

SENATE BILL NO.

Introduced by

Senator Potter

1 A BILL for an Act to create and enact a new section to chapter 26.1-25.1 of the North Dakota
2 Century Code, relating to the use of credit information to take adverse actions against
3 consumers' life, accident, and health insurance; to amend and reenact section 26.1-25.1-02 of
4 the North Dakota Century Code, relating to definitions; and to provide for application.

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

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

8 **26.1-25.1-02. Definitions.** As used in this chapter, unless the context otherwise
9 requires:

- 10 1. "Adverse action" means a denial or cancellation of, an increase in any charge for,
11 or a reduction or other adverse or unfavorable change in the terms of coverage or
12 amount of, any insurance, existing or applied for, in connection with the
13 underwriting of personal insurance.
- 14 2. "Affiliate" means any company that controls, is controlled by, or is under common
15 control with another company.
- 16 3. "Applicant" means an individual who has applied to be covered by a personal
17 insurance policy with an insurer.
- 18 4. "Consumer" means an insured whose credit information is used or whose
19 insurance score is calculated in the underwriting or rating of a personal insurance
20 policy or an applicant for such a policy.
- 21 5. "Consumer reporting agency" means any person that for monetary fees, dues, or
22 on a cooperative nonprofit basis, regularly engages in whole or in part in the
23 practice of assembling or evaluating consumer credit information or other

1 information on consumers for the purpose of furnishing consumer reports to third
2 parties.

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

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

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

17 9. "Life, accident, and health insurance" includes life and annuity coverage; variable
18 life and annuity coverage; and any hospital and medical expense-incurred policy,
19 nonprofit health care service plan contract, health maintenance organization
20 subscriber contract, or any other health care plan or arrangement that pays for or
21 furnishes benefits that pay the costs of or provide medical, surgical, chiropractic, or
22 hospital care. The term does not include insurance coverage issued as a
23 supplement to liability insurance, for disability income, for long-term care, for
24 nursing home care, for home health care, or for community-based care.

25 10. "Personal insurance" means private passenger automobile, homeowners,
26 motorcycle, mobile homeowners, and noncommercial dwelling fire insurance
27 policies. Such policies must be individually underwritten for personal, family, or
28 household use. No other type of insurance is included as personal insurance for
29 the purpose of this chapter.

30 **SECTION 2.** A new section to chapter 26.1-25.1 of the North Dakota Century Code is
31 created and enacted as follows:

1 **Use of credit information - Life, accident, and health insurance.**

2 1. An insurer authorized to do life, accident, and health insurance business in this
3 state may not:

4 a. Use an insurance score as a factor in underwriting or rating risk for life,
5 accident, and health insurance policies;

6 b. Deny, cancel, or nonrenew a policy of life, accident, and health insurance
7 based in whole or in part on the basis of credit information;

8 c. Take an adverse action against a life, accident, and health insurance
9 consumer based in whole or in part because the consumer does not have a
10 credit card account;

11 d. Consider an absence of credit information or an inability to calculate an
12 insurance score in underwriting or rating life, accident, and health insurance;

13 e. Take an adverse action against a life, accident, and health insurance
14 consumer based on credit information; or

15 f. Use credit information as a factor in underwriting or rating risk for life,
16 accident, and health insurance.

17 2. This section applies to life, accident, and health insurance and does not apply to
18 personal insurance.

19 **SECTION 3. APPLICATION.** Section 2 of this Act applies to life, accident, and health
20 insurance policies written or renewed after July 31, 2009.