

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

**Introduced by Reps. Opsommer, Glardon, Howze, Shaughnessy, Roy Schmidt, Johnson, Hooker, Rendon,
Kandrevas and LeBlanc**

ENROLLED HOUSE BILL No. 4594

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding sections 2153 and 2156.

The People of the State of Michigan enact:

Sec. 2153. An insurer shall not use credit information or an insurance score as any part of a decision to deny, cancel, or nonrenew a personal insurance policy under chapters 21, 24, and 26. However, credit information and an insurance

score may be used to determine premium installment payment options and availability. An insurer shall not apply credit information or a credit-based insurance score that is otherwise permitted under this act unless all of the following are met:

(a) The insurer or its producer discloses, either on the insurance application or at the time the application is taken, that it may obtain credit information in connection with the application. This disclosure shall be either written or provided to an applicant in the same medium as the application for insurance. An insurer may use the following disclosure statement:

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

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

(c) The insurer does not take an adverse action against a consumer because he or she does not have a credit card account. However, an insurer may take an adverse action against that insured if it is based on any other applicable factor that is independent of the fact that the consumer does not have a credit card account.

(d) The insurer or a third party on behalf of the insurer does 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 is filed with and not disapproved by the office of financial and insurance regulation. The office of financial and insurance regulation shall not disapprove a filing under this subdivision if it meets 1 of the following:

(i) Is reasonably justified by differences in losses, expenses, or both.

(ii) Provides the insured or insurance applicant with a discount that is not less, on average, than the average credit based discount received by the insurer's insureds in this state.

(e) The insurer or a third party on the insurer's behalf uses a credit report issued within 90 days before the date an insurance score based on that credit report is first applied to the insured.

(f) Upon the insured's request or with the insured's permission the insured's 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 the insurer's behalf shall obtain a new credit report or insurance score and re-rate the insured. An insurer or a third party on the insurer's behalf is not required to obtain a new credit report or recalculate the insurance score more frequently than once in a 12-month period. An insurer or a third party on the insurer's behalf may order a credit report upon any renewal if the insurer does so using a consistent methodology with all its insureds.

(g) For insurance scores calculated or recalculated on or after the effective date of the amendatory act that added this section, the insurer or a third party on the insurer's behalf does not use the following as a negative factor in any insurance score or in reviewing credit information:

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

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

(iii) Multiple lender inquiries, if coded by the consumer reporting agency on the credit report as being from the home mortgage industry and made within 30 days of one another, unless only 1 inquiry is considered.

(iv) Multiple lender inquiries, if coded by the consumer reporting agency on the credit report as being from the automobile lending industry and made within 30 days of one another, unless only 1 inquiry is considered.

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

Sec. 2156. If an insurer takes an adverse action based upon credit information, the insurer shall notify the insured or applicant for insurance in accordance with 15 USC 1681m(a), that an adverse action has been taken. The insurer shall provide 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 adverse action and the insured's or the applicant's insurance score if not otherwise provided. However, not more than 4 factors for the adverse action need to be given. The use of generalized terms such as “poor credit history”, “poor credit rating”, or “poor insurance score” does not meet the description requirements of this section. Standardized credit explanations provided by consumer reporting agencies or other third party vendors meet the description requirements of this section.

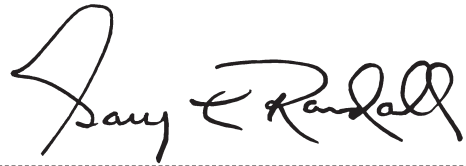
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

(a) Senate Bill No. 300.

(b) House Bill No. 4593.

(c) House Bill No. 4595.

(d) House Bill No. 4596.



Clerk of the House of Representatives



Secretary of the Senate

Approved -----

Governor