WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5681

By Delegate Sheedy

[Introduced February 13, 2024; Referred to the Committee on Banking and Insurance then the Judiciary]

A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §33-11C-1, §33-11C-2, §33-11C-3, and §33-11C-4, all relating to prohibiting the use of credit or insurance rating to deny, cancel, or refuse to renew personal insurance; providing definitions, rulemaking, and providing an enacting date.

Be it enacted by the Legislature of West Virginia:

article 11C. Restrictions applicable to personal insurance underwriting.

§33-11C-1. Definitions.

For the purposes of this section:

(a) "Affiliated" means an affiliate of, or person affiliated with, a specific person, and includes a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(b) "Credit history" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, or credit capacity, which is used, or expected to be used, or collected in whole or in part for the purpose of serving as a factor in establishing personal insurance premiums or eligibility for coverage.

(c) "Insurance score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit history.

(d) "Personal insurance" means property and casualty insurance to be used primarily for personal, family, or household purposes, such as homeowner and private passenger auto insurance.

(e) "Tier" means a category within a single insurer into which insureds with substantially like insuring, risk, or exposure factors and expense elements are placed for the purposes of determining rate or premium.

§33-11C-2. Restrictions.

(a) An insurer shall not deny, cancel, or refuse to renew personal insurance due in whole or in part to an insured's credit history or insurance score.

(b) Placement with an affiliated insurer does not constitute denial of coverage under this section.

(c) In the case of personal insurance, premium rates are subject to this subsection. An insurer may adjust rates based on credit history, in combination with other objective criteria, to create an insurance score to consider substantiated statistical differences in risk or exposure. The maximum premium differential based on credit history shall be no more than five percent. This restriction applies whether the adjustment is due to application of any of the following:

(1) Class rate,

(2) Insurance score,

(3) Minimum rate,

(4) Rating plan,

(5) Rating rule,

(6) Rating schedule,

(6) Rating tier,

(7) Placement with an affiliated insurer,

(8) Or any modification of each.

(d) Credit history and insurance scores shall not be combined or used in combination with other rating factors or rating rules in such a way that credit history or the insurance score affects premiums charged by more than 5%. For otherwise similarly situated insureds, the maximum premium differential based on credit history shall be no more than 5%.

(1) The 5% limit shall be computed relative to premiums charged to an insured with the most favorable credit history or insurance score. Each insurer and affiliated insurer must demonstrate to the satisfaction of the commissioner that the total premium differential based on credit history is no greater than 5%.

§33-11C-3. Rulemaking.

The commissioner may adopt such rules as are necessary to implement this section.

§33-11C-4. Effective date.

This section applies to all personal insurance policies written or renewed on or after January 1, 2025.

NOTE: The purpose of this bill is to prohibit insurance rates in WV from being based upon credit or insurance scores.

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