

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2330

Introduced by

Senator Potter

Representative Wrangham

1 A BILL for an Act to amend and reenact sections 26.1-25.1-02 and 26.1-25.1-03 of the North
2 Dakota Century Code, relating to the use of credit information to take adverse actions against
3 consumers' personal insurance; to repeal sections 26.1-25.1-04, 26.1-25.1-05, 26.1-25.1-06,
4 26.1-25.1-07, 26.1-25.1-09, 26.1-25.1-10, and 26.1-25.1-11 of the North Dakota Century Code,
5 relating to the use of credit information to take adverse actions against consumers' personal
6 insurance; and to provide for application.

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

8 **SECTION 1. AMENDMENT.** Section 26.1-25.1-02 of the North Dakota Century Code
9 is amended and reenacted as follows:

10 **26.1-25.1-02. Definitions.** As used in this chapter, unless the context otherwise
11 requires:

12 1. "Adverse action" means a denial or cancellation of, an increase in any charge for,
13 or a reduction or other adverse or unfavorable change in the terms of coverage or
14 amount of, any insurance, existing or applied for, in connection with the
15 underwriting of personal insurance.

16 2. ~~"Affiliate" means any company that controls, is controlled by, or is under common~~
17 ~~control with another company.~~

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

20 4. 3. "Consumer" means an insured whose credit information is used or whose
21 insurance score is calculated in the underwriting or rating of a personal insurance
22 policy or an applicant for such a policy.

23 5. 4. "Consumer reporting agency" means any person that for monetary fees, dues, or
24 on a cooperative nonprofit basis, regularly engages in whole or in part in the

practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

~~6-~~ 5. "Credit information" means any credit-related information derived from a credit report, found on a credit report itself, or provided on an application for personal insurance. The term does not include information that is not credit related, regardless of whether the information is contained in a credit report or in an application or is used to calculate an insurance score.

~~7-~~ 6. "Credit report" means any written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, or credit capacity which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor to determine personal insurance premiums, eligibility for coverage, or tier placement.

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

~~9-~~ 8. "Personal insurance" means private passenger automobile, homeowners, motorcycle, mobile homeowners, and noncommercial dwelling fire insurance policies. Such policies must be individually underwritten for personal, family, or household use. No other type of insurance is included as personal insurance for the purpose of this chapter.

SECTION 2. AMENDMENT. Section 26.1-25.1-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-25.1-03. Use of credit information. An insurer authorized to do business in this state ~~which uses credit information to underwrite or rate risks~~ may not:

1. Use an insurance score ~~that is calculated using income, gender, address, zip code, ethnic group, religion, marital status, or nationality of the consumer~~ as a factor in underwriting or rating risk.
2. Deny, cancel, or nonrenew a policy of personal insurance ~~solely~~ board in whole or in part on the basis of credit information, ~~without consideration of any other~~

~~applicable underwriting factor independent of credit information and not expressly prohibited by this section.~~

3. Take an adverse action against a consumer ~~solely~~ based in whole or in part because the consumer does not have a credit card account ~~without consideration of any other applicable factor independent of credit information.~~

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

a. ~~Treats the consumer as otherwise approved by the insurance commissioner if the insurer presents information that such an absence or inability relates to the risk for the insurer.~~

b. ~~Treats the consumer as if the applicant or insured had neutral credit information, as defined by the insurer.~~

c. ~~Excludes the use of credit information as a factor and use only other underwriting criteria.~~

5. Take an adverse action against a consumer based on credit information, ~~unless an insurer obtains and uses a credit report issued or an insurance score calculated within one hundred twenty days from the date the policy is first written or renewal is issued.~~

6. Use credit information ~~unless not later than every thirty-six months following the last time that the insurer obtained current credit information for the insured, the insurer recalculates the insurance score, or obtains an updated credit report.~~

~~Notwithstanding this section:~~

a. ~~At annual renewal, upon the request of a consumer or the consumer's agent, the insurer shall reunderwrite and re-rate the policy based upon a current credit report or insurance score. An insurer need not recalculate the insurance score or obtain the updated credit report of a consumer more frequently than once in a twelve-month period.~~

b. ~~The insurer may obtain current credit information upon any renewal before the thirty-six months if consistent with the insurer's underwriting guidelines.~~

- 1 e. ~~An insurer need not obtain current credit information for an insured, despite~~
2 ~~the requirements of subdivision a, if one of the following applies:~~
- 3 (1) ~~The insurer is treating the consumer as otherwise approved by the~~
4 ~~commissioner.~~
- 5 (2) ~~The insured is in the most favorably priced tier of the insurer, within a~~
6 ~~group of affiliated insurers. However, the insurer may order such report~~
7 ~~if consistent with the insurer's underwriting guidelines.~~
- 8 (3) ~~Credit was not used for underwriting or rating such insured when the~~
9 ~~policy was initially written. However, the insurer may use credit for~~
10 ~~underwriting or rating such insured upon renewal if consistent with the~~
11 ~~insurer's underwriting guidelines.~~
- 12 (4) ~~The insurer reevaluates the insured beginning no later than thirty-six~~
13 ~~months after inception and thereafter based upon other underwriting or~~
14 ~~rating factors, excluding credit information.~~
- 15 7. ~~Use the following as a negative factor in any insurance scoring methodology or in~~
16 ~~reviewing credit information for the purpose of underwriting or rating a policy of~~
17 ~~personal insurance:~~
- 18 a. ~~Credit inquiries not initiated by the consumer or inquiries requested by the~~
19 ~~consumer for the consumer's own credit information.~~
- 20 b. ~~Inquiries relating to insurance coverage if so identified on a consumer's credit~~
21 ~~report.~~
- 22 c. ~~Collection accounts with a medical industry code if so identified on the~~
23 ~~consumer's credit report.~~
- 24 d. ~~Multiple lender inquiries, if coded by the consumer reporting agency on the~~
25 ~~consumer's credit report as being from the home mortgage industry and made~~
26 ~~within thirty days of one another, unless only one inquiry is considered.~~
- 27 e. ~~Multiple lender inquiries, if coded by the consumer reporting agency on the~~
28 ~~consumer's credit report as being from the automobile lending industry and~~
29 ~~made within thirty days of one another, unless only one inquiry is considered~~
30 ~~as a factor in underwriting or rating risk.~~

1 **SECTION 3. REPEAL.** Sections 26.1-25.1-04, 26.1-25.1-05, 26.1-25.1-06,
2 26.1-25.1-07, 26.1-25.1-09, 26.1-25.1-10, and 26.1-25.1-11 of the North Dakota Century Code
3 are repealed.

4 **SECTION 4. APPLICATION.** Sections 1 and 2 of this Act apply to personal insurance
5 policies written or renewed after July 31, 2009. The sections repealed under section 3 of this
6 Act continue to apply to personal insurance policies written or renewed before August 1, 2009.