

# SENATE BILL No. 884

December 9, 2003, Introduced by Senators CROPSEY, SWITALSKI and GARCIA and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
(MCL 500.100 to 500.8302) by adding chapter 21A.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER 21A CREDIT INFORMATION AND CREDIT SCORES

Sec. 2151. As used in this chapter:

(a) "Adverse action" means a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of personal insurance and as otherwise permitted under this act.

(b) "Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of

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

4 (c) "Credit information" means any credit-related information  
5 derived from a credit report, found on a credit report itself, or  
6 provided on an application for personal insurance. Information  
7 that is not credit-related shall not be considered credit  
8 information, regardless of whether it is contained in a credit  
9 report or in an application, or is used to calculate an insurance  
10 score.

11 (d) "Credit report" means any written, oral, or other  
12 communication of information by a consumer reporting agency  
13 bearing on a consumer's credit worthiness, credit standing, or  
14 credit capacity used or expected to be used or collected in whole  
15 or in part for the purpose of serving as a factor to determine,  
16 as otherwise permitted under this act, personal insurance  
17 premiums, eligibility for coverage or for a premium discount  
18 plan, or tier placement.

19 (e) "Insurance score" means a number or rating that is  
20 derived from an algorithm, computer application, model, or other  
21 process that is based in whole or in part on credit information  
22 for the purposes of predicting the future insurance loss exposure  
23 of an individual applicant or insured.

24 Sec. 2153. (1) This chapter applies to all  
25 property/casualty insurance policies written for personal,  
26 family, or household use including automobile, home, motorcycle,  
27 mobile home, noncommercial dwelling fire, boat, personal

1 watercraft, snowmobile, and recreational vehicle, whether written  
2 on an individual, group, franchise, blanket policy, or similar  
3 basis.

4 (2) An insurer shall not use credit information or a credit  
5 score for premium surcharges.

6 Sec. 2155. An insurer shall not use credit information or a  
7 credit-based insurance score unless all of the following are  
8 met:

9 (a) The insurer or its producer discloses, at the renewal of  
10 a policy, on an insurance application, or at the time the  
11 application is taken, that it may obtain credit information.  
12 This disclosure shall be either written or provided to an  
13 applicant in the same medium as the application for insurance or  
14 notice of renewal. This disclosure is not required to be given  
15 to an insured on a renewal policy if the insured has previously  
16 been provided a disclosure statement. An insurer may use the  
17 following disclosure statement:

18 "In connection with this application for insurance, we may  
19 review your credit report or obtain or use a credit-based  
20 insurance score based on the information contained in that  
21 credit report. We may use a third party in connection with  
22 the development of your insurance score."

23 (b) The insurer or a third party on behalf of the insurer  
24 files with the commissioner the scoring models or other scoring  
25 processes used. A filing that includes insurance scoring may  
26 include loss experience justifying the use of credit  
27 information.

1 (c) The insurer or a third party on behalf of the insurer  
2 does not use income, gender, address, zip code, ethnic group,  
3 religion, marital status, or nationality of the insured or  
4 applicant for insurance in calculating an insurance score.

5 (d) The insurer does not do any of the following:

6 (i) Deny, cancel, or nonrenew a policy solely or  
7 substantially on the basis of credit information, without  
8 consideration of any other applicable underwriting factor  
9 independent of credit information and not expressly prohibited by  
10 this act.

11 (ii) Base an insured's premium discount or renewal rates  
12 solely or substantially upon credit information, without  
13 consideration of any other applicable factor independent of  
14 credit information.

15 (iii) Take an adverse action against a consumer solely or  
16 substantially because he or she does not have a credit card  
17 account, without consideration of any other applicable factor  
18 independent of credit information.

19 (e) The insurer or a third party on behalf of the insurer  
20 does not consider an absence of credit information or an  
21 inability to calculate an insurance score unless the insurer or  
22 third party on behalf of the insurer treats the consumer as  
23 otherwise approved by the commissioner and the insurer presents  
24 information to the commissioner that such an absence or inability  
25 relates to the insurer's risk.

26 (f) The insurer or a third party on the insurer's behalf uses  
27 a credit report issued or an insurance score calculated within 90

1 days from the date the policy is first written or renewed.

2 (g) Not later than every 36 months following the last time  
3 the insurer or a third party on the insurer's behalf obtained  
4 current credit information for the insured, the insurer or a  
5 third party on the insurer's behalf recalculates the insurance  
6 score or obtains an updated credit report subject to all of the  
7 following:

8 (i) Upon request of an insured or the insured's producer at  
9 annual renewal, an insurer or a third party on the insurer's  
10 behalf shall reexamine a current credit report or insurance  
11 score. An insurer or a third party on the insurer's behalf is  
12 not required to recalculate the insurance score or obtain an  
13 updated credit report more frequently than once in a 12-month  
14 period.

15 (ii) An insurer or a third party on the insurer's behalf may  
16 order a credit report upon any renewal before 36 months if the  
17 insurer does so consistently with all its insureds.

18 (iii) Notwithstanding subparagraph (i), an insurer or a third  
19 party on the insurer's behalf is not required to obtain current  
20 credit information for an insured if 1 of the following applies:

21 (A) The insurer is treating the consumer as otherwise  
22 approved by the commissioner.

23 (B) The insured is in the most favorably-priced tier of the  
24 insurer. However, the insurer shall have the discretion to order  
25 the report, if consistent with its underwriting guidelines.

26 (C) Credit was not used for underwriting or rating the  
27 insured when the policy was initially written. However, the

1 insurer may use credit for underwriting, a premium discount plan,  
2 or rating the insured upon renewal, if consistent with its  
3 underwriting guidelines and this act.

4 (D) The insurer reevaluates the insured beginning no later  
5 than 36 months after inception and thereafter based upon other  
6 underwriting, premium discount plan, or rating factors as  
7 permitted under this act, excluding credit information.

8 (h) The insurer or a third party on the insurer's behalf does  
9 not use the following as a negative factor in any insurance score  
10 or in reviewing credit information:

11 (i) Credit inquiries not initiated by the consumer or  
12 requested by the consumer for his or her own credit information.

13 (ii) Credit inquiries relating to insurance coverage, if so  
14 identified on an insured's or applicant's credit report.

15 (iii) Collection accounts with a medical industry code, if so  
16 identified on the consumer's credit report.

17 (iv) Multiple lender inquiries, if coded by the consumer  
18 reporting agency on the credit report as being from the home  
19 mortgage industry and made within 45 days from one another,  
20 unless only 1 inquiry is considered.

21 (v) Multiple lender inquiries, if coded by the consumer  
22 reporting agency on the credit report as being from the  
23 automobile lending industry and made within 45 days of one  
24 another, unless only 1 inquiry is considered.

25 Sec. 2157. If an insurer takes an adverse action based upon  
26 credit information, the insurer shall notify the insured or  
27 applicant for insurance in accordance with section 615(a) of the

1 fair credit reporting act, title VI of the consumer credit  
2 protection act, Public Law 90-321, 15 USC 1681m, that an adverse  
3 action has been taken and shall explain in clear and specific  
4 language the reasons for the adverse action. The reasons shall  
5 be in sufficiently clear and specific language so that an  
6 individual can identify the basis for the insurer's decision to  
7 take an adverse action. The notice shall include a description  
8 of up to 4 factors that were the primary influences for the  
9 adverse action. The use of generalized terms such as "poor  
10 credit history", "poor credit rating", or "poor insurance score"  
11 does not meet the description requirements of this section.  
12 Standardized credit explanations provided by consumer reporting  
13 agencies or other third party vendors do meet the description  
14 requirements of this section. This section is not satisfied if a  
15 producer instead of the insurer provides the reasons for the  
16 adverse action.

17       Sec. 2159. If it is determined through the dispute  
18 resolution process set forth in the federal fair credit reporting  
19 act, section 611(a)(5) of the fair credit reporting act, title VI  
20 of the consumer credit protection act, Public Law 90-321, 15 USC  
21 1681i, that the credit information of a current insured was  
22 incorrect or incomplete and if the insurer receives notice of  
23 this determination from either the consumer reporting agency or  
24 from the insured, the insurer shall reevaluate the insured within  
25 30 days of receiving the notice. After reevaluating the insured,  
26 the insurer shall make any adjustments necessary, consistent with  
27 this act and its underwriting, rating guidelines, and premium

1 discount plan. If an insurer determines that the insured has  
2 overpaid premium, the insurer shall refund to the insured the  
3 amount of overpayment calculated back to the shorter of either  
4 the last 12 months of coverage or the actual policy period.

5       Sec. 2161. An insurer shall indemnify, defend, and hold  
6 harmless producers from and against all liability, fees, and  
7 costs arising out of or relating to the actions, errors, or  
8 omissions of a producer who obtains or uses credit information or  
9 insurance scores for an insurer, provided the producer follows  
10 the instructions of or procedures established by the insurer and  
11 complies with any applicable law or regulation. Nothing in this  
12 section shall be construed to provide an insured or applicant for  
13 insurance with a cause of action that does not exist in the  
14 absence of this section.

15       Enacting section 1. This amendatory act takes effect 90  
16 days after the date this amendatory act is enacted.