

As Introduced

**131st General Assembly
Regular Session
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S. B. No. 64

**Senator Tavares
Cosponsors: Senators Brown, Skindell**

A BILL

To amend section 3901.21 of the Revised Code to
prohibit an insurer's use of a credit score,
credit history, or credit report in fixing a
premium rate for, or the terms and conditions
of, an insurance policy, or in determining
whether to issue, continue, or renew an
insurance policy.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3901.21 of the Revised Code be
amended to read as follows:

Sec. 3901.21. The following are hereby defined as unfair
and deceptive acts or practices in the business of insurance:

(A) Making, issuing, circulating, or causing or permitting
to be made, issued, or circulated, or preparing with intent to
so use, any estimate, illustration, circular, or statement
misrepresenting the terms of any policy issued or to be issued
or the benefits or advantages promised thereby or the dividends
or share of the surplus to be received thereon, or making any
false or misleading statements as to the dividends or share of

surplus previously paid on similar policies, or making any 19
misleading representation or any misrepresentation as to the 20
financial condition of any insurer as shown by the last 21
preceding verified statement made by it to the insurance 22
department of this state, or as to the legal reserve system upon 23
which any life insurer operates, or using any name or title of 24
any policy or class of policies misrepresenting the true nature 25
thereof, or making any misrepresentation or incomplete 26
comparison to any person for the purpose of inducing or tending 27
to induce such person to purchase, amend, lapse, forfeit, 28
change, or surrender insurance. 29

Any written statement concerning the premiums for a policy 30
which refers to the net cost after credit for an assumed 31
dividend, without an accurate written statement of the gross 32
premiums, cash values, and dividends based on the insurer's 33
current dividend scale, which are used to compute the net cost 34
for such policy, and a prominent warning that the rate of 35
dividend is not guaranteed, is a misrepresentation for the 36
purposes of this division. 37

(B) Making, publishing, disseminating, circulating, or 38
placing before the public or causing, directly or indirectly, to 39
be made, published, disseminated, circulated, or placed before 40
the public, in a newspaper, magazine, or other publication, or 41
in the form of a notice, circular, pamphlet, letter, or poster, 42
or over any radio station, or in any other way, or preparing 43
with intent to so use, an advertisement, announcement, or 44
statement containing any assertion, representation, or 45
statement, with respect to the business of insurance or with 46
respect to any person in the conduct of the person's insurance 47
business, which is untrue, deceptive, or misleading. 48

(C) Making, publishing, disseminating, or circulating, 49
directly or indirectly, or aiding, abetting, or encouraging the 50
making, publishing, disseminating, or circulating, or preparing 51
with intent to so use, any statement, pamphlet, circular, 52
article, or literature, which is false as to the financial 53
condition of an insurer and which is calculated to injure any 54
person engaged in the business of insurance. 55

(D) Filing with any supervisory or other public official, 56
or making, publishing, disseminating, circulating, or delivering 57
to any person, or placing before the public, or causing directly 58
or indirectly to be made, published, disseminated, circulated, 59
delivered to any person, or placed before the public, any false 60
statement of financial condition of an insurer. 61

Making any false entry in any book, report, or statement 62
of any insurer with intent to deceive any agent or examiner 63
lawfully appointed to examine into its condition or into any of 64
its affairs, or any public official to whom such insurer is 65
required by law to report, or who has authority by law to 66
examine into its condition or into any of its affairs, or, with 67
like intent, willfully omitting to make a true entry of any 68
material fact pertaining to the business of such insurer in any 69
book, report, or statement of such insurer, or mutilating, 70
destroying, suppressing, withholding, or concealing any of its 71
records. 72

(E) Issuing or delivering or permitting agents, officers, 73
or employees to issue or deliver agency company stock or other 74
capital stock or benefit certificates or shares in any common- 75
law corporation or securities or any special or advisory board 76
contracts or other contracts of any kind promising returns and 77
profits as an inducement to insurance. 78

(F) Making or permitting any unfair discrimination among 79
individuals of the same class and equal expectation of life in 80
the rates charged for any contract of life insurance or of life 81
annuity or in the dividends or other benefits payable thereon, 82
or in any other of the terms and conditions of such contract. 83

(G) (1) Except as otherwise expressly provided by law, 84
knowingly permitting or offering to make or making any contract 85
of life insurance, life annuity or accident and health 86
insurance, or agreement as to such contract other than as 87
plainly expressed in the contract issued thereon, or paying or 88
allowing, or giving or offering to pay, allow, or give, directly 89
or indirectly, as inducement to such insurance, or annuity, any 90
rebate of premiums payable on the contract, or any special favor 91
or advantage in the dividends or other benefits thereon, or any 92
valuable consideration or inducement whatever not specified in 93
the contract; or giving, or selling, or purchasing, or offering 94
to give, sell, or purchase, as inducement to such insurance or 95
annuity or in connection therewith, any stocks, bonds, or other 96
securities, or other obligations of any insurance company or 97
other corporation, association, or partnership, or any dividends 98
or profits accrued thereon, or anything of value whatsoever not 99
specified in the contract. 100

(2) Nothing in division (F) or division (G) (1) of this 101
section shall be construed as prohibiting any of the following 102
practices: (a) in the case of any contract of life insurance or 103
life annuity, paying bonuses to policyholders or otherwise 104
abatting their premiums in whole or in part out of surplus 105
accumulated from nonparticipating insurance, provided that any 106
such bonuses or abatement of premiums shall be fair and 107
equitable to policyholders and for the best interests of the 108
company and its policyholders; (b) in the case of life insurance 109

policies issued on the industrial debit plan, making allowance 110
to policyholders who have continuously for a specified period 111
made premium payments directly to an office of the insurer in an 112
amount which fairly represents the saving in collection 113
expenses; (c) readjustment of the rate of premium for a group 114
insurance policy based on the loss or expense experience 115
thereunder, at the end of the first or any subsequent policy 116
year of insurance thereunder, which may be made retroactive only 117
for such policy year. 118

(H) Making, issuing, circulating, or causing or permitting 119
to be made, issued, or circulated, or preparing with intent to 120
so use, any statement to the effect that a policy of life 121
insurance is, is the equivalent of, or represents shares of 122
capital stock or any rights or options to subscribe for or 123
otherwise acquire any such shares in the life insurance company 124
issuing that policy or any other company. 125

(I) Making, issuing, circulating, or causing or permitting 126
to be made, issued or circulated, or preparing with intent to so 127
issue, any statement to the effect that payments to a 128
policyholder of the principal amounts of a pure endowment are 129
other than payments of a specific benefit for which specific 130
premiums have been paid. 131

(J) Making, issuing, circulating, or causing or permitting 132
to be made, issued, or circulated, or preparing with intent to 133
so use, any statement to the effect that any insurance company 134
was required to change a policy form or related material to 135
comply with Title XXXIX of the Revised Code or any regulation of 136
the superintendent of insurance, for the purpose of inducing or 137
intending to induce any policyholder or prospective policyholder 138
to purchase, amend, lapse, forfeit, change, or surrender 139

insurance. 140

(K) Aiding or abetting another to violate this section. 141

(L) Refusing to issue any policy of insurance, or 142
canceling or declining to renew such policy because of the sex 143
or marital status of the applicant, prospective insured, 144
insured, or policyholder. 145

(M) (1) Making or permitting any unfair discrimination 146
between individuals of the same class and of essentially the 147
same hazard in the amount of premium, policy fees, or rates 148
charged for any policy or contract of insurance, other than life 149
insurance, or in the benefits payable thereunder, or in 150
underwriting standards and practices or eligibility 151
requirements, or in any of the terms or conditions of such 152
contract, or in any other manner whatever. 153

(2) Considering an individual's credit score, credit 154
report, or credit history in determining a premium, policy fee, 155
or rate charged for, in setting the coverage provided by, 156
benefits payable under, or other terms and conditions of, or in 157
refusing to issue, canceling, or refusing to renew, any policy 158
or contract of insurance. 159

For purposes of division (M) (2) of this section, "credit 160
score," "credit report," and "credit history" mean any written, 161
oral, or other communication of any information bearing on a 162
consumer's creditworthiness, credit standing, or credit 163
capacity. 164

(N) Refusing to make available disability income insurance 165
solely because the applicant's principal occupation is that of 166
managing a household. 167

(O) Refusing, when offering maternity benefits under any 168

individual or group sickness and accident insurance policy, to 169
make maternity benefits available to the policyholder for the 170
individual or individuals to be covered under any comparable 171
policy to be issued for delivery in this state, including family 172
members if the policy otherwise provides coverage for family 173
members. Nothing in this division shall be construed to prohibit 174
an insurer from imposing a reasonable waiting period for such 175
benefits under an individual sickness and accident insurance 176
policy issued to an individual who is not a federally eligible 177
individual or a nonemployer-related group sickness and accident 178
insurance policy, but in no event shall such waiting period 179
exceed two hundred seventy days. 180

For purposes of division (O) of this section, "federally 181
eligible individual" means an eligible individual as defined in 182
45 C.F.R. 148.103. 183

(P) Using, or permitting to be used, a pattern settlement 184
as the basis of any offer of settlement. As used in this 185
division, "pattern settlement" means a method by which liability 186
is routinely imputed to a claimant without an investigation of 187
the particular occurrence upon which the claim is based and by 188
using a predetermined formula for the assignment of liability 189
arising out of occurrences of a similar nature. Nothing in this 190
division shall be construed to prohibit an insurer from 191
determining a claimant's liability by applying formulas or 192
guidelines to the facts and circumstances disclosed by the 193
insurer's investigation of the particular occurrence upon which 194
a claim is based. 195

(Q) Refusing to insure, or refusing to continue to insure, 196
or limiting the amount, extent, or kind of life or sickness and 197
accident insurance or annuity coverage available to an 198

individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness. With respect to all other conditions, including the underlying cause of blindness or partial blindness, persons who are blind or partially blind shall be subject to the same standards of sound actuarial principles or actual or reasonably anticipated actuarial experience as are sighted persons. Refusal to insure includes, but is not limited to, denial by an insurer of disability insurance coverage on the grounds that the policy defines "disability" as being presumed in the event that the eyesight of the insured is lost. However, an insurer may exclude from coverage disabilities consisting solely of blindness or partial blindness when such conditions existed at the time the policy was issued. To the extent that the provisions of this division may appear to conflict with any provision of section 3999.16 of the Revised Code, this division applies.

(R) (1) Directly or indirectly offering to sell, selling, or delivering, issuing for delivery, renewing, or using or otherwise marketing any policy of insurance or insurance product in connection with or in any way related to the grant of a student loan guaranteed in whole or in part by an agency or commission of this state or the United States, except insurance that is required under federal or state law as a condition for obtaining such a loan and the premium for which is included in the fees and charges applicable to the loan; or, in the case of an insurer or insurance agent, knowingly permitting any lender making such loans to engage in such acts or practices in connection with the insurer's or agent's insurance business.

(2) Except in the case of a violation of division (G) of this section, division (R) (1) of this section does not apply to either of the following:

(a) Acts or practices of an insurer, its agents, 230
representatives, or employees in connection with the grant of a 231
guaranteed student loan to its insured or the insured's spouse 232
or dependent children where such acts or practices take place 233
more than ninety days after the effective date of the insurance; 234

(b) Acts or practices of an insurer, its agents, 235
representatives, or employees in connection with the 236
solicitation, processing, or issuance of an insurance policy or 237
product covering the student loan borrower or the borrower's 238
spouse or dependent children, where such acts or practices take 239
place more than one hundred eighty days after the date on which 240
the borrower is notified that the student loan was approved. 241

(S) Denying coverage, under any health insurance or health 242
care policy, contract, or plan providing family coverage, to any 243
natural or adopted child of the named insured or subscriber 244
solely on the basis that the child does not reside in the 245
household of the named insured or subscriber. 246

(T) (1) Using any underwriting standard or engaging in any 247
other act or practice that, directly or indirectly, due solely 248
to any health status-related factor in relation to one or more 249
individuals, does either of the following: 250

(a) Terminates or fails to renew an existing individual 251
policy, contract, or plan of health benefits, or a health 252
benefit plan issued to an employer, for which an individual 253
would otherwise be eligible; 254

(b) With respect to a health benefit plan issued to an 255
employer, excludes or causes the exclusion of an individual from 256
coverage under an existing employer-provided policy, contract, 257
or plan of health benefits. 258

(2) The superintendent of insurance may adopt rules in accordance with Chapter 119. of the Revised Code for purposes of implementing division (T) (1) of this section.	259 260 261
(3) For purposes of division (T) (1) of this section, "health status-related factor" means any of the following:	262 263
(a) Health status;	264
(b) Medical condition, including both physical and mental illnesses;	265 266
(c) Claims experience;	267
(d) Receipt of health care;	268
(e) Medical history;	269
(f) Genetic information;	270
(g) Evidence of insurability, including conditions arising out of acts of domestic violence;	271 272
(h) Disability.	273
(U) With respect to a health benefit plan issued to a small employer, as those terms are defined in section 3924.01 of the Revised Code, negligently or willfully placing coverage for adverse risks with a certain carrier, as defined in section 3924.01 of the Revised Code.	274 275 276 277 278
(V) Using any program, scheme, device, or other unfair act or practice that, directly or indirectly, causes or results in the placing of coverage for adverse risks with another carrier, as defined in section 3924.01 of the Revised Code.	279 280 281 282
(W) Failing to comply with section 3923.23, 3923.231, 3923.232, 3923.233, or 3923.234 of the Revised Code by engaging in any unfair, discriminatory reimbursement practice.	283 284 285

(X) Intentionally establishing an unfair premium for, or 286
misrepresenting the cost of, any insurance policy financed under 287
a premium finance agreement of an insurance premium finance 288
company. 289

(Y) (1) (a) Limiting coverage under, refusing to issue, 290
canceling, or refusing to renew, any individual policy or 291
contract of life insurance, or limiting coverage under or 292
refusing to issue any individual policy or contract of health 293
insurance, for the reason that the insured or applicant for 294
insurance is or has been a victim of domestic violence; 295

(b) Adding a surcharge or rating factor to a premium of 296
any individual policy or contract of life or health insurance 297
for the reason that the insured or applicant for insurance is or 298
has been a victim of domestic violence; 299

(c) Denying coverage under, or limiting coverage under, 300
any policy or contract of life or health insurance, for the 301
reason that a claim under the policy or contract arises from an 302
incident of domestic violence; 303

(d) Inquiring, directly or indirectly, of an insured 304
under, or of an applicant for, a policy or contract of life or 305
health insurance, as to whether the insured or applicant is or 306
has been a victim of domestic violence, or inquiring as to 307
whether the insured or applicant has sought shelter or 308
protection from domestic violence or has sought medical or 309
psychological treatment as a victim of domestic violence. 310

(2) Nothing in division (Y) (1) of this section shall be 311
construed to prohibit an insurer from inquiring as to, or from 312
underwriting or rating a risk on the basis of, a person's 313
physical or mental condition, even if the condition has been 314

caused by domestic violence, provided that all of the following 315
apply: 316

(a) The insurer routinely considers the condition in 317
underwriting or in rating risks, and does so in the same manner 318
for a victim of domestic violence as for an insured or applicant 319
who is not a victim of domestic violence; 320

(b) The insurer does not refuse to issue any policy or 321
contract of life or health insurance or cancel or refuse to 322
renew any policy or contract of life insurance, solely on the 323
basis of the condition, except where such refusal to issue, 324
cancellation, or refusal to renew is based on sound actuarial 325
principles or is related to actual or reasonably anticipated 326
experience; 327

(c) The insurer does not consider a person's status as 328
being or as having been a victim of domestic violence, in 329
itself, to be a physical or mental condition; 330

(d) The underwriting or rating of a risk on the basis of 331
the condition is not used to evade the intent of division (Y) (1) 332
of this section, or of any other provision of the Revised Code. 333

(3) (a) Nothing in division (Y) (1) of this section shall be 334
construed to prohibit an insurer from refusing to issue a policy 335
or contract of life insurance insuring the life of a person who 336
is or has been a victim of domestic violence if the person who 337
committed the act of domestic violence is the applicant for the 338
insurance or would be the owner of the insurance policy or 339
contract. 340

(b) Nothing in division (Y) (2) of this section shall be 341
construed to permit an insurer to cancel or refuse to renew any 342
policy or contract of health insurance in violation of the 343

"Health Insurance Portability and Accountability Act of 1996," 344
110 Stat. 1955, 42 U.S.C.A. 300gg-41(b), as amended, or in a 345
manner that violates or is inconsistent with any provision of 346
the Revised Code that implements the "Health Insurance 347
Portability and Accountability Act of 1996." 348

(4) An insurer is immune from any civil or criminal 349
liability that otherwise might be incurred or imposed as a 350
result of any action taken by the insurer to comply with 351
division (Y) of this section. 352

(5) As used in division (Y) of this section, "domestic 353
violence" means any of the following acts: 354

(a) Knowingly causing or attempting to cause physical harm 355
to a family or household member; 356

(b) Recklessly causing serious physical harm to a family 357
or household member; 358

(c) Knowingly causing, by threat of force, a family or 359
household member to believe that the person will cause imminent 360
physical harm to the family or household member. 361

For the purpose of division (Y) (5) of this section, 362
"family or household member" has the same meaning as in section 363
2919.25 of the Revised Code. 364

Nothing in division (Y) (5) of this section shall be 365
construed to require, as a condition to the application of 366
division (Y) of this section, that the act described in division 367
(Y) (5) of this section be the basis of a criminal prosecution. 368

(Z) Disclosing a coroner's records by an insurer in 369
violation of section 313.10 of the Revised Code. 370

(AA) Making, issuing, circulating, or causing or 371

permitting to be made, issued, or circulated any statement or 372
representation that a life insurance policy or annuity is a 373
contract for the purchase of funeral goods or services. 374

(BB) With respect to private passenger automobile 375
insurance, charging premium rates that are excessive, 376
inadequate, or unfairly discriminatory, pursuant to division (D) 377
of section 3937.02 of the Revised Code, based solely on the 378
location of the residence of the insured. 379

The enumeration in sections 3901.19 to 3901.26 of the 380
Revised Code of specific unfair or deceptive acts or practices 381
in the business of insurance is not exclusive or restrictive or 382
intended to limit the powers of the superintendent of insurance 383
to adopt rules to implement this section, or to take action 384
under other sections of the Revised Code. 385

This section does not prohibit the sale of shares of any 386
investment company registered under the "Investment Company Act 387
of 1940," 54 Stat. 789, 15 U.S.C.A. 80a-1, as amended, or any 388
policies, annuities, or other contracts described in section 389
3907.15 of the Revised Code. 390

As used in this section, "estimate," "statement," 391
"representation," "misrepresentation," "advertisement," or 392
"announcement" includes oral or written occurrences. 393

Section 2. That existing section 3901.21 of the Revised 394
Code is hereby repealed. 395