

CS FOR SENATE BILL NO. 13(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/13/03

Referred: Rules

Sponsor(s): SENATORS ELTON AND COWDERY, Ellis, Dyson, Guess, French, Lincoln

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to using credit history or insurance scoring for insurance purposes;**
2 **and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 PURPOSE. It is the purpose of this Act to regulate the use of credit information for
7 personal insurance so that consumers are provided with certain protections with respect to the
8 use of credit information. This Act is not intended to apply to commercial insurance
9 transactions.

10 *** Sec. 2.** AS 21.36 is amended by adding a new section to read:

11 **Sec. 21.36.460. Uses of and restrictions on credit history or insurance**
12 **scoring applicable to personal insurance.** (a) If an insurer writing personal
13 insurance uses credit information in underwriting or rating a consumer, the insurer
14 shall disclose, either on the insurance application or, at the time the insurance

1 application is taken, that the insurer will obtain credit information in connection with
 2 the application. The disclosure required under this subsection shall be in writing or in
 3 the same medium as the application for insurance. Use of the following statement
 4 constitutes compliance with this subsection: "In connection with this application for
 5 insurance, we will review your credit report or obtain or use a credit-based insurance
 6 score based on the information contained in your credit report. We may use this
 7 information to decide whether to insure you or how much to charge." If an insurer
 8 uses a third party to calculate the applicant's insurance score, the disclosure required
 9 under this subsection must also contain language similar to: "We may use a third-
 10 party in connection with the development of your insurance score."

11 (b) An insurer that takes adverse action involving personal insurance against a
 12 consumer based in whole or in part on credit history or insurance score shall provide
 13 the consumer the opportunity to request reconsideration of the adverse action and
 14 provide written notice to the applicant or named insured. The notice must

15 (1) clearly and specifically state the significant factors of the credit
 16 history or insurance score that resulted in the adverse action, in a manner that allows
 17 the consumer to identify the basis for the adverse action;

18 (2) inform the consumer that the consumer is entitled to

19 (A) request reconsideration of the adverse action; and

20 (B) a free copy of the consumer's report under 15 U.S.C. 1681
 21 et seq. (Fair Credit Reporting Act);

22 (3) inform the consumer that the consumer has the right to correct
 23 errors in the credit report;

24 (4) advise the consumer on ways to improve the consumer's insurance
 25 score; and

26 (5) provide information to assist the consumer with the error correction
 27 process.

28 (c) An insurer may use credit history to cancel, deny, underwrite, or rate
 29 personal insurance only in combination with other substantive underwriting factors.
 30 For the purposes of this subsection,

31 (1) refusal to offer personal insurance coverage to a consumer

1 constitutes denial of personal insurance; and

2 (2) an offer of placement with an affiliate insurer does not constitute
3 denial of coverage.

4 (d) An insurer may not

5 (1) fail to renew or, at renewal, again underwrite or rate a personal
6 insurance policy based in whole or in part on a consumer's credit history or insurance
7 score;

8 (2) cancel, deny, underwrite, or rate personal insurance coverage based
9 in whole or in part on

10 (A) the absence of credit history or the inability to determine
11 the consumer's credit history if the insurer has received accurate and complete
12 information from the consumer;

13 (B) credit inquiries not initiated by the consumer;

14 (C) credit inquiries relating to insurance coverage, if identified
15 on a consumer's credit report;

16 (D) credit inquiries by the consumer for the consumer's own
17 credit information;

18 (E) multiple lender inquiries, if coded on the consumer's credit
19 report as being for automobile, boat, recreation vehicle, or home mortgage
20 loans, unless all inquiries under that code within a 30-day period are counted
21 as one;

22 (F) credit history or an insurance score based on collection
23 accounts identified with a medical industry code;

24 (G) the consumer's use of a particular type of credit card,
25 charge card, or debit card or the absence of a credit card;

26 (H) the consumer's total available line of credit; however, the
27 consumer's ratio of debt to total available line of credit may be considered;

28 (I) the consumer's obtaining an automobile or home loan within
29 the previous 12 months;

30 (J) the presence or absence of personal finance company
31 accounts; or

1 (K) the age at which credit is established;

2 (3) use the credit history of the consumer when the consumer provides
3 a written notice to the insurer affirming that the credit history results from the actions
4 of a joint account owner who is or was a spouse of the consumer;

5 (4) use an insurance score that is calculated using the income, age, sex,
6 address, zip code, census block, ethnic group, religion, marital status, or nationality of
7 the consumer as a factor;

8 (5) use credit history to determine an insurance score if the history is
9 obtained more than 60 days before the policy is issued;

10 (6) use an insurance score derived from an insurance scoring model to
11 determine eligibility for an insurance payment plan; this paragraph does not prohibit
12 the use of credit history to evaluate the ability of the consumer to make payments.

13 (e) If incorrect credit history is used to underwrite or rate personal insurance
14 coverage and a consumer is charged higher premiums or offered less favorable policy
15 terms due to the disputed credit history, the insurer shall reissue or rerate the policy
16 retroactive to the effective date of the current policy term and the policy, as reissued or
17 ratered, shall provide premiums and policy terms the consumer would have been
18 eligible for if accurate credit history had been used to underwrite or rate the policy. If
19 an insurer determines that the insured has overpaid a premium, the insurer shall refund
20 to the insured the amount of overpayment calculated back to the last 12 months of
21 coverage or the actual policy period, whichever period is shorter. This subsection
22 applies only if the consumer discovers the incorrect credit history within 12 months
23 after the policy is issued, resolves the dispute as described under (f) of this section or
24 under the process in 15 U.S.C. 1681 et seq. (Fair Credit Reporting Act), and notifies
25 the insurer in writing that the dispute has been resolved.

26 (f) If the use of disputed credit history results in denial or cancellation of
27 personal insurance coverage, an insurer shall reunderwrite the coverage without the
28 use of credit information as a factor. This subsection applies only if, within 10 days
29 following denial or cancellation, the consumer provides a reconsideration certification
30 to the insurer that sets forth any items of the credit history that are disputed and that
31 indicates that the consumer has initiated the dispute resolution process in 15 U.S.C.

1 1681 (Fair Credit Reporting Act) by requesting a copy of the consumer's credit report.
 2 An insurer's reconsideration certification form

3 (1) is subject to filing and approval by the director under
 4 AS 21.42.120; and

5 (2) shall be provided by an insurer to the consumer at the time of
 6 denial or cancellation.

7 (g) This section does not require an insurer to use credit history for any
 8 purpose.

9 (h) In this section,

10 (1) "adverse action" has the meaning given in 15 U.S.C. 1681 et seq.
 11 (Fair Credit Reporting Act) and includes

12 (A) cancellation, denial, or failure to renew personal insurance
 13 coverage;

14 (B) charging a higher insurance premium for personal
 15 insurance than would have been offered if the credit history or insurance score
 16 had been more favorable, whether the charge is by

17 (i) application of a rating rule;

18 (ii) assignment to a rating tier that does not have the
 19 lowest available rates; or

20 (iii) placement with an affiliate company that does not
 21 offer the lowest rates available to the consumer within the affiliate
 22 group of insurance companies; or

23 (C) any reduction or adverse or unfavorable change in the
 24 terms of coverage or amount of personal insurance due to a consumer's credit
 25 history or insurance score; a reduction or adverse or unfavorable change in the
 26 terms of coverage occurs when

27 (i) coverage provided to the consumer is not as broad in
 28 scope as coverage requested by the consumer but available to other
 29 insureds of the insurer or any affiliate; or

30 (ii) the consumer is not eligible for benefits that are
 31 available through affiliate insurers;

- 1 (2) "affiliate" has the meaning given in AS 21.22.200;
- 2 (3) "consumer" means an individual policyholder or applicant for
3 insurance;
- 4 (4) "consumer report" has the meaning given in 15 U.S.C. 1681 et seq.
5 (Fair Credit Reporting Act);
- 6 (5) "credit history" means written, oral, or other communication of
7 information by a consumer reporting agency bearing on a consumer's
8 creditworthiness, credit standing, or credit capacity that is used or expected to be used,
9 or collected in whole or in part, for the purpose of serving as a factor in determining
10 personal insurance premiums or eligibility for coverage;
- 11 (6) "insurance score" means a number or rating that is derived from an
12 algorithm, computer application, model, or other process that is based in whole or in
13 part on credit history;
- 14 (7) "personal insurance" means
- 15 (A) private passenger automobile or motorcycle coverage;
- 16 (B) homeowner coverage, including mobile homeowner's,
17 manufactured homeowner's, condominium owner's, and renter's coverage;
- 18 (C) dwelling property coverage;
- 19 (D) earthquake coverage for a residence or personal property;
- 20 (E) personal liability and theft coverage;
- 21 (F) personal property inland marine coverage;
- 22 (G) personal boat, watercraft, snowmobile, and recreational
23 vehicle coverage; and
- 24 (H) umbrella insurance coverage.

25 * **Sec. 3.** AS 21.39 is amended by adding a new section to read:

26 **Sec. 21.39.035. Required filing of insurance scoring models; personal**
27 **insurance.** (a) Credit history may not be used to determine personal insurance rates,
28 premiums, or to make underwriting decisions unless the insurance scoring models are
29 filed with the director. Insurance scoring models include all attributes and factors
30 used in the calculation of an insurance score, statistical validation, documentation,
31 appropriate loss information, and any other relevant factors.

1 (b) Information filed under (a) of this section

2 (1) is confidential, shall be considered a trade secret, and is not subject
3 to public inspection under AS 21.06.060;

4 (2) may be released or otherwise shared as provided in AS 21.06.060;
5 and

6 (3) shall be filed by the insurer and may not be filed by a third party or
7 vendor.

8 (c) An insurer shall comply with AS 21.36.460 when using credit history to
9 calculate a personal insurance score or determine personal insurance premiums or
10 rates.

11 (d) Notwithstanding (b) of this section, the director shall make available to the
12 public a general description of the insurance scoring models filed under (a) of this
13 section. A general description of insurance scoring models may not disclose any trade
14 secrets contained in the models.

15 (e) In this section,

16 (1) "credit history" has the meaning given in AS 21.36.460;

17 (2) "insurance score" has the meaning given in AS 21.36.460;

18 (3) "personal insurance" has the meaning given in AS 21.36.460.

19 * **Sec. 4.** AS 21.36.460(g) and (h), added by sec. 2 of this Act, and AS 21.39.035(a), (b),
20 (d), and (e), added by sec. 3 of this Act take effect June 1, 2003.

21 * **Sec. 5.** Except as provided in sec. 4 of this Act, this Act takes effect January 1, 2004.