



General Assembly

January Session, 2015

**Committee Bill No. 6161**

LCO No. 4195



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:  
(INS)

***AN ACT PROHIBITING INSURANCE COMPANIES FROM USING CREDIT HISTORY AS A FACTOR IN UNDERWRITING OR RATING PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURANCE POLICIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivisions (4) to (6), inclusive, of subsection (b) of  
2 section 38a-686 of the general statutes are repealed and the following is  
3 substituted in lieu thereof (*Effective October 1, 2015*):

4 (4) (A) Each rating plan for private passenger nonfleet automobile  
5 insurance that includes territorial classifications shall assign a weight  
6 of seventy-five per cent to individual territorial loss cost indication and  
7 twenty-five per cent to the state-wide average loss cost indication.

8 (B) An insurer shall not use an applicant's or insured's credit history  
9 as a factor in underwriting or rating private passenger nonfleet  
10 automobile insurance.

11 (5) Each rating plan shall establish appropriate eligibility criteria for  
12 determining significant risks that are to qualify under the plan. Rating  
13 plans that comply with the provisions of this subdivision shall be

14 deemed to produce rates that are not unfairly discriminatory.

15 (6) With respect to personal risk insurance other than private  
16 passenger nonfleet automobile insurance, an insurer shall not use an  
17 applicant's or insured's credit history as a factor in underwriting or  
18 rating except in accordance with this subdivision. For the purposes of  
19 this section, "credit history" means any credit-related information  
20 derived from or found in a credit report or credit scoring program or  
21 provided in an application for personal risk insurance, and "financial  
22 history measurement program" means a program that uses an  
23 applicant's credit history to measure such applicant's risk of loss.

24 (A) An insurer shall file with the commissioner any financial history  
25 measurement program it uses to underwrite or rate risks for personal  
26 risk insurance. Such filing shall (i) include a description of the  
27 program, (ii) identify the characteristics used in such program from  
28 which a measurement is derived, (iii) include the rules and procedures  
29 of such program, and (iv) include an explanation of the impact of  
30 credit information and items of public record on insurance rates over  
31 time. Such program shall not unfairly discriminate among applicants  
32 or produce rates that are excessive for the risk assumed. Any filing  
33 made pursuant to this subparagraph shall be considered a trade secret  
34 for the purposes of section 1-210.

35 (B) (i) An insurer that uses a financial history measurement program  
36 shall submit to the commissioner documentation that demonstrates the  
37 correlation between such program and the expected risk of loss, and  
38 how such program impacts consumers (I) in urban territories, versus  
39 consumers in nonurban territories, and (II) based on consumers' ages.  
40 The commissioner may request the insurer to provide a financial  
41 history measurement for a set of test examples that reflect various  
42 characteristics.

43 (ii) An insurer that uses a financial history measurement program  
44 shall disclose to each applicant for personal risk insurance, in writing,  
45 by telephone, by electronic mail or orally, at the time of application

46 that the applicant's credit history may be used in the underwriting or  
47 rating of such applicant's policy, and that the applicant has the right to  
48 request, in writing, that the insurer consider, during its underwriting  
49 or rating process or during a review requested by such applicant of a  
50 rate quote, an extraordinary life circumstance, as set forth in  
51 subparagraph (D) of this subdivision, if such applicant's credit history  
52 has been adversely impacted by such extraordinary life circumstance  
53 and such extraordinary life circumstance occurred within three years  
54 before the date of the application. In addition, such insurer shall  
55 provide to each purchaser of such policy, not later than the date of  
56 issuance of such policy, a written disclosure that includes: (I) The  
57 name, address, telephone number and toll-free telephone number, if  
58 applicable, of the insurer; (II) detailed information about how the  
59 insurer uses credit information to underwrite or rate such policies; and  
60 (III) a summary of consumer protections regarding the use of credit, in  
61 a form determined by the commissioner. Such written disclosure shall  
62 be printed in reasonably conspicuous type and be provided by the  
63 insurer electronically, by mail or by hand delivery.

64 (C) (i) An insurer may use a financial history measurement program  
65 to underwrite or rate risks only (I) for new personal risk insurance  
66 policies, or (II) upon renewal, either at the request of an insured or if  
67 such use reduces the premium for the insured in accordance with the  
68 insurer's filed rates and rules.

69 (ii) An insurer shall not use the following characteristics in a  
70 financial history measurement program: (I) The number of credit  
71 inquiries in an applicant's or insured's credit report or credit history;  
72 (II) the applicant's or insured's use of a particular type of credit card,  
73 debit card or charge card; (III) the applicant's or insured's total  
74 available line of credit; (IV) any disputed credit information while such  
75 dispute is under review by a credit reporting company, provided such  
76 information is identified in an applicant's or insured's credit report or  
77 credit history as being in dispute; (V) collection accounts identified  
78 with a medical industry code in the applicant's or insured's credit

79 report or credit history; and (VI) the applicant's or insured's lack of  
80 credit history, unless the insurer treats the applicant or insured as if  
81 such applicant or insured had neutral credit information, as defined by  
82 the insurer.

83 (iii) A financial history measurement program shall give the same  
84 weight to an applicant's or insured's purchase or financing of a specific  
85 item regardless of the type of item purchased or financed.

86 (D) (i) Upon written request by an applicant, an insurer shall  
87 consider, during its underwriting or rating process or during a review  
88 requested by such applicant of a rate quote, an extraordinary life  
89 circumstance of such applicant if such extraordinary life circumstance  
90 occurred within three years before the date of application. If such  
91 insurer determines that such applicant's credit history has been  
92 adversely impacted by such extraordinary life circumstance, such  
93 insurer shall grant a reasonable exception to such insurer's rates, rating  
94 classifications or underwriting rules for such applicant. As used in this  
95 subparagraph, "extraordinary life circumstance" means (I) a  
96 catastrophic illness or injury, (II) divorce, (III) the death of a spouse,  
97 child or parent, (IV) the involuntary loss of employment for more than  
98 three consecutive months, (V) identity theft, (VI) total or other loss that  
99 makes a home uninhabitable, (VII) other circumstances as may be  
100 adopted in regulations by the commissioner, in accordance with  
101 chapter 54, or (VIII) any other circumstance an insurer may choose to  
102 recognize.

103 (ii) An insurer may require the applicant to provide reasonable,  
104 independently verifiable written documentation of the extraordinary  
105 life circumstance and the effect of such extraordinary life circumstance  
106 on such applicant's credit report or credit history. Any such  
107 documentation shall be kept confidential by the insurer.

108 (iii) If the insurer grants an exception pursuant to subparagraph  
109 (D)(i) of this subdivision, the insurer shall (I) consider only credit  
110 information that is not affected by the extraordinary life circumstance,

111 or (II) treat the applicant as if such applicant had neutral or better than  
112 neutral credit information, as defined by the insurer.

113 (iv) An insurer shall not be deemed to be out of compliance with  
114 any provision of the general statutes or regulations adopted  
115 thereunder concerning underwriting, rating or rate filing solely on the  
116 basis of the granting of an exception pursuant to this subparagraph.

117 (E) (i) If an insurer takes an adverse action that is due at least in part  
118 to the information contained in an applicant's or insured's credit  
119 report, such insurer shall disclose to such applicant or insured: (I) That  
120 such adverse action was based on the credit report of such insured or  
121 applicant; (II) that such applicant or insured is entitled to a free copy of  
122 such credit report and where such report can be obtained; (III) the  
123 types of extraordinary life circumstances set forth in subparagraph (D)  
124 of this subdivision; and (IV) the procedures for an applicant to inform  
125 the insurer of an extraordinary life circumstance and to submit any  
126 required documentation pursuant to subparagraph (D) of this  
127 subdivision.

128 (ii) For the purposes of this subdivision, an "adverse action" means  
129 (I) the denial of coverage to an applicant or insured or the offering of  
130 restricted coverage, (II) the offering of a higher rate, (III) the  
131 assignment of an applicant or insured to a higher rate tier or to a  
132 higher-priced company within an insurer group, or (IV) any other  
133 action that adversely impacts an applicant or insured due to the  
134 financial history measurement program.

135 (F) After an insurer's financial history measurement program has  
136 been in effect for two years, the commissioner may require such  
137 insurer to submit a report to the commissioner on the use of such  
138 program in the state. Such report shall include information that  
139 demonstrates that such program results in rates that are supported by  
140 the data and that are not unfairly discriminatory, and an analysis of  
141 consumer complaints submitted in writing or by electronic mail to the  
142 insurer resulting from such insurer's use of a financial history

143 measurement program, such that is sufficient to identify the basis for  
144 the complaints and any subsequent insurer action.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	38a-686(b)(4) to (6)

**Statement of Purpose:**

To prohibit insurance companies from using an applicant's or insured's credit history as a factor in underwriting or rating private passenger nonfleet automobile insurance policies.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*

Co-Sponsors: REP. ZONI, 81st Dist.

H.B. 6161