

# SENATE BILL No. 1555

November 3, 2010, Introduced by Senators BARCIA and CROPSEY and referred to the Committee on Economic Development and Regulatory Reform.

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) THE INSURER OR A THIRD PARTY ON THE INSURER'S BEHALF  
10 RECALCULATES THE INSURANCE SCORE OR OBTAINS AN UPDATED CREDIT  
11 REPORT NOT LATER THAN EVERY 36 MONTHS FOLLOWING THE LAST TIME THAT  
12 THE INSURER OR THIRD PARTY OBTAINED CURRENT CREDIT INFORMATION. AN  
13 INSURER OR A THIRD PARTY ON THE INSURER'S BEHALF MAY ORDER A CREDIT  
14 REPORT UPON ANY RENEWAL IF THE INSURER DOES SO CONSISTENTLY WITH  
15 ALL ITS INSUREDS.

16 (G) UPON REQUEST OF AN INSURED OR THE INSURED'S PRODUCER AT  
17 ANNUAL RENEWAL, AN INSURER OR A THIRD PARTY ON THE INSURER'S BEHALF  
18 SHALL REEXAMINE A CURRENT CREDIT REPORT OR INSURANCE SCORE. AN  
19 INSURER OR A THIRD PARTY ON THE INSURER'S BEHALF IS NOT REQUIRED TO  
20 RECALCULATE THE INSURANCE SCORE OR OBTAIN A NEW CREDIT REPORT MORE  
21 FREQUENTLY THAN ONCE IN A 12-MONTH PERIOD. HOWEVER, AN INSURER OR A  
22 THIRD PARTY ON THE INSURER'S BEHALF IS NOT REQUIRED TO REEXAMINE A  
23 CURRENT CREDIT REPORT OR INSURANCE SCORE IF 1 OF THE FOLLOWING  
24 APPLIES:

25 (i) THE INSURER IS TREATING THE INSURED OR INSURANCE APPLICANT  
26 AS OTHERWISE APPROVED BY THE COMMISSIONER.

27 (ii) THE INSURED OR INSURANCE APPLICANT IS TREATED AS HAVING

1 THE MOST FAVORABLE INSURANCE SCORE AVAILABLE, WITHIN A GROUP OF  
2 AFFILIATED INSURERS. HOWEVER, THE INSURER MAY ORDER A CREDIT REPORT  
3 IF THE INSURER DOES SO CONSISTENTLY WITH ALL ITS INSURED.

4 (iii) CREDIT WAS NOT USED FOR UNDERWRITING OR RATING THE INSURED  
5 WHEN THE POLICY WAS INITIALLY WRITTEN. HOWEVER, THE INSURER MAY USE  
6 CREDIT FOR UNDERWRITING OR RATING THE INSURED UPON RENEWAL, IF THE  
7 INSURER DOES SO CONSISTENTLY WITH ALL ITS INSURED.

8 (iv) THE INSURER OR A THIRD PARTY ON THE INSURER'S BEHALF  
9 REEVALUATES THE INSURED BEGINNING NO LATER THAN 36 MONTHS AFTER  
10 INCEPTION AND THEREAFTER BASED UPON UNDERWRITING OR RATING FACTORS,  
11 EXCLUDING CREDIT INFORMATION.

12 (H) FOR INSURANCE SCORES CALCULATED OR RECALCULATED ON OR  
13 AFTER JANUARY 1, 2011, THE INSURER OR A THIRD PARTY ON THE  
14 INSURER'S BEHALF DOES NOT USE THE FOLLOWING AS A NEGATIVE FACTOR IN  
15 ANY INSURANCE SCORE OR IN REVIEWING CREDIT INFORMATION:

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

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

20 (iii) MULTIPLE LENDER INQUIRIES, IF CODED BY THE CONSUMER  
21 REPORTING AGENCY ON THE CREDIT REPORT AS BEING FROM THE HOME  
22 MORTGAGE INDUSTRY AND MADE WITHIN 30 DAYS OF ONE ANOTHER, UNLESS  
23 ONLY 1 INQUIRY IS CONSIDERED.

24 (iv) MULTIPLE LENDER INQUIRIES, IF CODED BY THE CONSUMER  
25 REPORTING AGENCY ON THE CREDIT REPORT AS BEING FROM THE AUTOMOBILE  
26 LENDING INDUSTRY AND MADE WITHIN 30 DAYS OF ONE ANOTHER, UNLESS  
27 ONLY 1 INQUIRY IS CONSIDERED.

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

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

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

9 (I) THE INSURER OR A THIRD PARTY ON BEHALF OF THE INSURER DOES  
10 NOT CALCULATE AN INSURANCE SCORE BY DIFFERENTIATING ON WHETHER AN  
11 INSURED'S OR INSURANCE APPLICANT'S ACCOUNTS ARE MAINTAINED AT A  
12 STATE OR NATIONALLY CHARTERED BANK OR A STATE OR FEDERALLY  
13 CHARTERED SAVINGS AND LOAN ASSOCIATION, SAVINGS BANK, OR CREDIT  
14 UNION.

15 SEC. 2153. (1) NOTWITHSTANDING ANY OTHER LAW, RULE, OR  
16 REGULATION, AN INSURER THAT USES CREDIT INFORMATION SHALL, ON  
17 WRITTEN REQUEST FROM AN INSURED OR INSURANCE APPLICANT, PROVIDE  
18 REASONABLE EXCEPTIONS TO THE INSURER'S RATES, RATING  
19 CLASSIFICATIONS, COMPANY OR TIER PLACEMENT, OR UNDERWRITING RULES  
20 OR GUIDELINES FOR AN INSURED OR INSURANCE APPLICANT WHO HAS  
21 EXPERIENCED AND WHOSE CREDIT INFORMATION HAS BEEN DIRECTLY  
22 INFLUENCED BY ANY OF THE FOLLOWING EVENTS:

23 (A) CATASTROPHIC EVENT, AS DECLARED BY THE FEDERAL OR STATE  
24 GOVERNMENT.

25 (B) SERIOUS ILLNESS OR INJURY, OR SERIOUS ILLNESS OR INJURY TO  
26 AN IMMEDIATE FAMILY MEMBER.

27 (C) DEATH OF A SPOUSE, CHILD, OR PARENT.

1 (D) DIVORCE OR INVOLUNTARY INTERRUPTION OF LEGALLY OWNED  
2 ALIMONY OR SUPPORT PAYMENTS.

3 (E) IDENTITY THEFT.

4 (F) TEMPORARY LOSS OF EMPLOYMENT FOR A PERIOD OF 3 MONTHS OR  
5 MORE, IF IT RESULTS FROM INVOLUNTARY TERMINATION.

6 (G) MILITARY DEPLOYMENT OVERSEAS.

7 (H) OTHER EVENTS, AS DETERMINED BY THE INSURER.

8 (2) IF AN INSURED OR INSURANCE APPLICANT SUBMITS A REQUEST FOR  
9 AN EXCEPTION UNDER SUBSECTION (1), AN INSURER MAY, BUT IS NOT  
10 REQUIRED TO DO, ANY OF THE FOLLOWING:

11 (A) REQUIRE A REASONABLE WRITTEN AND INDEPENDENTLY VERIFIABLE  
12 DOCUMENTATION OF THE EVENT.

13 (B) REQUIRE THE INSURED OR INSURANCE APPLICANT TO DEMONSTRATE  
14 THAT THE EVENT HAD DIRECT AND MEANINGFUL IMPACT ON THE INSURED'S OR  
15 INSURANCE APPLICANT'S CREDIT INFORMATION.

16 (C) REQUIRE A REQUEST TO BE MADE NO MORE THAN 60 DAYS FROM THE  
17 DATE OF THE APPLICATION FOR INSURANCE OR THE POLICY RENEWAL.

18 (D) GRANT AN EXCEPTION EVEN IF THE INSURED OR INSURANCE  
19 APPLICANT DID NOT PROVIDE AN INITIAL REQUEST FOR AN EXCEPTION IN  
20 WRITING.

21 (E) GRANT AN EXCEPTION WHERE THE INSURED OR INSURANCE  
22 APPLICANT ASKS FOR CONSIDERATION OF REPEATED EVENTS OR THE INSURER  
23 HAS CONSIDERED THIS EVENT PREVIOUSLY.

24 (3) AN INSURER DOES NOT VIOLATE ANY LAW, RULE, OR REGULATION  
25 RELATING TO UNDERWRITING, RATING, OR RATE FILING AS A RESULT OF  
26 GRANTING AN EXCEPTION UNDER THIS SECTION.

27 (4) THE INSURER SHALL PROVIDE NOTICE TO INSUREDS AND INSURANCE

1 APPLICANTS THAT REASONABLE EXCEPTIONS ARE AVAILABLE AND INFORMATION  
2 ABOUT HOW TO INQUIRE FURTHER.

3 (5) WITHIN 30 DAYS OF THE INSURER'S RECEIPT OF SUFFICIENT  
4 DOCUMENTATION OF AN EVENT DESCRIBED IN SUBSECTION (1), THE INSURER  
5 SHALL INFORM THE INSURED OR INSURANCE APPLICANT OF THE OUTCOME OF  
6 HIS OR HER REQUEST FOR A REASONABLE EXCEPTION. THIS COMMUNICATION  
7 SHALL BE IN WRITING OR PROVIDED IN THE SAME MEDIUM AS THE REQUEST  
8 FOR A REASONABLE EXCEPTION.

9 SEC. 2155. (1) AN INSURER THAT APPLIES CREDIT INFORMATION OR A  
10 CREDIT-BASED INSURANCE SCORE IN THE RATING OR UNDERWRITING OF  
11 PERSONAL INSURANCE SHALL FILE, OR A THIRD PARTY ON BEHALF OF THE  
12 INSURER SHALL FILE, THE INSURER'S SCORING MODELS AND PROCESSES WITH  
13 THE COMMISSIONER. A FILING THAT INCLUDES INSURANCE SCORING MAY  
14 INCLUDE LOSS EXPERIENCE JUSTIFYING THE USE OF CREDIT INFORMATION.

15 (2) ANY FILING RELATING TO CREDIT INFORMATION IS PRIVILEGED  
16 AND NOT SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL  
17 15.231 TO 15.246.

18 SEC. 2157. (1) AN INSURER OR A THIRD PARTY ON BEHALF OF AN  
19 INSURER SHALL NOT DO BUSINESS WITH ANY CREDIT REPORTING AGENCY THAT  
20 PROVIDES OR SELLS DATA OR LISTS THAT INCLUDE ANY INFORMATION THAT  
21 IN WHOLE OR IN PART WAS SUBMITTED IN CONJUNCTION WITH AN INSURANCE  
22 INQUIRY ABOUT AN INSURED'S OR INSURANCE APPLICANT'S CREDIT  
23 INFORMATION OR A REQUEST FOR A CREDIT REPORT OR INSURANCE SCORE.  
24 THIS INFORMATION INCLUDES, BUT IS NOT LIMITED TO, THE EXPIRATION  
25 DATES OF AN INSURANCE POLICY OR OTHER INFORMATION THAT MAY IDENTIFY  
26 TIME PERIODS DURING WHICH AN INSURED'S INSURANCE POLICY MAY EXPIRE  
27 AND THE TERMS AND CONDITIONS OF THE COVERAGE.



1           (2) SUBSECTION (1) DOES NOT APPLY TO DATA OR LISTS THE  
2 CONSUMER REPORTING AGENCY SUPPLIES TO THE INSURER OR THE INSURANCE  
3 PRODUCER FROM WHOM INFORMATION WAS RECEIVED OR THE INSURER'S  
4 AFFILIATES OR HOLDING COMPANIES.

5           (3) THIS SECTION DOES NOT RESTRICT AN INSURER FROM OBTAINING A  
6 CLAIMS HISTORY REPORT OR MOTOR VEHICLE REPORT.

7           SEC. 2158. (1) IF AN INSURER TAKES AN ADVERSE ACTION BASED  
8 UPON CREDIT INFORMATION, THE INSURER SHALL NOTIFY THE INSURED OR  
9 APPLICANT FOR INSURANCE IN ACCORDANCE WITH 15 USC 1681M(A), THAT AN  
10 ADVERSE ACTION HAS BEEN TAKEN AND SHALL PROVIDE NOTICE IN CLEAR AND  
11 SPECIFIC LANGUAGE OF THE REASONS FOR THE ADVERSE ACTION, INCLUDING  
12 A DESCRIPTION OF ALL FACTORS THAT WERE THE PRIMARY INFLUENCES FOR  
13 THE ADVERSE ACTION. HOWEVER, NOT MORE THAN 4 FACTORS THAT WERE THE  
14 PRIMARY INFLUENCES FOR THE ADVERSE ACTION NEED TO BE GIVEN. THE USE  
15 OF GENERALIZED TERMS SUCH AS "POOR CREDIT HISTORY", "POOR CREDIT  
16 RATING", OR "POOR INSURANCE SCORE" DOES NOT MEET THE DESCRIPTION  
17 REQUIREMENTS OF THIS SUBSECTION. STANDARDIZED CREDIT EXPLANATIONS  
18 PROVIDED BY CONSUMER REPORTING AGENCIES OR OTHER THIRD PARTY  
19 VENDORS MEET THE DESCRIPTION REQUIREMENTS OF THIS SUBSECTION.

20           (2) IF IT IS DETERMINED THROUGH THE DISPUTE RESOLUTION PROCESS  
21 SET FORTH IN 15 USC 1681I(A) THAT THE CREDIT INFORMATION OF A  
22 CURRENT INSURED WAS INCORRECT OR INCOMPLETE AND IF THE INSURER  
23 RECEIVES NOTICE OF THIS DETERMINATION FROM EITHER THE CONSUMER  
24 REPORTING AGENCY OR FROM THE INSURED, THE INSURER SHALL REEVALUATE  
25 THE INSURED WITHIN 30 DAYS OF RECEIVING THE NOTICE. AFTER  
26 REEVALUATING THE INSURED, THE INSURER SHALL MAKE ANY ADJUSTMENTS  
27 NECESSARY, CONSISTENT WITH THIS ACT AND THE INSURER'S UNDERWRITING,

1 RATING GUIDELINES, AND PREMIUM DISCOUNT PLAN. IF AN INSURER  
2 DETERMINES THAT THE INSURED HAS OVERPAID PREMIUM, THE INSURER SHALL  
3 REFUND TO THE INSURED THE AMOUNT OF OVERPAYMENT CALCULATED BACK TO  
4 THE SHORTER OF EITHER THE LAST 12 MONTHS OF COVERAGE OR THE ACTUAL  
5 POLICY PERIOD.

6 SEC. 2159. (1) NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO  
7 PROVIDE AN INSURED OR APPLICANT FOR INSURANCE WITH A CAUSE OF  
8 ACTION THAT DOES NOT EXIST IN THE ABSENCE OF THIS CHAPTER.

9 (2) AN INSURER SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS  
10 PRODUCERS FROM AND AGAINST ALL LIABILITY, FEES, AND COSTS ARISING  
11 OUT OF OR RELATING TO THE ACTIONS, ERRORS, OR OMISSIONS OF A  
12 PRODUCER RESULTING FROM THE USE OF CREDIT INFORMATION OR INSURANCE  
13 SCORES FOR THE INSURER, PROVIDED THAT THE PRODUCER FOLLOWS THE  
14 PROCEDURES AND INSTRUCTIONS ESTABLISHED BY THE INSURER AND COMPLIES  
15 WITH ALL APPLICABLE LAWS AND REGULATIONS.

16 Enacting section 1. This amendatory act takes effect January  
17 1, 2011.