SENATE BILL NO. 127

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY SENATORS HUGGINS, Giessel, Costello, MacKinnon, Stevens, Micciche, Bishop, Meyer

REPRESENTATIVE Millett

Introduced: 1/19/16
Referred: State Affairs, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

"An Act relating to actions by insurers based on credit history or insurance score; and providing for an exception to consideration by an insurer of credit history or insurance score."

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

* Section 1. AS 21.36.460(d) is amended to read:

(d) An insurer may not

(1) fail to renew [OR, AT RENEWAL, AGAIN UNDERWRITE OR RATE] a personal insurance policy based in whole or in part on a consumer's credit history or insurance score [; THE PROHIBITION IN THIS PARAGRAPH AGAINST UNDERWRITING OR RATING A PERSONAL INSURANCE POLICY AT RENEWAL MAY BE WAIVED BY THE CONSUMER; WAIVER ALLOWED UNDER THIS PARAGRAPH MUST OCCUR AT EACH RENEWAL];

(2) cancel, deny, underwrite, or rate personal insurance coverage based in whole or in part on
(A) the absence of credit history or the inability to determine the consumer's credit history if the insurer has received accurate and complete information from the consumer; this subparagraph does not apply if the insurer treats the consumer as if the consumer had neutral credit information as approved by the director;

(B) credit inquiries not initiated by the consumer;

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

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

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

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

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

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

(I) the age of the most recent automobile or home loan obtained by the consumer; however, an insurer may consider the bill payment history or total number of loans; or

(J) the person's age when credit is established;

(3) use the credit history of the consumer when the consumer is adversely affected by a joint account owner who was the spouse of the consumer or a joint account owner who is the spouse of the consumer and who is a party to a divorce or dissolution action against the consumer; this paragraph applies only if the consumer provides written notice to the insurer that identifies the credit information that is adversely affected by the joint account owner; this paragraph does not prevent the use of credit history that is not identified by the consumer as required by this paragraph;
(4) use an insurance score that is calculated using the income, age, sex, address, zip code, census block, ethnic group, religion, marital status, or nationality of the consumer as a factor;  

(5) use credit history to determine an insurance score if the history is obtained more than 90 days before the policy is issued;  

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

* Sec. 2. AS 21.36.460(i)(1) is amended to read:  

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

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

(B) charging a higher insurance premium for personal insurance than would have been offered if [THE] credit history or insurance score had not been considered [MORE FAIRABLE, WHETHER THE CHARGE IS BY  

(i) APPLICATION OF A RATING RULE;  

(ii) ASSIGNMENT TO A RATING TIER THAT DOES NOT HAVE THE LOWEST AVAILABLE RATES; OR  

(iii) PLACEMENT WITH AN AFFILIATE COMPANY THAT DOES NOT OFFER THE LOWEST RATES AVAILABLE TO THE CONSUMER WITHIN THE AFFILIATE GROUP OF INSURANCE COMPANIES]; or  

(C) a [ANY] reduction or adverse or unfavorable change in the terms of coverage or amount of personal insurance due to a consumer's credit history or insurance score [; A REDUCTION OR ADVERSE OR UNFAVORABLE CHANGE IN THE TERMS OF COVERAGE OCCURS WHEN  

(i) COVERAGE PROVIDED TO THE CONSUMER IS NOT AS BROAD IN SCOPE AS COVERAGE REQUESTED BY
THE CONSUMER BUT AVAILABLE TO OTHER INSUREDS OF
THE INSURER OR ANY AFFILIATE; OR
(ii) THE CONSUMER IS NOT ELIGIBLE FOR
BENEFITS THAT ARE AVAILABLE THROUGH AFFILIATE
INSURERS);

* Sec. 3. AS 21.36 is amended by adding a new section to read:

Sec. 21.36.461. Extraordinary life circumstances. (a) Except as provided in
AS 21.36.460(d), an insurer that uses a consumer's credit history or insurance score
shall provide reasonable exceptions to the insurer's rates, rating classifications,
company or tier placement, or underwriting rules or guidelines for a consumer who
has experienced and whose credit history or insurance score has been affected by one
or more of the following extraordinary life circumstances:

(1) a catastrophe, as declared by the director;
(2) a serious illness or injury, or a serious illness of or injury to an
immediate family member;
(3) the death of a spouse, child, or parent;
(4) divorce or the involuntary interruption of spousal support or
maintenance payments;
(5) identity theft;
(6) loss of employment for three months or more as a result of
involuntary termination;
(7) military overseas deployment; or
(8) other events, as determined by the insurer.

(b) If a consumer submits a request for an exception under (a) of this section,
an insurer may, in its sole discretion,

(1) require the consumer to provide reasonable written and
independently verifiable documentation of the extraordinary life circumstance;
(2) require the consumer to demonstrate that the circumstances had a
direct and meaningful effect on the consumer's credit information;
(3) require that a request be made not more than 60 days after the date
of the application for insurance or the policy renewal.
(c) If a consumer submits a request for an exception under (a) of this section, an insurer may, in its sole discretion,

(1) grant an exception;

(2) grant an exception if the consumer asks for consideration of repeated events; and

(3) grant an exception if the insurer previously had considered a request.

(d) An insurer may not be considered out of compliance with a law or rule relating to underwriting, rating, or rate filing as a result of granting an exception under this section.

(e) Nothing in this section may be construed to provide a consumer with a cause of action that does not exist in the absence of this section.

(f) The insurer shall notify consumers that reasonable exceptions are available and provide information about how a consumer may apply for an exception under (a) of this section.

(g) Within 30 days after the insurer's receipt of sufficient documentation of an event described in (a) of this section, the insurer shall inform the consumer, in writing, of the outcome of the consumer's request.

(h) In this section, "consumer" has the meaning given in AS 21.36.460.