

The House Committee on Insurance offers the following substitute to HB 215:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to
2 insurance generally, so as to provide definitions; to provide for the use of credit and credit
3 scoring information in underwriting or rating risks by insurance companies; to provide
4 limitations on the use of such information; to provide for dispute resolution and error
5 correction; to provide for notifications; to require certain filings by insurers using credit and
6 credit scoring information; to provide for indemnification; to provide an effective date; to
7 repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to insurance
11 generally, is amended by adding a new Article 4 to read as follows:

12 **"ARTICLE 4**

13 33-24-90.

14 As used in this article, the term:

15 (1) 'Adverse action' shall mean a denial or cancellation of, an increase in any charge for,
16 or a reduction or other adverse or unfavorable change in the terms of coverage or amount
17 of any insurance, existing or applied for, in connection with the underwriting of personal
18 insurance.

19 (2) 'Affiliate' shall mean any company that controls, is controlled by, or is under common
20 control with another company.

21 (3) 'Applicant' shall mean an individual who has applied to be covered by a personal
22 insurance policy with an insurer.

23 (4) 'Consumer' shall mean an insured whose credit information is used or whose
24 insurance score is calculated in the underwriting or rating of a personal insurance policy
25 or an applicant for such a policy.

1 (5) 'Consumer reporting agency' shall mean any person that, for monetary fees, dues, or
2 on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of
3 assembling or evaluating consumer credit information or other information on consumers
4 for the purpose of furnishing consumer reports to third parties.

5 (6) 'Credit information' shall mean any credit related information derived from a credit
6 report or found on a credit report utilized by an insurer or used by an insurer to calculate
7 an insurance score for personal insurance. Information that is not credit related shall not
8 be considered credit information, regardless of whether it is contained in a credit report
9 or in an application, or is used to calculate an insurance score.

10 (7) 'Credit report' shall mean any written, oral, or other communication of information
11 by a consumer reporting agency bearing on a consumer's credit worthiness, credit
12 standing, or credit capacity which is used or expected to be used or collected in whole or
13 in part for the purpose of serving as a factor to determine personal insurance premiums,
14 eligibility for coverage, or tier placement.

15 (8) 'Insurance score' shall mean a number or rating that is derived from an algorithm,
16 computer application, model, or other process that is based in whole or in part on credit
17 information for the purposes of predicting the future insurance loss exposure of an
18 individual applicant or insured.

19 (9) 'Personal insurance' shall mean private passenger automobile, homeowners,
20 motorcycle, mobile homeowners, and noncommercial dwelling fire insurance policies
21 and boat, personal watercraft, snowmobile, and recreational vehicle policies. Such
22 policies must be individually underwritten for personal, family, or household use. No
23 other type of insurance shall be included as personal insurance for the purpose of this
24 article.

25 33-24-91.

26 An insurer authorized to do business in this state that uses credit information to underwrite
27 or rate risks, shall not:

28 (1) Use an insurance score that is calculated using income, gender, race, address, zip
29 code, ethnic group, religion, marital status, or nationality of the consumer as a factor;

30 (2) Deny, cancel, or nonrenew a policy of personal insurance solely on the basis of credit
31 information, without consideration of any other applicable underwriting factor
32 independent of credit information and not expressly prohibited by paragraph (1) of this
33 Code section;

34 (3) Base an insured's renewal rates for personal insurance solely upon credit information,
35 without consideration of any other applicable factor independent of credit information;

1 (4) Take an adverse action against a consumer solely because he or she does not have a
2 credit card account, without consideration of any other applicable factor independent of
3 credit information;

4 (5) Consider an absence of credit information or an inability to calculate an insurance
5 score in underwriting or rating personal insurance, unless the insurer does one of the
6 following:

7 (A) Treat the consumer as otherwise approved by the Commissioner of Insurance, if
8 the insurer presents information that such an absence or inability relates to the risk for
9 the insurer;

10 (B) Treat the consumer as if the applicant or insured had neutral credit information, as
11 defined by the insurer; or

12 (C) Exclude the use of credit information as a factor and use only other underwriting
13 criteria;

14 (6) Take an adverse action against a consumer based on credit information unless an
15 insurer obtains and uses a credit report issued or an insurance score calculated within 180
16 days from the date the policy is first written or renewal is issued;

17 (7) Use credit information unless not later than every 36 months following the last time
18 that the insurer obtained current credit information for the insured, the insurer
19 recalculates the insurance score or obtains an updated credit report. Regardless of the
20 requirements of this paragraph:

21 (A) At annual renewal, upon the request of a consumer, the insurer shall reunderwrite
22 and rerate the policy based upon a current credit report or insurance score. An insurer
23 need not recalculate the insurance score or obtain the updated credit report of a
24 consumer more frequently than once in a twelve-month period. Prior to a consumer
25 exercising his or her option for the insurer to reunderwrite or rerate the policy, the
26 insurer shall notify the consumer orally or in writing that the reunderwriting or rerating
27 of the policy may result in a higher rate, a lower rate, or other possible consequences,
28 including nonrenewal or termination of the policy, or could produce no change for the
29 consumer;

30 (B) The insurer shall have the discretion to obtain current credit information upon any
31 renewal before the 36 months, if consistent with its underwriting guidelines; and

32 (C) No insurer need obtain current credit information for an insured, despite the
33 requirements of subparagraph (A) of paragraph (7) of this Code section, if one of the
34 following applies:

35 (i) The insurer is treating the consumer as otherwise approved by the Commissioner;

1 (ii) The insured is in the most favorably priced tier of the insurer, within a group of
 2 affiliated insurers; however, the insurer shall have the discretion to order such report,
 3 if consistent with its underwriting guidelines;

4 (iii) Credit information was not used for underwriting or rating such insured when the
 5 policy was initially written; however, the insurer shall have the discretion to use credit
 6 for underwriting or rating such insured upon renewal, if consistent with its
 7 underwriting guidelines; or

8 (iv) The insurer reevaluates the insured beginning no later than 36 months after
 9 inception and thereafter based upon other underwriting or rating factors, excluding
 10 credit information; or

11 (8) Use the following as a negative factor in any insurance scoring methodology or in
 12 reviewing credit information for the purpose of underwriting or rating a policy of
 13 personal insurance:

14 (A) Credit inquiries not initiated by the consumer or inquiries requested by the
 15 consumer for his or her own credit information;

16 (B) Inquiries relating to insurance coverage, if so identified on a consumer's credit
 17 report;

18 (C) Collection accounts with a medical industry code, if so identified on the
 19 consumer's credit report;

20 (D) Multiple lender inquiries, if coded by the consumer reporting agency on the
 21 consumer's credit report as being from the home mortgage industry and made within
 22 30 days of one another, unless only one inquiry is considered; or

23 (E) Multiple lender inquiries, if coded by the consumer reporting agency on the
 24 consumer's credit report as being from the automobile lending industry and made
 25 within 30 days of one another, unless only one inquiry is considered.

26 33-24-92.

27 If an item or items contained in the credit information for an applicant or insured are in
 28 dispute pursuant to the dispute resolution process set forth in the federal Fair Credit
 29 Reporting Act, 15 USC 1681i, the insurer, during the 45 day period following the date on
 30 which the item was placed in dispute pursuant to such dispute resolution process, shall
 31 either not use such disputed item or items in making its underwriting or rating
 32 determination for such applicant or insured or shall treat the credit information as neutral
 33 with respect to the item or items in dispute.

1 33-24-93.

2 (a) If an insurer writing personal insurance uses credit information in underwriting or
3 rating a consumer, the insurer or its agent shall disclose, either on the insurance application
4 or at the time the insurance application is taken, that it may obtain credit information in
5 connection with such application. Such disclosure shall be either written or provided to an
6 applicant in the same medium as the application for insurance. The insurer need not
7 provide the disclosure statement required under this Code section to any insured on a
8 renewal policy, if such consumer has previously been provided a disclosure statement.

9 (b) The disclosure required by this Code section shall be in substantially the following
10 form: 'In connection with this application for insurance, we may review your credit report
11 or obtain or use a credit based insurance score based on the information contained in that
12 credit report. We may use a third party in connection with the development of your
13 insurance score.'

14 33-24-94.

15 If an insurer takes an adverse action based upon credit information, the insurer must meet
16 the notice requirements of this Code section. Such insurer shall provide notification to the
17 consumer that an adverse action has been taken, in accordance with the requirements of the
18 federal Fair Credit Reporting Act, 15 USC 1681m(a), and shall provide notification to the
19 consumer explaining the reason or reasons for the adverse action. The reasons must be
20 provided in sufficiently clear and specific language so that a person can identify the basis
21 for the insurer's decision to take an adverse action. Such notification shall include a
22 description of up to four factors that were the primary influences of the adverse action. The
23 use of generalized terms such as 'poor credit history,' 'poor credit rating,' or 'poor insurance
24 score' does not meet the explanation requirements of this Code section. Standardized credit
25 explanations provided by consumer reporting agencies or other third party vendors are
26 deemed to comply with this Code section.

27 33-24-95.

28 (a) Insurers that use insurance scores to underwrite and rate risks must file their scoring
29 models or other scoring processes with the Commissioner of Insurance. A third party may
30 file scoring models on behalf of insurers licensed to do business in this state, provided that
31 such third parties are on an approved list maintained by the Commissioner. A filing that
32 includes insurance scoring may include loss experience justifying the use of credit
33 information.

34 (b) Any filing relating to credit information is considered to be a trade secret and
35 proprietary information of the entity filing the information. Such information shall not be

1 subject to public disclosure and shall be exempt from disclosure under the provisions of
2 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated.

3 33-24-96.

4 An insurer shall indemnify, defend, and hold agents harmless from and against all liability,
5 fees, and costs arising out of or relating to the actions, errors, or omissions of an agent or
6 a producer who obtains or uses credit information or insurance scores for an insurer,
7 provided the agent or producer follows the instructions of or procedures established by the
8 insurer and complies with any applicable law or regulation. Nothing in this section shall
9 be construed to provide a consumer or other insured with a cause of action that does not
10 exist in the absence of this section.

11 33-24-97.

12 (a) No consumer reporting agency shall provide or sell data or lists that include any
13 information that in whole or in part was submitted in conjunction with an insurance inquiry
14 about a consumer's credit information or a request for a credit report or insurance score.

15 Such information includes, but is not limited to, the expiration dates of an insurance policy
16 or any other information that may identify time periods during which a consumer's
17 insurance may expire and the terms and conditions of the consumer's insurance coverage.

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

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

24 33-24-98.

25 Notwithstanding any provision of law to the contrary, insurers shall be allowed to use
26 credit scores in rating and underwriting subject to the provisions of this article."

27 **SECTION 2.**

28 This Act shall become effective on July 1, 2003, and shall apply to all personal insurance
29 policies issued or renewed on or after that date.

30 **SECTION 3.**

31 All laws and parts of laws in conflict with this Act are repealed.