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DELAWARE STATE SENATE  
144th GENERAL ASSEMBLY

SENATE BILL NO. 31

AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO THE USE OF CREDIT.  
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 18 of the Delaware Code by adding a new Chapter 83 which shall read  
as follows:

“CHAPTER 83: RESTRICTIONS UPON THE USE OF CREDIT INFORMATION

§8301. Definitions

(a) ‘Adverse underwriting decision’ means any underwriting decision that would qualify as an adverse action under the Fair Credit Reporting Act, 15 U.S.C. §1681 et seq. Adverse underwriting decision shall include, but not be limited to, any of the following actions: (i) a cancellation or nonrenewal of insurance coverage; (ii) placement of a risk by an insurance carrier or producer with a residual market mechanism, an unauthorized insurer or an insurance institution that specializes in substandard risks; (iii) charging of a higher rate or premium; (iv) changing a risk from a preferred rate program to a standard rate program or from a standard rate program to a nonstandard rate program within the same company or between two companies in the same group; (v) assignment to a new or different rating category or tier within a single insurer; (vi) reduction or an adverse or unfavorable change in the terms of coverage or amount of insurance.

(b) ‘Consumer report’ means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, 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 the consumer’s eligibility for credit, insurance, employment, or any other purpose authorized under section 16 U.S.C. §1681b or its successor. A consumer report shall not include motor vehicle reports or claims history reports or any other report that is not credit related.

(c) ‘Consumer reporting agency’ means any person that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(d) ‘Credit information’ means any information bearing on a person’s creditworthiness, credit standing, or credit capacity. Information that is not credit-related shall not be considered ‘credit information,’ regardless of whether it is contained in a consumer report or in an application, or is used to calculate an insurance score.

(e) ‘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 information for the purposes of predicting the future insurance loss exposure of an individual applicant or insured.

#### §8302. Applicability

This Chapter applies to all policies of automobile, motorcycle, boat and personal watercraft, recreational vehicle, homeowners, mobile-homeowners, manufactured homeowners insurance, and non-commercial dwelling fire insurance issued by an insurer for personal or family protection.

#### §8303. Restrictions on the Use of Credit Information

An insurer shall not refuse to underwrite a new risk, establish a premium for an applicant or policyholder, or make any adverse underwriting decision based in any way upon a consumer report or on credit information relating to an applicant.”

Section 2. Amend Title 18, Chapter 23 of the Delaware Code by adding a new Section 2304(27) as follows:

“(27) Use of Credit Scoring. No person may use consumer reports, credit scores, or insurance scores in any manner prohibited by Chapter 83 of this Title.”

Section 3. This Act shall take effect 90 days after enactment into law.

#### SYNOPSIS

The legislation would prohibit the practice of “credit scoring” in setting premiums for automobile and homeowners insurance in Delaware, and in denying applications for automobile and homeowners insurance in Delaware.

Author: Senator Henry