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SENATE BILL 359

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Peter Wirth and Mimi Stewart

AN ACT

RELATING TO INSURANCE; PROHIBITING CERTAIN ACTIONS BY INSURERS
OF PERSONAL INSURANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 59A, Article 16 NMSA
1978 is enacted to read:

"[NEW MATERIAL] USE OF CREDIT INFORMATION--LIMITS ON
USE.--

A. An insurer authorized to do business in New
Mexico shall not:

- (1) deny, cancel or not renew a policy of
personal insurance solely on the basis of credit information
without consideration of any other applicable underwriting
factor independent of credit information and not expressly
prohibited by law;

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1 (2) base an insured's renewal rates for
2 personal insurance solely upon credit information without
3 consideration of any other applicable factor independent of
4 credit information;

5 (3) take an adverse action against a person
6 solely because the person does not have a credit card account
7 without consideration of any other applicable factor
8 independent of credit information; or

9 (4) consider an absence of credit information
10 or an inability to calculate an insurance score in underwriting
11 or rating personal insurance, unless the insurer:

12 (a) treats the person as otherwise
13 approved by the superintendent and the insurer presents
14 information that such an absence or inability relates to the
15 risk for the insurer;

16 (b) treats the person as if the
17 applicant or insured had neutral credit information; or

18 (c) excludes the use of credit
19 information as a factor and uses only other underwriting
20 criteria.

21 B. As used in this section:

22 (1) "adverse action" means a denial or
23 cancellation of, an increase in any charge for or a reduction
24 or other adverse or unfavorable change in the terms of coverage
25 or amount of any insurance, existing or applied for, in

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1 connection with the underwriting of personal insurance;

2 (2) "credit information" means any
3 credit-related information derived from a credit report, found
4 on a credit report itself or otherwise provided;

5 (3) "credit report" means a written, oral or
6 other communication of information by a consumer reporting
7 agency bearing on a person's creditworthiness, credit standing
8 or credit capacity that is used or expected to be used or
9 collected in whole or in part for the purpose of serving as a
10 factor to determine personal insurance premiums, eligibility
11 for coverage or tier placement;

12 (4) "insurance score" means a number or rating
13 that is derived from an algorithm, computer application, model
14 or other process that is based in whole or in part on credit
15 information for the purposes of predicting the future insurance
16 loss exposure of an individual applicant or insured; and

17 (5) "personal insurance" means private
18 passenger automobile, homeowners', renter's, umbrella,
19 motorcycle, mobile-homeowners', boat, personal watercraft,
20 snowmobile, recreational vehicle and noncommercial dwelling
21 fire insurance policies. Such policies must be individually
22 underwritten for personal, family or household use."

23 Section 2. APPLICABILITY.--The provisions of this act
24 apply to personal insurance policies written to be effective or
25 renewed on or after January 1, 2010.

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