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House Bill 4593 (Substitute H-1 as passed by the House)
House Bill 4594 (Substitute H-1 as passed by the House)
House Bill 4595 (as passed by the House)
House Bill 4596 (as passed by the House)
Sponsor: Representative Ben Glardon (H.B. 4593)
Representative Paul Opsommer (H.B. 4594)
Representative Deb Shaughnessy (H.B. 4595)
Representative Lisa Howze (H.B. 4596)

House Committee: Insurance
Senate Committee: Insurance

Date Completed: 3-5-12

CONTENT

The bills would add Chapter 21A (Credit Information and Credit Scores) to the Insurance Code to regulate the use of credit information and insurance scores with regard to personal insurance policies.

House Bill 4593 (H-1) would define terms used throughout Chapter 21A and would require an insurer to indemnify a producer against liability related to the producer's use of credit information or insurance scores for the insurer.

House Bill 4594 (H-1) would do the following:

- **Prohibit an insurer from using credit information or an insurance score as part of a decision to deny, cancel, or not renew a personal insurance policy.**
- **Allow an insurer to use credit information or a credit-based insurance score to determine premium installment payment options and availability only if certain criteria were met.**
- **Require an insurer to notify an insured or applicant against whom the insurer took an adverse action based on credit information.**

House Bill 4595 would require an insurer to provide reasonable exceptions to the use of credit information upon the request of an insured or applicant, under specific circumstances.

House Bill 4596 would require an insurer to reevaluate an insured if a dispute resolution process determined that the initial evaluation was based on incorrect or incomplete credit information, and make any necessary adjustments.

All of the bills are tie-barred to each other.

House Bill 4593 (H-1)

The bill provides that nothing in proposed Chapter 21A could be construed to provide an insured or applicant for insurance with a cause of action that did not exist in the absence of the chapter.

The bill would require an insurer to indemnify and defend producers and hold them harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of a producer resulting from the use of credit information or insurance scores for the insurer, if the producer followed the

procedures and instructions established by the insurer and complied with all applicable laws and regulations.

"Credit information" would mean any credit-related information derived from a credit report, found in a credit report itself, or provided in an application for personal insurance. Information that was not credit-related could not be considered credit information, regardless of whether it was contained in a credit report or in an application, or was used to calculate an insurance score.

"Insurance score" would mean a number or rating derived from an algorithm, computer application, model, or other process based on credit information for the purposes of predicting the future insurance loss exposure of an individual applicant or insured.

"Personal insurance" would mean property/casualty insurance written for personal, family, or household use, including automobile, home, motorcycle, mobile home, noncommercial dwelling fire, boat, personal watercraft, snowmobile, and recreational vehicle, whether written on an individual, group, franchise, blanket policy, or similar basis.

House Bill 4594 (H-1)

Use of Credit Information/Insurance Score

The bill would prohibit an insurer from using credit information or an insurance score as any part of a decision to deny, cancel, or not renew a personal insurance policy under Chapters 21 (Automobile Insurance and Home Insurance), 24 (Casualty Insurance Rates), and 26 (Fire and Inland Marine Rates). Credit information and an insurance score could be used, however, to determine premium installment payment options and availability.

An insurer could not apply credit information or a credit-based insurance score that was otherwise permitted under the Code unless all of the following conditions were met:

- The insurer or its producer disclosed, either on the insurance application or when the application was taken, that it could obtain credit information in connection with the application.

- The insurer or a third party on the insurer's behalf did not use the insured's or applicant's income, gender, address, zip code, ethnic group, religion, marital status, or nationality in calculating an insurance score.
- The insurer did not take adverse action against a consumer because he or she did not have a credit card account, unless the action were based on any other applicable factor that was independent of that fact.
- The insurer or a third party on its behalf did not consider an absence of credit information or an inability to calculate an insurance score in the rating of personal insurance unless any resulting rate differential were filed with and not disapproved by the Office of Financial and Insurance Regulation.
- The insurer or a third party on its behalf used a credit report issued within 90 days before an insurance score based on that report was first applied to the insured.
- Upon the insured's request or, with his or her permission, the producer's request at annual renewal, or upon the insured's request during the course of the policy, an insurer or a third party on its behalf would obtain a new credit report or insurance score and re-rate the insured.

The Office of Financial and Insurance Regulation could not disapprove a filing with regard to an absence of credit information if it were reasonably justified by differences in losses and/or expenses, or provided the insured or insurance applicant with a discount that was not less, on average, than the average credit-based discount received by the insurer's insureds in Michigan.

In addition, an insurer could not apply credit information or a credit-based insurance score that was otherwise permitted unless, for scores calculated or recalculated on or after January 1, 2012, the insurer or a third party on its behalf did not use the following as a negative factor in any insurance score or in reviewing credit information:

- Credit inquiries not initiated by the consumer or requested by the consumer for his or her own credit information.
- Credit inquiries relating to insurance coverage, if so identified on an insured's or insurance applicant's credit report.

- Multiple lender inquiries, if coded by the consumer reporting agency on the credit report as being from the home mortgage industry or automobile lending industry and made within 30 days of one another, unless only one inquiry were considered.
- The number, if under two, of credit or charge card accounts opened by a consumer in the immediately preceding 12 months.
- Collection accounts with a medical industry code, if so identified on the consumer's credit report.

(Under House Bill 4593 (H-1), "adverse action" would mean 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. "Consumer reporting agency" would mean any person who, for monetary fees or dues or on a cooperative nonprofit basis, engages regularly in the practice of assembling or evaluating consumer credit information or other consumer information for the purpose of furnishing consumer reports to third parties.)

Adverse Action

If an insurer took an adverse action based upon credit information, the insurer would have to notify the insured or applicant in accordance with 15 USC 1681m(a). The insurer would have to give notice in clear and specific language of the reasons for the adverse action, including a description of all factors that were the primary or most significant influences for the action and the insured's or applicant's insurance score if not otherwise provided. The insurer, however, would not have to give more than four factors for the adverse action. The use of generalized terms such as "poor credit history", "poor credit rating", or "poor insurance score" would not meet the bill's description requirements. Standardized credit explanations provided by consumer reporting agencies or other third party vendors would meet those requirements.

(Under 15 USC 1681m(a), a person who takes any adverse action against a consumer based on information contained in a consumer report must notify the consumer orally, electronically, or in writing. In addition, the person must give the consumer the name and contact information of the

consumer reporting agency that furnished the report, as well as a statement that the agency did not make the decision to take the adverse action and is unable to provide the reasons for it. The person also must give the consumer a notice of the consumer's right to obtain a free copy of his or her consumer report and to dispute with the consumer reporting agency the accuracy or completeness of information in the report.)

House Bill 4595

Notwithstanding any other law, rule, or regulation, upon written request from an insured or insurance applicant, an insurer that used credit information would have to provide reasonable exceptions to the application of that information on the insurer's rates, rating classifications, or company or tier placement for a person who had experienced and whose credit information had been influenced directly by any of the following events:

- A catastrophic event, as declared by the Federal or State government.
- Serious illness or injury, or serious illness or injury to an immediate family member.
- Death of a spouse, child, or parent.
- Divorce or involuntary interruption of legally owed alimony or support payments.
- Identity theft.
- Temporary loss of employment for at least three months, if it resulted from involuntary termination.
- Military deployment overseas.
- Other events, as determined by the insurer.

If an insured or applicant submitted a request for an exception, an insurer would be permitted, but not required, to do any of the following:

- Require a reasonable written and independently verifiable documentation of the event.
- Require the person to demonstrate that the event had direct and meaningful impact on his or her credit information.
- Require a request to be made within 60 days from the date of the application for insurance or the policy renewal.

- Grant an exception even if the person did not provide an initial request in writing.
- Grant an exception when the insured or applicant asked for consideration of repeated events, or the insurer had considered this event previously.

An insurer would have to notify insureds and applicants that reasonable exceptions were available, and provide information about how to inquire further.

Within 30 days after an insurer received sufficient documentation of an event, it would have to inform the insured or applicant of the outcome of his or her request for an exception. This communication would have to be in writing or provided in the same medium as the request.

The bill provides that an insurer would not violate a law, rule, or regulation relating to underwriting, rating, or rate filing as a result of granting an exception.

House Bill 4596

The bill would require an insurer to reevaluate a current insured within 30 days if it were determined through the dispute resolution process set forth in 15 USC 1681i(a) that the credit information of the insured was incorrect or incomplete, and if the insurer received notice of this determination from the consumer reporting agency or the insured.

After reevaluating, the insurer would have to make any necessary adjustments, consistent with the Code and the insurer's underwriting, rating guidelines, and premium discount plan. If an insurer determined that the insured had overpaid premium, the insurer would have to refund the amount of overpayment calculated back to the shorter of either the last 12 months of coverage or the actual policy period.

(Under 15 USC 1681i(a), if a consumer notifies a consumer reporting agency that he or she disputes the completeness or accuracy of any item of information contained in his or her file at the agency, within 30 days the agency must conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate. If the information is found to be

inaccurate or incomplete, or cannot be verified, the agency promptly must delete it from the consumer's file or modify that item as appropriate.)

Proposed MCL 500.2151 et al. (H.B. 4593)
Proposed MCL 500.2153 & 500.2156 (H.B. 4594)

Proposed MCL 500.2154 (H.B. 4595)
Proposed MCL 500.2157 (H.B. 4596)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.