

31A-22-1308 Use of loss history by insurers.

(1) For purposes of this section:

(a) "Adverse eligibility or rate decision" means:

- (i) declining insurance coverage;
- (ii) terminating insurance coverage;
- (iii) not renewing insurance coverage; or
- (iv) the charging of a higher rate for insurance coverage.

(b)

(i) "Loss reporting agency" means any person who regularly engages, in whole or in part, in the business of assembling or collecting information for the primary purpose of providing the information to insurers or insurance producers for insurance transactions including assembling or collecting loss or claims information.

(ii) Notwithstanding Subsection (1)(b)(i), the following persons are not loss reporting agents:

- (A) a governmental entity;
- (B) an insurer;
- (C) an insurance producer;
- (D) an insurance consultant;
- (E) a medical care institution or professional; or
- (F) a peer review committee.

(iii) Notwithstanding Subsection (1)(b)(i), the following are not considered a report from a loss reporting agency:

- (A) a report specifically provided for fraud prevention; and
- (B) that portion of a report that includes information related to consumer credit behavior.

(iv) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may define by rule what constitutes:

- (A) a report specifically provided for fraud prevention; and
- (B) information related to consumer credit behavior.

(c)

(i) "Score" means a numerical value, categorization, or classification that is:

- (A) derived from a statistical tool, modeling system, or method; and
- (B) developed to predict the likelihood of future insurance claims.

(ii) A numerical value, categorization, or classification described in Subsection (1)(c)(i) is a score if it is developed to predict the likelihood of future insurance claims regardless of whether it is developed to predict other factors in addition to predicting future insurance claims.

(2)

(a) An insurer may not make an adverse eligibility or rate decision related to personal lines insurance in whole or in part on the basis of:

- (i) a report by a loss reporting agency of a loss if the loss did not result in the insured requesting the payment of a claim;
- (ii) a telephone call or other inquiry by an insured of a loss if the loss did not result in the insured requesting payment of a claim;
- (iii) a loss that occurred when real property covered by the personal lines insurance was owned by a person other than the:
 - (A) insured; or
 - (B) person seeking insurance; or
- (iv) a score if the score is determined in whole or in part on the basis of information described in Subsection (2)(a)(i), (ii), or (iii).

- (b) Notwithstanding Subsection (2)(a), an insurer may:
 - (i) use the information described in Subsection (2)(a)(iii) to require a review of the condition of the premises; and
 - (ii) make an adverse eligibility or rate decision on the basis of the condition of the premises.
- (3)
 - (a) If an insurer uses a score that is derived from information obtained from a loss reporting agency or an insured, the insurer shall file with the department a certification that the method used to derive the score complies with the provisions of Subsection (2)(a)(iv).
 - (b) the insurer shall file a certification required under Subsection (3)(a) within 30 days of the day on which the score described in Subsection (3)(a) is first used by the insurer.
 - (c) The department shall classify a certification filed under this Subsection (3) as a protected record under Subsection 63G-2-305(2) except that the insurer is not required to file the information specified in Section 63G-2-309.
 - (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules providing for the form and procedure of filing the certification required by Subsection (3)(a).

Amended by Chapter 382, 2008 General Session