an insurer takes an adverse action based on  
 38 credit information; the insurer shall:

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

42 (2) provide notice to the consumer explaining the reason for the



- 1 adverse action:
- 2 (b) The reason provided under subsection (a)(2) must be provided
- 3 in sufficiently clear and specific language so that an individual can
- 4 identify the basis for the insurer's decision to take an adverse action:
- 5 The notice must include a description of all factors up to four (4)
- 6 primary factors that were the primary influences of the adverse action:
- 7 The use of generalized terms such as "poor credit history", "poor credit
- 8 rating", or "poor insurance score" does not meet requirements of this
- 9 subsection: A standardized credit explanation provided by a consumer
- 10 reporting agency or other third party vendor meets the requirements of
- 11 this section:
- 12 SECTION 12. IC 27-2-21-20 IS REPEALED [EFFECTIVE JULY
- 13 1, 2018]. Sec. 20: (a) An insurer that uses an insurance score to
- 14 underwrite and rate risks shall file the insurer's scoring models or other
- 15 scoring processes with the department:
- 16 (b) A third party may file a scoring model or scoring process on
- 17 behalf of an insurer:
- 18 (c) A filing that includes insurance scoring may include loss
- 19 experience justifying the use of credit information:
- 20 (d) A filing related to credit information is confidential:
- 21 SECTION 13. IC 27-2-21-21 IS REPEALED [EFFECTIVE JULY
- 22 1, 2018]. Sec. 21: (a) An insurer shall indemnify and defend an
- 23 insurance producer and hold an insurance producer harmless from and
- 24 against liability, fees, and costs arising out of or related to the actions;
- 25 errors; or omissions of the insurance producer relating to a use of credit
- 26 information if the insurance producer:
- 27 (1) obtains or uses credit information or insurance scores for the
- 28 insurer;
- 29 (2) follows the instructions of or procedures established by the
- 30 insurer; and
- 31 (3) complies with applicable laws and regulations:
- 32 (b) This section does not provide a consumer with a cause of action
- 33 that does not exist in the absence of this section:

