

[As Amended by House Committee of the Whole]

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2008

SENATE BILL No. 560

By Committee on Financial Institutions and Insurance

2-5

14 AN ACT [**relating to insurance;**] establishing the property/casualty
15 flex-rating regulatory improvement act; pertaining to personal lines
16 insurance written on risks in this state by any insurer authorized to do
17 business in this state[; **concerning certain claims**] [**prohibiting**
18 **use of credit score to underwrite or rate risk; repealing K.S.A.**
19 **2007 Supp. 40-5101 through 40-5114**].
20

21 *Be it enacted by the Legislature of the State of Kansas:*

22 Section 1. Notwithstanding the requirements of K.S.A. 40-952 and
23 40-955, and amendments thereto, a filing made by an insurer under this
24 section that provides for an overall statewide rate increase ~~or decrease~~ of
25 no more than 12% [**for a decrease in any amount**] in the aggregate for
26 all coverages that are subject to the filing may take effect the date it is
27 filed. The 12% limitation shall not apply on an individual insured basis.
28 No more than one rate filing may be made by an insurer pursuant to the
29 expedited process provided in this section during any period of 12 con-
30 secutive months, unless the combination of such rate filing and all other
31 rate filings made by such insurer within the preceding period of 12 con-
32 secutive months does not result in an overall statewide increase or de-
33 crease of more than 12% in the aggregate for all coverages that are subject
34 to such filing.

35 Sec. 2. Any rate filing which falls outside the limitations specified in
36 section 1, and amendments thereto, shall be subject to K.S.A. 40-952 and
37 40-955, and amendments thereto, unless such filing is otherwise exempt
38 pursuant to another provision of Chapter 40 of the Kansas Statutes An-
39 notated and acts amendatory thereof and supplemental thereto.

40 Sec. 3. (a) Any filing submitted pursuant to section 1, and amend-
41 ments thereto, shall be deemed to comply with state law unless the com-
42 missioner determines that the filing is inadequate or unfairly discrimi-
43 natory. If the commissioner determines that the filing is inadequate or

1 unfairly discriminatory, the commissioner shall issue a written order spec-
2 ifying in detail:

3 (1) Each provision of Chapter 40 of the Kansas Statutes Annotated,
4 and acts amendatory thereof and supplemental thereto, the insurer has
5 violated;

6 (2) the reasons the filing is inadequate or unfairly discriminatory; and

7 (3) stating a reasonable future date on which the filing shall be con-
8 sidered no longer effective.

9 (b) If the commissioner issues an order pursuant to this section more
10 than 30 days after the date on which the commissioner received the rate
11 filing, the effect of such order shall be prospective only and shall not
12 affect any contract issued or made before the effective date of such order.

13 Sec. 4. Within the limitation specified in section 1, and amendments
14 thereto, no rate increase may be implemented with regard to an individual
15 existing policy, unless such increase is applied at the time of a renewal or
16 conditional renewal of an existing policy and the insurer mails or delivers
17 to the named insured, at the address shown in the policy, a written notice
18 that clearly and conspicuously discloses its intention to change the rate,
19 at least 30 days in advance of the end of the insured's policy period. A
20 notice of renewal or conditional renewal that clearly and conspicuously
21 discloses the renewal premium applicable to the policy shall be deemed
22 to comply with this section.

23 Sec. 5. For purposes of this act:

24 (a) "Commissioner" means the commissioner of insurance.

25 (b) "Unfairly discriminatory" ~~means~~ *shall have the meaning as-*
26 *cribed to it in K.S.A. 40-953 and amendments thereto. The term*
27 *"unfairly discriminatory" includes* a rate for a risk that is classified
28 in whole or in part on the basis of race, color, creed or national origin.

29 Sec. 6. Sections 1 through 6, and amendments thereto, shall be
30 known and may be cited as the property/casualty flex-rating regulatory
31 improvement act.

32 **[Sec. 7. (a) When an insured files a claim for damage under a**
33 **personal insurance policy and a damage amount is determined by**
34 **or for the insurer, if the insured elects not to be reimbursed by**
35 **the insurer for such damage, the insurer shall not retain the claim**
36 **information in the insured's records with the insurer.**

37 **[(b) As used in this section "personal insurance" means private**
38 **passenger automobile, homeowners, motorcycle, mobile hom-**
39 **eowners and non-commercial dwelling fire insurance policies and**
40 **boat, personal watercraft, snowmobile and recreational vehicle**
41 **policies.]**

42 **[Sec. 8. (a) As used in this section:**

43 **[(1) "Consumer reporting agency" means any person which,**

1 for monetary fees, dues, or on a cooperative nonprofit basis, reg-
2 ularly engages, in whole or in part, in the practice of assembling
3 or evaluating consumer credit information or other information
4 on consumers for the purpose of furnishing consumer reports to
5 third parties.

6 [(2) “Credit information” means any credit related information
7 derived from a credit report, found on a credit report itself, or
8 provided on an application for personal insurance. Credit infor-
9 mation shall not include any information which is not credit re-
10 lated, regardless of whether such information is contained in a
11 credit report or in an application or is used to calculate an insur-
12 ance score.

13 [(3) “Credit report” means any written, oral, or other com-
14 munication of information by a consumer reporting agency bear-
15 ing on a consumer’s credit worthiness, credit standing or credit
16 capacity which is used or expected to be used or collected in whole
17 or in part for the purpose of serving as a factor to determine per-
18 sonal insurance premiums, eligibility for coverage, or tier
19 placement.

20 [(4) “Insurance or credit score” means a number or rating that
21 is derived from an algorithm, computer application, model, or
22 other process that is based, in whole or in part, on credit infor-
23 mation for the purposes of predicting the future insurance loss
24 exposure of an individual applicant or insured.

25 [(b) No insurer authorized to do business in the state of Kansas
26 shall use an insurance or credit score to underwrite or rate risks
27 for any Kansas insured.

28 [Sec. 9. K.S.A. 2007 Supp. 40-5101 through 40-5114 are
29 hereby repealed.]

30 Sec. ~~7~~ [10.] This act shall take effect and be in force from and after
31 its publication in the statute book.