

Fifty-ninth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1335

Introduced by

Representatives Koppelman, Kroeber, Wald

Senators Hacker, Krebsbach, Robinson

1 A BILL for an Act to amend and reenact subsection 1 of section 26.1-25.1-02, subsection 2 of
2 section 26.1-25.1-03, subsection 1 of section 26.1-25.1-05, and section 26.1-25.1-06 of the
3 North Dakota Century Code, relating to insurance credit scores.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 26.1-25.1-02 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. "Adverse action" means a denial or cancellation of, an increase in any charge for,
8 or a reduction or other adverse or unfavorable change in the terms of coverage or
9 amount of, any insurance, existing or applied for, in connection with the
10 underwriting of personal insurance. "Adverse action" includes an action by which
11 an insurer provides a quote or an offer for insurance at less favorable terms than
12 an insurer would have quoted or offered an applicant or insured if the applicant's or
13 insured's credit report or credit-based insurance score had been more favorable.
14 "Adverse action" also includes an action in which an insurer discounts the
15 applicant's premium based on the applicant's credit report or credit-based
16 insurance score, unless the discount is the maximum discount available from the
17 insurer.

18 **SECTION 2. AMENDMENT.** Subsection 2 of section 26.1-25.1-03 of the North Dakota
19 Century Code is amended and reenacted as follows:

20 2. Deny, cancel, or nonrenew a policy of personal insurance solely on the basis of
21 credit information, without consideration of any other applicable underwriting factor
22 independent of credit information and not expressly prohibited by this section. An
23 insurer may not decline to write a policy if the credit score is below a specific value
24 without considering other relevant factors. An insurer may decline to write a policy

1 if the credit score is below a specific value only if other underwriting factors support
2 the declination.

3 **SECTION 3. AMENDMENT.** Subsection 1 of section 26.1-25.1-05 of the North Dakota
4 Century Code is amended and reenacted as follows:

- 5 1. If an insurer writing personal insurance uses credit information in underwriting or
6 rating a consumer, the insurer or the insurer's agent shall disclose, ~~either on the~~
7 ~~insurance application or at the time the insurance application is taken~~, that the
8 insurer or the insurer's agent may obtain credit information in connection with ~~such~~
9 ~~application. Such~~ the underwriting or rating process. The disclosure must be
10 made at the time the insurer or the agent requests the information needed to
11 generate the credit insurance score from the consumer, whether by telephone or in
12 person. The disclosure must may be either written or provided to an applicant in
13 ~~the same medium as the application for insurance~~ oral if the request occurs over
14 the telephone but must be in writing if the transaction occurs in person. The
15 insurer or the insurer's agent need not provide the disclosure statement required
16 under this section to any insured on a renewal policy if such consumer has
17 previously been provided a disclosure statement.

18 **SECTION 4. AMENDMENT.** Section 26.1-25.1-06 of the North Dakota Century Code
19 is amended and reenacted as follows:

20 **26.1-25.1-06. Adverse action notification.** If an insurer takes an adverse action
21 based upon credit information, the insurer must meet the notice requirements of this section.
22 The insurer shall:

- 23 1. Provide notification to the consumer that an adverse action has been taken, in
24 accordance with the requirements of the federal Fair Credit Reporting Act [Pub. L.
25 90-321; 15 U.S.C. 1681m(a)]; ~~and.~~
26 2. Provide notification to the consumer explaining the reason for the adverse action.
27 The reasons must be provided in sufficiently clear and specific language so that a
28 person can identify the basis for the insurer's decision to take an adverse action.
29 The notification must include a description of up to four factors that were the
30 primary influences of the adverse action. The use of generalized terms such as
31 "poor credit history", "poor credit rating", or "poor insurance score" does not meet

the explanation requirements of this subsection. Standardized credit explanations provided by consumer reporting agencies or other third-party vendors are deemed to comply with this section.

3. Provide notice that the insurer will reconsider its decision if the consumer has suffered an extraordinary life circumstance, including:

- a. A catastrophic illness or injury;
- b. Total or other loss that makes a home uninhabitable;
- c. The death of a spouse, child, or parent;
- d. Loss of employment for more than three months;
- e. Identify theft; or
- f. Divorce.

4. Provide notice of:

- a. The extraordinary life circumstance exception;
- b. The process for applying for the exception;
- c. The information required and the form of that information;
- d. The insurer's guidelines for granting an exception;
- e. The effect on the consumer's credit-based insurance score if the exception is granted; and
- f. The duration of the exception.

5. The insurer may require that the consumer give reasonable, independently verifiable, written documentation of the event and the direct effect of the event on the consumer's credit. An insurer may consider information contained in a statement of dispute, 15 U.S.C. 1681i(b) on a consumer report as part of this documentation. An insurer is not required to consider repeated events or events the insurer considered previously as an extraordinary life circumstance.