

HOUSE BILL No. 5297

September 2, 2009, Introduced by Reps. Neumann, Polidori, Gonzales, Liss, Roberts, Lipton and Young and referred to the Committee on Insurance.

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. (1) AS USED IN THIS CHAPTER:

(A) "ADVERSE ACTION" MEANS A DENIAL OR CANCELLATION OF
PERSONAL INSURANCE COVERAGE OR AN INCREASE IN ANY CHARGE FOR, OR A
REDUCTION OR OTHER ADVERSE OR UNFAVORABLE CHANGE IN THE TERMS OF
COVERAGE OR AMOUNT OF, ANY PERSONAL INSURANCE, EXISTING OR APPLIED
FOR.

(B) "CONSUMER REPORTING AGENCY" MEANS ANY PERSON WHICH, FOR
MONETARY FEES OR DUES OR ON A COOPERATIVE NONPROFIT BASIS,
REGULARLY ENGAGES IN WHOLE OR IN PART IN THE PRACTICE OF ASSEMBLING

1 OR EVALUATING CONSUMER CREDIT INFORMATION OR OTHER INFORMATION ON
2 CONSUMERS FOR THE PURPOSE OF FURNISHING CONSUMER REPORTS TO THIRD
3 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 THAT
7 IS NOT CREDIT-RELATED SHALL NOT BE CONSIDERED CREDIT INFORMATION,
8 REGARDLESS OF WHETHER IT IS CONTAINED IN A CREDIT REPORT OR IN AN
9 APPLICATION, OR IS USED TO CALCULATE AN INSURANCE SCORE.

10 (D) "CREDIT REPORT" MEANS ANY WRITTEN, ORAL, OR OTHER
11 COMMUNICATION OF INFORMATION BY A CONSUMER REPORTING AGENCY BEARING
12 ON A CONSUMER'S CREDIT WORTHINESS, CREDIT STANDING, OR CREDIT
13 CAPACITY USED OR EXPECTED TO BE USED OR COLLECTED IN WHOLE OR IN
14 PART FOR THE PURPOSE OF SERVING AS A FACTOR IN THE RATING OR
15 UNDERWRITING OF PERSONAL INSURANCE.

16 (E) "INSURANCE SCORE" MEANS A NUMBER OR RATING THAT IS DERIVED
17 FROM AN ALGORITHM, COMPUTER APPLICATION, MODEL, OR OTHER PROCESS
18 THAT IS BASED IN WHOLE OR IN PART ON CREDIT INFORMATION FOR THE
19 PURPOSES OF PREDICTING THE FUTURE INSURANCE LOSS EXPOSURE OF AN
20 INDIVIDUAL APPLICANT OR INSURED.

21 (F) "PERSONAL INSURANCE" MEANS PROPERTY/CASUALTY INSURANCE
22 WRITTEN FOR PERSONAL, FAMILY, OR HOUSEHOLD USE, INCLUDING
23 AUTOMOBILE, HOME, MOTORCYCLE, MOBILE HOME, NONCOMMERCIAL DWELLING
24 FIRE, BOAT, PERSONAL WATERCRAFT, SNOWMOBILE, AND RECREATIONAL
25 VEHICLE, WHETHER WRITTEN ON AN INDIVIDUAL, GROUP, FRANCHISE,
26 BLANKET POLICY, OR SIMILAR BASIS.

27 (2) AN INSURER SHALL NOT USE CREDIT INFORMATION OR AN

1 INSURANCE SCORE AS ANY PART OF A DECISION TO DENY, CANCEL, OR
2 NONRENEW A PERSONAL INSURANCE POLICY UNDER CHAPTER 24 OR 26. AN
3 INSURER SHALL NOT APPLY CREDIT INFORMATION OR A CREDIT-BASED
4 INSURANCE SCORE IN THE RATING OR UNDERWRITING OF PERSONAL INSURANCE
5 THAT IS OTHERWISE PERMITTED UNDER THIS ACT UNLESS ALL OF THE
6 FOLLOWING ARE MET:

7 (A) THE INSURER OR ITS PRODUCER DISCLOSES, EITHER ON THE
8 INSURANCE APPLICATION OR AT THE TIME THE APPLICATION IS TAKEN, THAT
9 IT MAY OBTAIN CREDIT INFORMATION IN CONNECTION WITH THE
10 APPLICATION. THIS DISCLOSURE SHALL BE EITHER WRITTEN OR PROVIDED TO
11 AN APPLICANT IN THE SAME MEDIUM AS THE APPLICATION FOR INSURANCE.
12 AN INSURER MAY USE THE FOLLOWING DISCLOSURE STATEMENT:

13 "IN CONNECTION WITH THIS APPLICATION FOR INSURANCE, WE MAY
14 REVIEW YOUR CREDIT REPORT OR OBTAIN OR USE A CREDIT-BASED INSURANCE
15 SCORE BASED ON THE INFORMATION CONTAINED IN THAT CREDIT REPORT. WE
16 MAY USE A THIRD PARTY IN CONNECTION WITH THE DEVELOPMENT OF YOUR
17 INSURANCE SCORE."

18 (B) THE INSURER OR A THIRD PARTY ON BEHALF OF THE INSURER DOES
19 NOT USE INCOME, GENDER, ADDRESS, ZIP CODE, ETHNIC GROUP, RELIGION,
20 MARITAL STATUS, OR NATIONALITY OF THE INSURED OR INSURANCE
21 APPLICANT IN CALCULATING AN INSURANCE SCORE.

22 (C) THE INSURER DOES NOT TAKE AN ADVERSE ACTION AGAINST A
23 CONSUMER SOLELY BECAUSE HE OR SHE DOES NOT HAVE A CREDIT CARD
24 ACCOUNT, WITHOUT CONSIDERATION OF ANY OTHER APPLICABLE FACTOR
25 INDEPENDENT OF CREDIT INFORMATION.

26 (D) THE INSURER OR A THIRD PARTY ON BEHALF OF THE INSURER DOES
27 NOT CONSIDER AN ABSENCE OF CREDIT INFORMATION OR AN INABILITY TO

1 CALCULATE AN INSURANCE SCORE IN THE RATING OF PERSONAL INSURANCE
2 UNLESS ANY RESULTING RATE DIFFERENTIAL IS REASONABLY JUSTIFIED BY
3 DIFFERENCES IN LOSSES, EXPENSES, OR BOTH, OR THE INSURED OR
4 INSURANCE APPLICANT IS TREATED AS HAVING THE MOST FAVORABLE
5 INSURANCE SCORE AVAILABLE.

6 (E) THE INSURER OR A THIRD PARTY ON THE INSURER'S BEHALF USES
7 A CREDIT REPORT ISSUED WITHIN 90 DAYS BEFORE THE DATE AN INSURANCE
8 SCORE BASED ON THAT CREDIT REPORT IS FIRST APPLIED TO THE INSURED.

9 (F) UPON REQUEST OF AN INSURED OR THE INSURED'S PRODUCER AT
10 ANNUAL RENEWAL, AN INSURER OR A THIRD PARTY ON THE INSURER'S BEHALF
11 SHALL REEXAMINE A CURRENT CREDIT REPORT OR INSURANCE SCORE. AN
12 INSURER OR A THIRD PARTY ON THE INSURER'S BEHALF IS NOT REQUIRED TO
13 RECALCULATE THE INSURANCE SCORE OR OBTAIN A NEW CREDIT REPORT MORE
14 FREQUENTLY THAN ONCE IN A 12-MONTH PERIOD. AN INSURER OR A THIRD
15 PARTY ON THE INSURER'S BEHALF MAY ORDER A CREDIT REPORT UPON ANY
16 RENEWAL IF THE INSURER DOES SO CONSISTENTLY WITH ALL ITS INSUREDS.

17 (G) FOR INSURANCE SCORES CALCULATED OR RECALCULATED ON OR
18 AFTER JANUARY 1, 2010, THE INSURER OR A THIRD PARTY ON THE
19 INSURER'S BEHALF DOES NOT USE THE FOLLOWING AS A NEGATIVE FACTOR IN
20 ANY INSURANCE SCORE OR IN REVIEWING CREDIT INFORMATION:

21 (i) CREDIT INQUIRIES NOT INITIATED BY THE CONSUMER OR REQUESTED
22 BY THE CONSUMER FOR HIS OR HER OWN CREDIT INFORMATION.

23 (ii) CREDIT INQUIRIES RELATING TO INSURANCE COVERAGE, IF SO
24 IDENTIFIED ON AN INSURED'S OR INSURANCE APPLICANT'S CREDIT REPORT.

25 (iii) MULTIPLE LENDER INQUIRIES, IF CODED BY THE CONSUMER
26 REPORTING AGENCY ON THE CREDIT REPORT AS BEING FROM THE HOME
27 MORTGAGE INDUSTRY AND MADE WITHIN 45 DAYS OF ONE ANOTHER, UNLESS

1 ONLY 1 INQUIRY IS CONSIDERED.

2 (iv) MULTIPLE LENDER INQUIRIES, IF CODED BY THE CONSUMER
3 REPORTING AGENCY ON THE CREDIT REPORT AS BEING FROM THE AUTOMOBILE
4 LENDING INDUSTRY AND MADE WITHIN 45 DAYS OF ONE ANOTHER, UNLESS
5 ONLY 1 INQUIRY IS CONSIDERED.

6 (v) THE NUMBER, IF UNDER 3, OF CREDIT OR CHARGE CARD ACCOUNTS
7 OPENED BY A CONSUMER IN THE IMMEDIATELY PRECEDING 12 MONTHS.

8 (vi) AN ACTION COMMENCED BY OR AGAINST THE CONSUMER UNDER THE
9 BANKRUPTCY CODE, 11 USC 101 TO 1330, IF THE DATE OF THE ORDER FOR
10 RELIEF OR THE DATE OF ADJUDICATION, AS APPLICABLE, IN THAT ACTION
11 IS MORE THAN 10 YEARS BEFORE THE DATE OF THE CREDIT REPORT.

12 (vii) COLLECTION ACCOUNTS WITH A MEDICAL INDUSTRY CODE, IF SO
13 IDENTIFIED ON THE CONSUMER'S CREDIT REPORT.

14 (H) THE INSURER OR A THIRD PARTY ON BEHALF OF THE INSURER DOES
15 NOT CALCULATE AN INSURANCE SCORE BY DIFFERENTIATING ON WHETHER AN
16 INSURED'S OR INSURANCE APPLICANT'S ACCOUNTS ARE MAINTAINED AT A
17 STATE OR NATIONALLY CHARTERED BANK OR A STATE OR FEDERALLY
18 CHARTERED SAVINGS AND LOAN ASSOCIATION, SAVINGS BANK, OR CREDIT
19 UNION.

20 (3) IF AN INSURER TAKES AN ADVERSE ACTION BASED UPON CREDIT
21 INFORMATION, THE INSURER SHALL NOTIFY THE INSURED OR APPLICANT FOR
22 INSURANCE IN ACCORDANCE WITH 15 USC 1681M(A), THAT AN ADVERSE
23 ACTION HAS BEEN TAKEN AND SHALL PROVIDE NOTICE IN CLEAR AND
24 SPECIFIC LANGUAGE OF THE REASONS FOR THE ADVERSE ACTION, INCLUDING
25 A DESCRIPTION OF ALL FACTORS THAT WERE THE PRIMARY INFLUENCES FOR
26 THE ADVERSE ACTION. HOWEVER, NOT MORE THAN 4 FACTORS THAT WERE THE
27 PRIMARY INFLUENCES FOR THE ADVERSE ACTION NEED TO BE GIVEN. THE USE

1 OF GENERALIZED TERMS SUCH AS "POOR CREDIT HISTORY", "POOR CREDIT
2 RATING", OR "POOR INSURANCE SCORE" DOES NOT MEET THE DESCRIPTION
3 REQUIREMENTS OF THIS SUBSECTION. STANDARDIZED CREDIT EXPLANATIONS
4 PROVIDED BY CONSUMER REPORTING AGENCIES OR OTHER THIRD PARTY
5 VENDORS MEET THE DESCRIPTION REQUIREMENTS OF THIS SUBSECTION.

6 (4) IF IT IS DETERMINED THROUGH THE DISPUTE RESOLUTION PROCESS
7 SET FORTH IN 15 USC 1681I(A) THAT THE CREDIT INFORMATION OF A
8 CURRENT INSURED WAS INCORRECT OR INCOMPLETE AND IF THE INSURER
9 RECEIVES NOTICE OF THIS DETERMINATION FROM EITHER THE CONSUMER
10 REPORTING AGENCY OR FROM THE INSURED, THE INSURER SHALL REEVALUATE
11 THE INSURED WITHIN 30 DAYS OF RECEIVING THE NOTICE. AFTER
12 REEVALUATING THE INSURED, THE INSURER SHALL MAKE ANY ADJUSTMENTS
13 NECESSARY, CONSISTENT WITH THIS ACT AND THE INSURER'S UNDERWRITING,
14 RATING GUIDELINES, AND PREMIUM DISCOUNT PLAN. IF AN INSURER
15 DETERMINES THAT THE INSURED HAS OVERPAID PREMIUM, THE INSURER SHALL
16 REFUND TO THE INSURED THE AMOUNT OF OVERPAYMENT CALCULATED BACK TO
17 THE SHORTER OF EITHER THE LAST 12 MONTHS OF COVERAGE OR THE ACTUAL
18 POLICY PERIOD.

19 (5) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO PROVIDE AN
20 INSURED OR APPLICANT FOR INSURANCE WITH A CAUSE OF ACTION THAT DOES
21 NOT EXIST IN THE ABSENCE OF THIS CHAPTER.

22 (6) AN INSURER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS
23 PRODUCERS FROM AND AGAINST ALL LIABILITY, FEES, AND COSTS ARISING
24 OUT OF OR RELATING TO THE ACTIONS, ERRORS, OR OMISSIONS OF A
25 PRODUCER RESULTING FROM THE USE OF CREDIT INFORMATION OR INSURANCE
26 SCORES FOR THE INSURER, PROVIDED THAT THE PRODUCER FOLLOWS THE
27 PROCEDURES AND INSTRUCTIONS ESTABLISHED BY THE INSURER AND COMPLIES

1 WITH ALL APPLICABLE LAWS AND REGULATIONS.

2 Enacting section 1. This amendatory act takes effect January
3 1, 2010.