

# HOUSE BILL No. 4243

February 9, 2005, Introduced by Rep. Hummel 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,

1 REGULARLY ENGAGES IN WHOLE OR IN PART IN THE PRACTICE OF ASSEMBLING  
2 OR EVALUATING CONSUMER CREDIT INFORMATION OR OTHER INFORMATION ON  
3 CONSUMERS FOR THE PURPOSE OF FURNISHING CONSUMER REPORTS TO THIRD  
4 PARTIES.

5 (C) "CREDIT INFORMATION" MEANS ANY CREDIT-RELATED INFORMATION  
6 DERIVED FROM A CREDIT REPORT, FOUND ON A CREDIT REPORT ITSELF, OR  
7 PROVIDED ON AN APPLICATION FOR PERSONAL INSURANCE. INFORMATION THAT  
8 IS NOT CREDIT-RELATED SHALL NOT BE CONSIDERED CREDIT INFORMATION,  
9 REGARDLESS OF WHETHER IT IS CONTAINED IN A CREDIT REPORT OR IN AN  
10 APPLICATION, OR IS USED TO CALCULATE AN INSURANCE SCORE.

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

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

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

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

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

13   AN INSURER MAY USE THE FOLLOWING DISCLOSURE STATEMENT:

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

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

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

27           (D) THE INSURER OR A THIRD PARTY ON BEHALF OF THE INSURER DOES

1 NOT CONSIDER AN ABSENCE OF CREDIT INFORMATION OR AN INABILITY TO  
2 CALCULATE AN INSURANCE SCORE IN THE RATING OF PERSONAL INSURANCE  
3 UNLESS ANY RESULTING RATE DIFFERENTIAL IS REASONABLY JUSTIFIED BY  
4 DIFFERENCES IN LOSSES, EXPENSES, OR BOTH, OR THE INSURED OR  
5 INSURANCE APPLICANT IS TREATED AS HAVING THE MOST FAVORABLE  
6 INSURANCE SCORE AVAILABLE.

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

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

18 (G) FOR INSURANCE SCORES CALCULATED OR RECALCULATED ON OR  
19 AFTER JULY 1, 2005, THE INSURER OR A THIRD PARTY ON THE INSURER'S  
20 BEHALF DOES NOT USE THE FOLLOWING AS A NEGATIVE FACTOR IN ANY  
21 INSURANCE SCORE OR IN REVIEWING CREDIT INFORMATION:

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

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

26 (iii) MULTIPLE LENDER INQUIRIES, IF CODED BY THE CONSUMER  
27 REPORTING AGENCY ON THE CREDIT REPORT AS BEING FROM THE HOME

1 MORTGAGE INDUSTRY AND MADE WITHIN 45 DAYS OF ONE ANOTHER, UNLESS  
2 ONLY 1 INQUIRY IS CONSIDERED.

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

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

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

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

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

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

1 PRIMARY INFLUENCES FOR THE ADVERSE ACTION NEED TO BE GIVEN. THE USE  
2 OF GENERALIZED TERMS SUCH AS "POOR CREDIT HISTORY", "POOR CREDIT  
3 RATING", OR "POOR INSURANCE SCORE" DOES NOT MEET THE DESCRIPTION  
4 REQUIREMENTS OF THIS SUBDIVISION. STANDARDIZED CREDIT EXPLANATIONS  
5 PROVIDED BY CONSUMER REPORTING AGENCIES OR OTHER THIRD PARTY  
6 VENDORS MEET THE DESCRIPTION REQUIREMENTS OF THIS SUBDIVISION.

7 (4) IF IT IS DETERMINED THROUGH THE DISPUTE RESOLUTION PROCESS  
8 SET FORTH IN 15 USC 1681I(A)(5) THAT THE CREDIT INFORMATION OF A  
9 CURRENT INSURED WAS INCORRECT OR INCOMPLETE AND IF THE INSURER  
10 RECEIVES NOTICE OF THIS DETERMINATION FROM EITHER THE CONSUMER  
11 REPORTING AGENCY OR FROM THE INSURED, THE INSURER SHALL REEVALUATE  
12 THE INSURED WITHIN 30 DAYS OF RECEIVING THE NOTICE. AFTER  
13 REEVALUATING THE INSURED, THE INSURER SHALL MAKE ANY ADJUSTMENTS  
14 NECESSARY, CONSISTENT WITH THIS ACT AND THE INSURER'S UNDERWRITING,  
15 RATING GUIDELINES, AND PREMIUM DISCOUNT PLAN. IF AN INSURER  
16 DETERMINES THAT THE INSURED HAS OVERPAID PREMIUM, THE INSURER SHALL  
17 REFUND TO THE INSURED THE AMOUNT OF OVERPAYMENT CALCULATED BACK TO  
18 THE SHORTER OF EITHER THE LAST 12 MONTHS OF COVERAGE OR THE ACTUAL  
19 POLICY PERIOD.

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

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

1 PROCEDURES AND INSTRUCTIONS ESTABLISHED BY THE INSURER AND COMPLIES  
2 WITH ALL APPLICABLE LAWS AND REGULATIONS.

3 (7) THE COMMISSIONER SHALL PROVIDE INPUT TO THE STUDY BEING  
4 CONDUCTED UNDER SECTION 215 OF THE FAIR AND ACCURATE CREDIT  
5 TRANSACTIONS ACT OF 2003, PUBLIC LAW 108-159, AND SHALL REPORT TO  
6 THE SENATE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON  
7 INSURANCE ISSUES ON THE INPUT PROVIDED BY SEPTEMBER 1, 2005.

8 Enacting section 1. This amendatory act takes effect July 1,  
9 2005.