ALABAMA DEPARTMENT OF INSURANCE
ADMINISTRATIVE CODE

CHAPTER 482-1-127
USE OF CREDIT INFORMATION FOR DETERMINING RATES AND ELIGIBILITY FOR PERSONAL INSURANCE

TABLE OF CONTENTS

482-1-127-.01 Purpose
482-1-127-.02 Authority
482-1-127-.03 Scope
482-1-127-.04 Definitions
482-1-127-.05 Requirements
482-1-127-.06 Prohibited Procedures
482-1-127-.07 Protection Of Fair Credit Reporting Act
482-1-127-.08 Notice Requirements
482-1-127-.09 Revocation Of Certificate Of Authority
482-1-127-.10 Severability
482-1-127-.11 Effective Date

482-1-127-.01 Purpose.

The purpose of this chapter is to set forth restrictions and procedural requirements for personal lines insurers licensed in Alabama regarding the use of applicants' credit history for calculating rates and determining eligibility for coverage or tier placement.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §27-2-17.
History: New Rule: May 21, 2003, effective June 7, 2003. Filed with LRS May 28, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-127-.02 Authority.

This chapter is promulgated by the Commissioner of Insurance pursuant to the authority set forth in Section 27-2-17, Code of Ala. 1975.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §27-2-17.
History: New Rule: May 21, 2003, effective June 7, 2003. Filed with LRS May 28, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-127-.03 Scope.

This chapter shall apply to all personal lines insurers doing business in the State of Alabama.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §27-2-17.
History: New Rule: May 21, 2003, effective June 7, 2003. Filed with LRS May 28, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-127-.04 Definitions.

The following definitions shall apply for purposes of this chapter:

(a) ADVERSE ACTION. As described in Section 1681a (k) of the federal Fair Credit Reporting Act.

(b) AFFILIATE. Any company that controls, is controlled by, or is under common control with another company.

(c) APPLICANT. An individual who seeks to obtain, obtains, or has obtained an insurance product or service from an insurer.

(d) COMPANY. A corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization.

(e) CONSUMER REPORTING AGENCY. As described in Section 1681a(f) of the federal Fair Credit Reporting Act.

(f) CREDIT HISTORY. A written, oral, or other communication of any information by a consumer reporting agency bearing on an applicant's creditworthiness, credit standing, credit capacity, or financial responsibility that is used or expected to be used, or collected in whole or in part, for the purpose of serving as a factor in determining personal insurance premiums, eligibility for coverage, or tier placement.

(g) DENIAL. The act of refusing to offer personal insurance coverage to an applicant. An offer of placement with an affiliate insurer does not constitute denial, cancellation or nonrenewal of coverage.

(h) INSURANCE SCORE. 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 for the

purposes of predicting the future loss exposure of an applicant.

(i) INSURER. Any company providing personal lines or personal insurance in Alabama.

(j) PERSONAL LINES OR PERSONAL INSURANCE. Any one of the following:

1. Private Passenger Automobile coverage.

2. Homeowner's coverage, including Renter's coverage.

3. Mobile or Manufactured Homeowner's coverage.

4. Condominium Owner's coverage.

5. Non-commercial Dwelling Fire or Dwelling Property coverage. 6. Earthquake coverage for a residence or personal property. 7. Comprehensive Personal Liability. 8. Personal Inland Marine coverage. (k) NO-HIT. An absence of credit history. (l) THIN FILE. An inability to determine credit history. (m) TIER. A category within a single insurer into which applicants with substantially like insuring risk, or exposure factors, and expense elements are placed for purposes of determining rate or premium.

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §27-2-17.
History: New Rule: May 21, 2003, effective June 7, 2003. Filed with LRS May 28, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-127-.05 Requirements.

(1) Insurers must maintain and make available upon request by the Department specific written procedures detailing their practices regarding credit history and insurance scores, including the following information:

(a) When credit history will be ordered and when insurance scores will be ordered or calculated, e.g. at initial underwriting, upon applicant's request, etc.

(b) About whom such information will be ordered or calculated, e.g. the named applicant, all known household members, etc.

(c) How such information will be used, e.g. to calculate rates, to determine eligibility for coverage, etc.

(2) If the insurer relies, in whole or in part, on an insurance score to initially underwrite or rate any applicant or re-rate any existing class or subclass of insureds, or offer insurance pursuant to 15 U.S.C. 1681c, the insurer shall, before its use on any applicant risk:

(a) File the insurance scoring model with the Commissioner. A Third Party may file scoring models on behalf of personal lines insurers licensed to do business in this state. This filing shall include the factors or characteristics from an applicant's credit history that are utilized in determining an insurance score, and the algorithm, computer program, model, or other process used in determining an insurance score. The underlying support, including statistical validation, for the development of the algorithm, computer program, model, or other process that is used in determining a insurance score shall also be filed;

(b) Maintain the following forms and make available upon request by the Department:

1. Any language provided to the applicant to advise them that credit report information will be ordered; and

2. The adverse action form.

(3) If an applicant is eligible for a particular rate or tier, based on all other criteria, except for the fact that an applicant's credit history is unavailable ("no-hit") or incomplete ("thin file") for that applicant, the applicant will be given that rate or tier unless said insurer files and the Department concurs with actuarial documentation which supports other practices. The actuarial documentation shall include age segmentation as well as other reasonable criteria.

(4) If a credit reporting agency determines that the credit history of an applicant is incorrect due to inaccurate information and if the insurer receives notice and documentation of this determination from the consumer reporting agency, the insurer shall within 30 days after receiving notice:

(a) Re-underwrite the applicant;

(b) Re-rate the consumer; and

(c) Adjust the premium as indicated in Paragraph (5) below.

(5) If it is determined by the re-underwriting or re-rating in accordance with the Paragraph (4) above that the applicant has overpaid the premium, the insurer shall refund or credit to the applicant the amount of the overpayment of premium. Such payment shall be calculated back to the shorter of either the last 12 months or the date of the error.

(6) Any filing relating to credit information is considered to be a commercially valuable trade secret and proprietary information of the entity filing the information. The Department, absent a court order, will not release information that is filed on a proprietary basis. Any proprietary information shall be submitted under separate cover and must clearly state the desires of the party filing the information as to its confidentiality.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §27-2-17.
History: New Rule: May 21, 2003, effective June 7, 2003. Filed with LRS May 28, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-127-.06 Prohibited Procedures.

(1) Insurers shall not deny personal insurance coverage, calculate an insurance score, determine personal insurance premiums or rates, or place an applicant in a tier based in whole or in part on the following types of credit history:

(a) An applicant's number of credit inquiries unless said insurer files and the Department concurs with actuarial documentation which supports other practices.

(b) The type of credit card, charge card, or debit card used by an applicant.

(2) Insurers shall not deny personal insurance coverage based solely on a lack of credit history ("no-hit") or incomplete credit history ("thin file") if the insurer has received accurate and complete information from the applicant.

(3) Insurers shall not refuse to insure an applicant based solely on the applicant's credit history.

(4) Insurers shall not rely solely on an applicant's credit history when electing to cancel or non-renew a policy.

(5) Insurers shall not use credit history or insurance score for any arbitrary, capricious, or unfairly discriminatory reason.

(6) Insurers shall not request an applicant's credit history or an insurance score based wholly or partially on residence, sex, race, color, creed, occupation, income, physical handicap, disability of an applicant.

(7) Insurers shall not refuse to issue or renew a policy solely because the applicant or insured does not possess a credit card.

(8) Insurers or Third Parties shall not use the following as a negative factor in any insurance scoring model or in reviewing

credit information for the purpose of underwriting or rating a policy of personal insurance:

(a) Credit inquiries not initiated by the applicant or inquiries requested by the applicant for his or her own credit information, if so identified on the applicant's credit report.

(b) Inquiries relating to insurance coverage, if so identified on the applicant's credit report.

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

(d) Multiple lender inquiries, if coded by the applicant reporting agency on the applicant's credit report as being from the home mortgage industry and/or the automobile lending industry made within 30 days of one another, unless only one inquiry is considered.

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §27-2-17.
History: New Rule: May 21, 2003, effective June 7, 2003. Filed with LRS May 28, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-127-.07 Protection Of Fair Credit Reporting Act.

Nothing in this chapter shall be construed to modify, limit, or supersede the operation of the federal Fair Credit Reporting Act (15 U.S.C. §§1681, *et seq*.).

Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §27-2-17.
History: New Rule: May 21, 2003, effective June 7, 2003. Filed with LRS May 28, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-127-.08 Notice Requirements.

(1) Any rejection, refusal to quote or application for insurance extended over the Internet, by telephone, or in person shall comply with the notice requirements of 15 U.S.C. §1681.

(2) For purposes of the notices required by the Fair Credit Reporting Act, 15 U.S.C. §1681, an adverse action includes any act detrimental to the applicant based upon the information contained in or derived from an applicant's credit history and may include by way of illustration any of the following actions:

(a) Refusing to write an insurance policy for an applicant.

(b) Refusing to quote a premium.

(c) Any increase in an existing premium.

(d) Any premium for an initial policy or application for insurance that is higher than the premium that otherwise would have been paid if not for the information in or derived from an applicant's credit history.

(3) If an insurer takes any type of adverse action that is based at least in part on information contained in an applicant's credit history, the insurer is required by 15 U.S.C. §1681 to notify the applicant. The notification may be done in writing, orally or by electronic means. It must include the following:

(a) The name, address and telephone number of the credit reporting agency (Including a toll-free telephone number if it is a nationwide credit reporting agency) that provided the report.

(b) A statement that the credit reporting agency did not make the adverse decision and is not able to explain why the decision was made.

(c) A statement setting forth the applicant's right to obtain a free disclosure of the applicant's file from the credit reporting agency.

(d) A statement setting forth the applicant's right to dispute directly with the credit reporting agency the accuracy or completeness of any information provided by the credit reporting agency.

(4) If an applicant has a dispute concerning any adverse action, a complaint may be filed with the Alabama Department of Insurance.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §27-2-17.
History: New Rule: May 21, 2003, effective June 7, 2003. Filed with LRS May 28, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-127-.09 Revocation Of Certificate Of Authority.

Failure to comply with a material provision of this or any regulation is considered a violation of Section 27-2-17, Code of Ala. 1975. Pursuant to Section 27-3-21, violation of said statute may subject the insurer to the suspension or revocation of the insurer's Certificate of Authority.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §27-2-17.

History: New Rule: May 21, 2003, effective June 7, 2003. Filed with LRS May 28, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-127-.10 Severability.

If any section or portion of a section of this chapter or its applicability to any person or circumstance is held invalid by a court, the remainder of the chapter or the applicability of the provision to other persons or circumstances shall not be affected.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §27-2-17.
History: New Rule: May 21, 2003, effective June 7, 2003. Filed with LRS May 28, 2003. Rule is not subject to the Alabama Administrative Procedure Act.

482-1-127-.11 Effective Date.

This chapter is prospective and shall be effective upon its approval by the Commissioner of Insurance and upon its having been on file as a public document in the office of the Secretary of State for ten days. In order to provide sufficient time for licensees to establish policies and systems to comply with the requirements of this chapter, the time for compliance with this chapter is extended until September 1, 2003.
Author: Commissioner of Insurance
Statutory Authority: Code of Ala. 1975, §27-2-17.
History: New Rule: May 21, 2003, effective June 7, 2003. Filed with LRS May 28, 2003. Rule is not subject to the Alabama Administrative Procedure Act.