

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3007

By: Meredith

4  
5  
6 AS INTRODUCED

7 An Act relating to insurance; amending 36 O.S. 2011,  
8 Section 952, which relates to the Use of Credit  
9 Information in Personal Insurance Act; modifying  
10 definitions; amending 36 O.S. 2011, Section 953,  
11 which relates to the use of credit information;  
12 prohibiting use of credit information to underwrite  
13 or rate risks; amending 36 O.S. 2011, Section 954,  
14 which relates to reunderwriting and rerating of  
15 insured and refund of overpayment; removing  
16 requirement of reunderwriting and rerating; amending  
17 36 O.S. 2011, Section 959, which relates to sale of  
18 data by consumer reporting agencies; modifying  
19 prohibitions; repealing 36 O.S. 2011, Sections 955,  
20 956, 957 and 958, which relate to the use of credit  
21 scores for insurance premium calculations; and  
22 providing an effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY 36 O.S. 2011, Section 952, is  
amended to read as follows:

Section 952. As used in ~~this act~~ the Use of Credit Information  
in Personal Insurance Act:

1. "Adverse action" means a denial or cancellation of, an  
increase in any charge for, or a reduction or other adverse or  
unfavorable change in the terms of coverage or amount of, any

1 insurance, existing or applied for, in connection with the  
2 underwriting of personal insurance;

3 2. "Affiliate" means any company that controls, is controlled  
4 by, or is under common control with another company;

5 3. "Applicant" means an individual who has applied to be  
6 covered by a personal insurance policy with an insurer;

7 4. "Consumer" means an insured whose ~~credit information is used~~  
8 ~~or whose~~ insurance score is calculated in the underwriting or rating  
9 of a personal insurance policy or an applicant for such a policy;

10 5. "Consumer reporting agency" means any person or entity  
11 which, for monetary fees, dues, or on a cooperative nonprofit basis,  
12 regularly engages in whole or in part in the practice of assembling  
13 or evaluating ~~consumer credit information or other~~ information on  
14 consumers for the purpose of furnishing consumer reports to third  
15 parties;

16 6. "Credit information" means any credit-related information  
17 derived from a credit report, found on a credit report itself, or  
18 provided on an application for personal insurance. Information that  
19 is not credit-related shall not be considered "credit information",  
20 regardless of whether it is contained in a credit report or in an  
21 application, or is used to calculate an insurance score;

22 7. "Credit report" means any written, oral, or other  
23 communication of information by a consumer reporting agency bearing  
24 on a consumer's credit worthiness, credit standing or credit

1 capacity ~~which is used or expected to be used or collected in whole~~  
2 ~~or in part for the purpose of serving as a factor to determine~~  
3 ~~personal insurance premiums, eligibility for coverage, or tier~~  
4 ~~placement;~~

5 8. "Insurance score" means a number or rating that is derived  
6 from an algorithm, computer application, model, or other process  
7 ~~that is based in whole or in part on credit information~~ for the  
8 purposes of predicting the future insurance loss exposure of an  
9 individual applicant or insured; and

10 9. "Personal insurance" means private passenger automobile,  
11 homeowners, motorcycle, mobile-homeowners and noncommercial dwelling  
12 fire insurance policies and boat, personal watercraft, snowmobile  
13 and recreational vehicle policies. Such policies must be  
14 individually underwritten for personal, family or household use. No  
15 other type of insurance shall be included as personal insurance for  
16 the purpose of this act.

17 SECTION 2. AMENDATORY 36 O.S. 2011, Section 953, is  
18 amended to read as follows:

19 Section 953. An insurer authorized to do business in this state  
20 ~~that uses~~ shall be prohibited from using credit information to  
21 underwrite or rate risks, and shall not:

22 1. Use an insurance score that is calculated using income,  
23 gender, address, zip code, ethnic group, religion, marital status,  
24 or nationality of the consumer as a factor;

1        2. Deny, cancel or fail to renew a policy of personal insurance  
2 ~~solely on the basis of credit information, without consideration of~~  
3 ~~any other applicable underwriting factor independent of credit~~  
4 ~~information and not as expressly prohibited by paragraph 1 of this~~  
5 section;

6        3. Base renewal rates for personal insurance of an insured  
7 ~~solely upon credit information, without consideration of any other~~  
8 ~~applicable factor independent of credit information;~~

9        4. Take adverse action against a consumer solely because the  
10 consumer does not have a credit card account, ~~without consideration~~  
11 ~~of any other applicable factor independent of credit information;~~

12        5. Consider an absence of credit information or an inability to  
13 calculate an insurance score in underwriting or rating personal  
14 insurance, ~~unless the insurer does one of the following:~~

15            a. ~~treats the consumer as otherwise approved by the~~  
16                ~~Insurance Commissioner, if the insurer presents~~  
17                ~~information that an absence or inability relates to~~  
18                ~~the risk for the insurer,~~

19            b. ~~treats the consumer as if the applicant or insured had~~  
20                ~~neutral credit information, as defined by the insurer,~~  
21                ~~or~~

22            c. ~~excludes the use of credit information as a factor and~~  
23                ~~use only other underwriting criteria;~~

24

1           6. Take an adverse action against a consumer based on credit  
2 information, ~~unless an insurer obtains and uses a credit report~~  
3  ~~issued or an insurance score calculated within ninety (90) days from~~  
4  ~~the date the policy is first written or renewal is issued; and~~

5           7.  ~~Use credit information unless not later than every thirty-~~  
6  ~~six (36) months following the last time that the insurer obtained~~  
7  ~~current credit information for the insured, the insurer recalculates~~  
8  ~~the insurance score or obtains an updated credit report. Regardless~~  
9  ~~of the requirements of this subsection:~~

10           a.  ~~at annual renewal, upon the request of a consumer or~~  
11  ~~the agent of the consumer, the insurer shall~~  
12  ~~reunderwrite and rerate the policy based upon a~~  
13  ~~current credit report or insurance score. An insurer~~  
14  ~~need not recalculate the insurance score or obtain the~~  
15  ~~updated credit report of a consumer more frequently~~  
16  ~~than once in a twelve-month period,~~

17           b.  ~~the insurer shall have the discretion to obtain~~  
18  ~~current credit information upon any renewal before the~~  
19  ~~thirty-six (36) months, if consistent with its~~  
20  ~~underwriting guidelines, and~~

21           c.  ~~no insurer need obtain current credit information for~~  
22  ~~an insured, despite the requirements of paragraph 7 of~~  
23  ~~this section, if one of the following applies:~~

- 1           ~~(1) the insurer is treating the consumer as otherwise~~  
2           ~~approved by the Commissioner,~~
- 3           ~~(2) the insured is in the most favorably priced tier~~  
4           ~~of the insurer, within a group of affiliated~~  
5           ~~insurers. However, the insurer shall have the~~  
6           ~~discretion to order a report, if consistent with~~  
7           ~~its underwriting guidelines,~~
- 8           ~~(3) credit was not used for underwriting or rating~~  
9           ~~the insured when the policy was initially~~  
10           ~~written. However, the insurer shall have the~~  
11           ~~discretion to use credit for underwriting or~~  
12           ~~rating the insured upon renewal, if consistent~~  
13           ~~with its underwriting guidelines, or~~
- 14           ~~(4) the insurer reevaluates the insured beginning no~~  
15           ~~later than thirty six (36) months after inception~~  
16           ~~and thereafter based upon other underwriting or~~  
17           ~~rating factors, excluding credit information; and~~

18       ~~8.~~ Use the following as a negative factor in any insurance  
19 scoring methodology ~~or in reviewing credit information~~ for the  
20 purpose of underwriting or rating a policy of personal insurance:

- 21           ~~a. credit inquiries not initiated by the consumer or~~  
22           ~~inquiries requested by the consumer for the credit~~  
23           ~~information of the consumer,~~

~~b. inquiries relating to insurance coverage, if so identified on a credit report of the consumer,~~

~~e. b. collection accounts with a medical industry code, if so identified on the credit report of the consumer,~~

~~d. c. multiple lender inquiries, if coded by the consumer reporting agency on the credit report of the consumer as being from the home mortgage industry and made within thirty (30) days of one another, unless only one inquiry is considered, and~~

~~e. d. multiple lender inquiries, if coded by the consumer reporting agency on the credit report of the consumer as being from the automobile lending industry and made within thirty (30) days of one another, unless only one inquiry is considered.~~

SECTION 3. AMENDATORY 36 O.S. 2011, Section 954, is amended to read as follows:

~~Section 954. If it is determined through the dispute resolution process set forth in the federal Fair Credit Reporting Act, 15 USC 1681i(a)(5), that the credit information of a current insured was incorrect or incomplete and if the insurer receives notice of such determination from either the consumer reporting agency or from the insured, the insurer shall reunderwrite and rerate the consumer within thirty (30) days of receiving the notice. After reunderwriting or rerating the insured, the insurer shall make any~~

1 ~~adjustments necessary, consistent with its underwriting and rating~~  
2 ~~guidelines.~~ If an insurer determines that the insured has overpaid  
3 premium, the insurer shall refund to the insured the amount of  
4 overpayment calculated back to the shorter of either the last twelve  
5 (12) months of coverage or the actual policy period.

6 SECTION 4. AMENDATORY 36 O.S. 2011, Section 959, is  
7 amended to read as follows:

8 Section 959. A. No consumer reporting agency shall provide or  
9 sell data or lists that include any information that in whole or in  
10 part was submitted in conjunction with an insurance inquiry ~~about a~~  
11 ~~consumer's credit information or a request for a credit report or~~  
12 ~~insurance score.~~ Such information includes, but is not limited to,  
13 the expiration dates of an insurance policy or any other information  
14 that may identify time periods during which a consumer's insurance  
15 may expire and the terms and conditions of the consumer's insurance  
16 coverage.

17 B. The restrictions provided in subsection A of this section do  
18 not apply to data or lists the consumer reporting agency supplies to  
19 the insurance agent from whom information was received, the insurer  
20 on whose behalf such agent acted, or such insurer's affiliates or  
21 holding companies.

22 C. Nothing in this section shall be construed to restrict any  
23 insurer from being able to obtain a claims history report or a motor  
24 vehicle report.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

SECTION 5. REPEALER 36 O.S. 2011, Sections 955, 956, 957  
and 958 are hereby repealed.

SECTION 6. This act shall become effective November 1, 2020.

57-2-10725 SH 01/15/20