

H. B. 3010

(By Delegates Shott and Pasdon)
[Introduced March 20, 2013; referred to the
Committee on the Judiciary.]

A BILL to amend and reenact §33-17A-4 and §33-17A-6 of the Code of West Virginia, 1931, as amended, all relating to the use of credit information in connection with the declination and termination of property insurance and expanding the information required to be provided by an insurer in the notice of declination or termination to an insured or applicant.

Be it enacted by the Legislature of West Virginia:

That §33-17A-4 and §33-17A-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 17A. PROPERTY INSURANCE DECLINATION, TERMINATION AND DISCLOSURE.

§33-17A-4. Notification and reasons for a transfer, declination or termination.

1 (a) Upon declining to insure ~~any~~ real or personal property,
2 subject to this article, the insurer making a declination shall
3 provide the insurance applicant with a written explanation of the
4 specific reason or reasons for the declination at the time of the
5 declination. The provision of ~~such an~~ insurance application form
6 by an insurer ~~shall create~~ creates no right to coverage on the
7 behalf of the insured to which the insured is not otherwise
8 entitled.

9 (b) A notice of cancellation of property insurance coverage by
10 an insurer shall:

11 (1) Be in writing; ~~shall~~

12 (2) Be delivered to the named insured or sent by first class
13 mail to the named insured at the last known address of the named
14 insured; ~~shall~~

15 (3) State the effective date of the cancellation; and ~~shall be~~

16 (4) Be accompanied by a written explanation of the specific
17 reason or reasons for the cancellation.

18 (c) At least thirty days before the end of a policy period, as
19 described in subsection (c), section three of this article, an
20 insurer shall deliver or send by first class mail to the named
21 insured at the last known address of the named insured, notice of
22 its intention regarding the renewal of the property insurance
23 policy. Notice of an intention not to renew a property insurance
24 policy shall be accompanied by an explanation of the specific

1 reasons for the nonrenewal. ~~Provided, That~~ No insurer ~~shall~~ may
2 fail to renew an outstanding property insurance policy which has
3 been in existence for four years or longer except for the reasons
4 as set forth in section five of this article or for other valid
5 underwriting reasons which involve a substantial increase in the
6 risk.

7 (d) If an insurer's declination, cancellation or refusal to
8 renew an existing property insurance policy is due at least in part
9 to the applicant's or insured's credit history or the results of
10 the application of the insurer's financial history measurement
11 program, in addition to the other notice requirements of this
12 section, the insurer shall disclose to the applicant or insured in
13 writing as follows:

14 (1) That the adverse action was based on the credit report of
15 such insured or applicant;

16 (2) That the applicant or insured is entitled to a free copy
17 of such credit report and where such report can be obtained;

18 (3) That in determining whether to modify its action, it will
19 consider if the following types of extraordinary life circumstances
20 occurred to the insured or applicant within three years prior to
21 its action:

22 (A) A catastrophic illness or injury;

23 (B) A divorce;

24 (C) Death of a spouse, child or parent;

1 (D) Involuntary loss of employment for more than three
2 consecutive months;

3 (E) Identity theft;

4 (F) Total or other loss that makes a home uninhabitable;

5 (G) Other circumstances as may be adopted in rules by the
6 commissioner; or

7 (H) Any other circumstance the insurer may choose to
8 recognize; and

9 (4) The procedures for an applicant or insured:

10 (A) To inform the insurer of an extraordinary life
11 circumstance; and

12 (B) To submit required documentation in support of his or her
13 request for reconsideration of the insurer's action.

14 (e) When used in this article:

15 (1) "Credit history" means any credit-related information
16 derived from or found in a credit report or credit scoring program
17 or provided in an application for property insurance; and

18 (2) "Financial history measurement program" means any program
19 that uses an applicant's credit history to measure the applicant's
20 risk of loss.

21 **§33-17A-6. Discriminatory terminations and declinations**
22 **prohibited.**

23 No insurer may decline to issue or terminate a policy of
24 insurance subject to this article if the declination or termination

1 is:

2 (a) Based upon the race, religion, nationality, ethnic group,
3 age, sex or marital status of the applicant or named insured;

4 (b) Based solely upon the lawful occupation or profession of
5 the applicant or named insured unless the decision is for a
6 business purpose that is not a mere pretext for unfair
7 discrimination. ~~Provided, That~~ This provision does not apply to
8 ~~any~~ an insurer, agent or broker that limits its market to one
9 lawful occupation or profession or to several related lawful
10 occupations or professions;

11 (c) Based upon the age or location of the residence of the
12 applicant or named insured unless the decision is for a business
13 purpose that is not a mere pretext for unfair discrimination or
14 unless the age or location materially affects the risk;

15 (d) Based upon the fact that another insurer previously
16 declined to insure the applicant or terminated an existing policy
17 in which the applicant was the named insured;

18 (e) Based upon the fact that the applicant or named insured
19 previously obtained insurance coverage through a residual market
20 insurance mechanism;

21 (f) Based upon the fact that the applicant has not previously
22 been insured;

23 (g) Based upon the fact that the applicant did not have
24 insurance coverage for a period of time prior to the application;

1 or

2 (h) Based solely upon an ~~adverse credit report or adverse~~
3 ~~credit scoring.~~ applicant's or insured's credit history or credit
4 rating, lack of credit history or the results of the insurer's
5 financial history measurement program.

NOTE: The purpose of this bill is to limit the use of credit information in connection with the declination and termination of property insurance and to expand the information required to be provided by the insurer to the insured or applicant in the notice of declination or termination.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.