**A** **BILL**

TO AMEND SECTION 38-77-122 OF THE 1976 CODE, RELATING TO THE ISSUANCE OF AUTOMOBILE INSURANCE COVERAGE AND THE AMOUNT OF AUTOMOBILE INSURANCE PREMIUMS, TO PROVIDE THAT INSURERS MAY NOT USE A NUMERICAL, CREDIT‑BASED INSURANCE SCORE OR OTHER CREDIT RATING AS A BASIS FOR DETERMINING COVERAGE OR THE AMOUNT OF A PREMIUM; AND TO AMEND SECTION 38-77-123(A) OF THE 1976 CODE, RELATING TO RENEWALS OF AUTOMOBILE INSURANCE POLICIES, TO PROVIDE THAT INSURERS MAY NOT USE A NUMERICAL, CREDIT‑BASED INSURANCE SCORE OR OTHER CREDIT RATING AS A BASIS FOR DETERMINING THE RENEWAL OF A POLICY FOR AUTOMOBILE INSURANCE.

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

SECTION 1. Section 38-77-122 of the 1976 Code is amended to read:

“Section 38-77-122. (A)(1) No insurer or agent shall 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~~,~~; numerical, credit‑based insurance score or other credit rating; or income level. No insurer or agent shall 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 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.

(2) Nothing in this section prohibits any 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~~,~~; numerical, credit‑based insurance score or other credit rating; or income level. Nor may an insurer, agent, or broker 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~~,~~; numerical, credit‑based insurance score or other credit rating; or income level. However, nothing in this subsection may preclude the use of a territorial plan approved by the director. Any insurer or agent who violates this section shall be 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 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 2. Section 38-77-123(A) of the 1976 Code is amended to read:

“Section 38-77-123. (A)(1) No insurer shall 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) numerical, credit‑based insurance score or other credit rating; or

(k) income level.

(2) No insurer shall 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.

(3) Nothing contained in subsection (A)(1)(f), (g), and (h) of this subsection prohibits an insurer from refusing to renew a policy where a claim is false or fraudulent. Nothing in this section prohibits an insurer from setting rates in accordance with relevant actuarial data except that no insurer may set rates based in whole or in part on race~~,~~; color~~,~~; creed~~,~~; religion~~,~~; national origin~~,~~; ancestry~~,~~; location of residence in this State~~,~~; economic status~~,~~; numerical, credit‑based insurance score or other credit rating; or income level. However, nothing in this subsection may preclude the use of a territorial plan approved by the director.”

SECTION 3. This act takes effect upon approval by the Governor.

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