

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 419

H.P. 335

House of Representatives, January 29, 2007

An Act To Restrict the Use of Credit Scoring for Insurance Purposes

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative VALENTINO of Saco.
Cosponsored by Representatives: BRAUTIGAM of Falmouth, CONOVER of Oakland,
McKANE of Newcastle, MILLS of Farmington, PERRY of Calais, RICHARDSON of Warren,
VAUGHAN of Durham, Senator: MARRACHÉ of Kennebec.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24-A MRSA §2169-B, sub-§2,** as enacted by PL 2003, c. 223, §1, is
3 amended to read:

4 **2. Use of consumer reports.** Notwithstanding this subsection, an insurer may use a
5 consumer report as permitted under the Fair Credit Reporting Act pursuant to Title 10,
6 chapter 210 and 15 United States Code, Chapter 41. An insurer may use information
7 obtained from a consumer reporting agency to calculate an insurance score for
8 underwriting and rating purposes, except that an insurer may not:

9 A. Use an insurance score that is calculated using income, gender, address, zip
10 code, ethnic group, religion, marital status or nationality of a consumer as a factor;

11 B. Deny, cancel or refuse to renew a policy of personal insurance ~~solely on the~~
12 ~~basis of credit information without consideration of any other applicable underwriting~~
13 ~~factor independent of credit information and not expressly prohibited by paragraph A~~
14 based in whole or in part on a person's credit information;

15 C. Base an insured's renewal rates for personal insurance solely upon credit
16 information, including an insured's total available line of credit, without consideration
17 of any other applicable factor independent of credit information;

18 D. Take an adverse action against a consumer solely because that consumer does
19 not have a credit card account, without consideration of any other applicable factor
20 independent of credit information;

21 E. Consider an absence of credit information, the number of inquiries or an inability
22 to calculate an insurance score in underwriting or rating personal insurance unless the
23 insurer has demonstrated to the superintendent that an absence of credit information,
24 the number of inquiries or an inability to calculate an insurance score is a relevant
25 factor to the risk underwritten or rated by the insurer and the insurer applies this
26 factor in a manner approved by the superintendent; ~~or~~

27 F. Take an adverse action against a consumer based on credit information unless an
28 insurer obtains and uses a credit report issued or an insurance score calculated within
29 90 days before the date the policy is first written or renewal is issued; or

30 G. Consider more than one inquiry from a lender regarding residential mortgage
31 loans or automobile loans made within 30 days of one another.

32 **Sec. 2. 24-A MRSA §2169-B, sub-§4-A** is enacted to read:

33 4-A. Notice of insurance score. In addition to the notices required in subsections 3
34 and 4, if an insurer uses credit information to calculate an insurance score for
35 underwriting and rating purposes in accordance with this section, the insurer shall
36 disclose to the insured on the declarations page of the policy that the insured is paying
37 either a higher or lower premium based upon the insured's insurance score. The insurer
38 shall also disclose the insurance score calculated by the insurer to the insured. An insurer
39 may demonstrate compliance with this subsection by using the following example

1 disclosure statement: "You are paying a higher (or lower) premium for this policy based
2 upon your credit-based insurance score of"

3 **Sec. 3. 24-A MRSA §2169-B, sub-§5**, as enacted by PL 2003, c. 223, §1, is
4 repealed.

5 **Sec. 4. 24-A MRSA §2169-B, sub-§5-A** is enacted to read:

6 **5-A. Dispute resolution; rescoring.** The following provisions apply.

7 A. If it is determined through the dispute resolution process set forth in Title 10,
8 section 1317 or 15 United States Code, Section 1681i(a)(5) that the credit information
9 of a current insured was incorrect or incomplete and if the insurer receives notice of
10 such determination from either the consumer reporting agency or from the insured,
11 the insurer shall reunderwrite and rerate the consumer within 30 days of receiving the
12 notice. After reunderwriting or rerating the insured, the insurer shall make any
13 adjustments necessary, consistent with its underwriting and rating guidelines. If an
14 insurer determines that the insured has overpaid the premium, the insurer shall refund
15 to the insured the amount of overpayment calculated back to the last 12 months of
16 coverage or the actual policy period, whichever is shorter.

17 B. In addition to the requirements of paragraph A, an insurer that uses insurance
18 scores to underwrite or rate risks shall, upon request of the insured, but no more often
19 than once every 12 months:

20 (1) Obtain an updated credit report and recalculate the insurance score; and

21 (2) Reunderwrite and rerate the insured within 30 days of the request.

22 After reunderwriting and rerating the insured, the insurer shall make any adjustments
23 necessary, consistent with its underwriting and rating guidelines, on the effective date
24 of the renewal of the policy.

25 SUMMARY

26 This bill prohibits insurers from denying, canceling or refusing to renew personal
27 insurance in whole or in part on the basis of an insured's credit information. The bill also
28 prohibits insurers from considering more than one credit inquiry from mortgage or
29 automobile lenders for inquiries made within 30 days of one another.

30 The bill requires insurers that use credit reports and credit scores in insurance
31 underwriting to obtain an updated credit report to recalculate an insured's insurance scope
32 and to reunderwrite and rerate the insured. The bill requires insurers to act upon the
33 request of the insured within 30 days of the request, but does not require an insurer to do
34 so more than once every 12 months. The bill provides that any adjustments in the policy
35 premium be made at the time of renewal.

36 The bill also requires insurers that use credit scores to disclose to insureds that the
37 insured's premium is either higher or lower based upon the insured's credit-based
38 insurance score and notify the insured of that insurance score.