

40-5104. Prohibited acts. No insurer authorized to do business in the state of Kansas which uses credit information to underwrite or rate risks, shall:

(a) Use an insurance score that is calculated using income, address, zip code, race, religion, color, sex, disability, national origin, ancestry or marital status of the consumer as a factor.

(b) Without consideration of any other applicable underwriting factor independent of credit information and not expressly prohibited by subsection (a), refuse to quote, deny, cancel or refuse to renew any policy of personal insurance solely on the basis of credit information.

(c) Without consideration of any other applicable factor independent of credit information, base an insured's renewal rates for personal insurance solely upon credit information.

(d) Without consideration of any other applicable factor independent of credit information, take an adverse action against a consumer solely because such consumer does not have a credit card account.

(e) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating personal insurance, unless the insurer does one of the following:

(1) Treat the consumer as if the applicant or insured had neutral credit information, as defined by the insurer; or

(2) exclude the use of credit information as a factor and use only other underwriting criteria.

(f) Take an adverse action against a consumer based on credit information, unless an insurer obtains and uses a credit report issued or an insurance score calculated within 90 days from the date the personal insurance policy is first written or notice of renewal is issued.

(g) (1) The insurer shall:

(A) Re-underwrite and re-rate the consumer's personal insurance policy, at the annual renewal of such policy, based upon a current credit report or insurance score for such consumer, if requested by the consumer. Such consumer's current credit report or insurance score shall be used if the result of the re-underwrite and re-rate reduces the consumer's rate. Such consumer's current credit report or insurance score shall not be used to increase the consumer's rate. The insurer shall not be found to be in violation of rate filings by adjusting an insured's rate in accordance with this subparagraph. Nothing in this subparagraph shall require an insurer to recalculate a consumer's insurance score or obtain the updated credit report of a consumer more frequently than once in a twelve-month period.

(B) Have the discretion to obtain current credit information upon any renewal before the 36 months, if consistent with such insurer's underwriting guidelines.

(2) No insurer shall be required to obtain current credit information for an insured, if:

(A) The insured is in the most favorably-priced tier of the insurer, within a group of affiliated insurers. However, the insurer shall have the discretion to order such report, if consistent with such insurer's underwriting guidelines;

(B) credit was not used for underwriting or rating such insured when the policy was initially written. However, the insurer shall have the discretion to use credit for underwriting or rating such insured upon renewal, if consistent with such insurer's underwriting guidelines; or

(C) The insurer re-evaluates the insured beginning no later than 36 months after inception and thereafter based upon other underwriting or rating factors, excluding credit information.

(h) Use any of the following as a negative factor against a consumer in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy of personal insurance:

(1) Any credit inquiry not initiated by the consumer or any inquiry requested by the consumer for such consumer's own credit information;

(2) any inquiry relating to insurance coverage, if so identified on a consumer's credit report;

(3) any collection account with a medical industry code, if so identified on the consumer's credit report; or

(4) any additional lender inquiry beyond the first such inquiry related to the same loan purpose, if coded by the consumer reporting agency on the consumer's credit report as being from the given loan industry and made within 30 days of one another.

History: L. 2003, ch. 88, § 5; L. 2010, ch. 108, § 7; July 1.