**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3219**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Gilliard and Govan

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Introduced in the House on January 8, 2019

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Consumer credit reporting

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/18/2018 House Prefiled

12/18/2018 House Referred to Committee on **Labor, Commerce and Industry**

1/8/2019 House Introduced and read first time ([House Journal‑page 133](file:///h:\hj\20190108.docx))

1/8/2019 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 133](file:///h:\hj\20190108.docx))

2/12/2019 House Member(s) request name added as sponsor: Govan

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**VERSIONS OF THIS BILL**

[12/18/2018](file:///p:\pprever\2019-20\3219_20181218.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑1‑25 SO AS TO DEFINE TERMINOLOGY CONCERNING CONSUMER CREDIT REPORTING IN THE INSURANCE LAW; BY ADDING SECTION 38‑73‑25 SO AS TO PROVIDE PROPERTY CASUALTY INSURANCE RATE‑MAKING ORGANIZATIONS MAY NOT BASE HOMEOWNER’S INSURANCE POLICY RATES ON CREDIT SCORES OR CREDIT REPORTS; BY ADDING SECTION 38‑75‑1235 SO AS TO PROVIDE INSURERS MAY NOT REFUSE TO ISSUE, REFUSE TO RENEW, OR CANCEL HOMEOWNER’S INSURANCE POLICIES BASED ON CREDIT SCORES OR CREDIT REPORTS; TO AMEND SECTION 38‑73‑740, RELATING TO RECORD RETENTION REQUIREMENTS OF AUTOMOBILE INSURERS, SO AS TO MAKE A CONFORMING CHANGE; TO AMEND SECTIONS 38‑77‑122 AND 38‑77‑123, RELATING TO ACTS PROHIBITED WHEN DENYING OR REFUSING TO RENEW AUTOMOBILE INSURANCE POLICIES, SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 38 of the 1976 Code is amended by adding:

“Section 38‑1‑25. As used in this title:

(1) ‘Consumer’ means an individual person.

(2) ‘Credit report’ means a written, oral, or other communication of any information produced by a consumer reporting agency that bears on a consumer’s creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or collected to serve as a factor in establishing the consumer’s eligibility for credit.

(3) ‘Credit score’ or ‘risk predictor’ or ‘risk score’ means a numeric value or categorization derived from a statistical tool or modeling system used to predict the likelihood of a consumer’s credit behavior, including default.

(4) ‘Consumer credit reporting agency’ means an organization that regularly engages in the practice of assembling or evaluating consumer credit information, creating consumer credit reports, or creating consumer credit scores for use by third parties.”

SECTION 2. Article 1, Chapter 73, Title 38 of the 1976 Code is amended by adding:

“Section 38‑73‑25. A property casualty insurance rate‑making organization may not base the rate of a homeowner’s insurance policy on a credit score or credit report.”

SECTION 3. Article 13, Chapter 75, Title 38 of the 1976 Code is amended by adding:

“Section 38‑75‑1235. An insurer may not refuse to issue, refuse to renew, or cancel a homeowner’s insurance policy based on a credit score or credit report.”

SECTION 4. Section 38‑73‑740 of the 1976 Code is amended to read:

“Section 38‑73‑740. All information~~, including investigative and credit reports~~ used in determining the classification or premium rates of ~~any~~ a person applying for automobile insurance, must be kept on file by the insurer for at least three years from the date the application was made. Upon request of the applicant, the contents of the file must be made available for inspection by the applicant and copies of the documents must be furnished the applicant if he pays the cost of reproducing the copies.”

SECTION 5. Section 38‑77‑122 of the 1976 Code is amended to read:

“Section 38‑77‑122. (A) ~~No~~ An insurer or agent ~~shall~~ may not refuse to issue an automobile insurance policy as defined in Section 38‑77‑30 because of any one or more of the following factors: ~~the~~ age, sex, location of residence in this State, race, color, creed, national origin, ancestry, marital status, ~~or~~ income level, or credit score. ~~No~~ An insurer or agent ~~shall~~ may not refuse to issue an automobile insurance policy as defined in Section 38‑77‑30 ~~solely~~ because of any one of the following factors: the previous refusal of automobile insurance by another insurer, prior purchase of insurance through the Associated Auto Insurers Plan, or lawful occupation, including the military service, of the person seeking the coverage. Nothing in this section prohibits ~~any~~ an insurer from limiting the issuance of motor vehicle insurance policies only to persons engaging in or who have engaged in a particular profession or occupation, or who are members of a particular religious sect.

Nothing in this section prohibits ~~any~~ an insurer from setting rates in accordance with relevant actuarial data.

(B) In determining the premium rates to be charged for an automobile insurance policy as defined in Section 38‑77‑30, it is unlawful to consider race, color, creed, religion, national origin, ancestry, location of residence in this State, economic status, ~~or~~ income level, or credit score. ~~Nor may an~~ The insurer, agent, or broker may not refuse to write or renew an automobile insurance policy as defined in Section 38‑77‑30 based upon age, sex, race, color, creed, religion, national origin, ancestry, location of residence in this State, economic status, ~~or~~ income level, or credit score. However, nothing in this subsection ~~may preclude~~ precludes the use of a territorial plan approved by the director. ~~Any~~ An insurer or agent who violates this section ~~shall be~~ is subject to the penalties as provided in Section 38‑2‑10. If the director of the Department of Insurance or his designee finds that an insurer or agent is participating in a pattern of unfair discrimination, the director or his designee may impose a fine of up to two hundred thousand dollars. ~~Provided,~~ However, if the unfair discrimination is required by an insurer, only the insurer is subject to the penalty ~~as long as~~ if the agent of the insurer has reported the pattern of unfair discrimination to the department. The director or his designee at any time may examine an insurer or agent to enforce this section. The expense of examination must be paid by the insurer, agent, or broker.”

SECTION 6. Section 38‑77‑123(A)(1) and (2) of the 1976 Code is amended to read:

“(1) ~~No~~ An insurer ~~shall~~ may not refuse to renew an automobile insurance policy because of any one or more of the following factors:

(a) age;

(b) sex;

(c) location of residence in this State;

(d) race;

(e) color;

(f) creed;

(g) national origin;

(h) ancestry;

(i) marital status;

(j) income level;

(k) credit score.

(2) ~~No~~ Aninsurer ~~shall~~ may not refuse to renew an automobile insurance policy ~~solely~~ because of any one of the following factors:

(a) lawful occupation, including the military service;

(b) lack of driving experience or number of years of driving experience;

(c) lack of supporting business or lack of the potential for acquiring such business;

(d) one or more accidents or violations that occurred more than thirty‑six months immediately preceding the upcoming anniversary date;

(e) one or more claims submitted under the uninsured motorists coverage of the policy where the uninsured motorist is known or there is physical evidence of contact;

(f) single claim by a single insured submitted under the medical payments coverage or medical expense coverage due to an accident for which the insured was neither wholly nor partially at fault;

(g) one or more claims submitted under the comprehensive or towing coverages. However, nothing in this section prohibits an insurer from modifying or refusing to renew the comprehensive or towing coverages at the time of renewal of the policy on the basis of one or more claims submitted by an insured under those coverages, provided that the insurer mails or delivers to the insured at the address shown in the policy, written notice of the change in coverage at least thirty days before the renewal;

(h) two or fewer motor vehicle accidents within a three‑year period unless the accident was caused either wholly or partially by the named insured, a resident of the same household, or other customary operator; ~~or~~

(i) an insured who uses his personal automobile for volunteer emergency services and who provides a copy of the policy promulgated by the chief of his department to his insurer on request; or

(j) credit score.”

SECTION 7. This act takes effect upon approval by the Governor.

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