

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 34**

**Senator Tavares**

—

**A BILL**

To amend section 3901.21 of the Revised Code to 1  
prohibit an insurer's use of a credit score, 2  
credit history, or credit report in fixing a 3  
premium rate for, or the terms and conditions of, 4  
an insurance policy, or in determining whether to 5  
issue, continue, or renew an insurance policy. 6

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

**Section 1.** That section 3901.21 of the Revised Code be 7  
amended to read as follows: 8

**Sec. 3901.21.** The following are hereby defined as unfair and 9  
deceptive acts or practices in the business of insurance: 10

(A) Making, issuing, circulating, or causing or permitting to 11  
be made, issued, or circulated, or preparing with intent to so 12  
use, any estimate, illustration, circular, or statement 13  
misrepresenting the terms of any policy issued or to be issued or 14  
the benefits or advantages promised thereby or the dividends or 15  
share of the surplus to be received thereon, or making any false 16  
or misleading statements as to the dividends or share of surplus 17  
previously paid on similar policies, or making any misleading 18  
representation or any misrepresentation as to the financial 19  
condition of any insurer as shown by the last preceding verified 20

statement made by it to the insurance department of this state, or 21  
as to the legal reserve system upon which any life insurer 22  
operates, or using any name or title of any policy or class of 23  
policies misrepresenting the true nature thereof, or making any 24  
misrepresentation or incomplete comparison to any person for the 25  
purpose of inducing or tending to induce such person to purchase, 26  
amend, lapse, forfeit, change, or surrender insurance. 27

Any written statement concerning the premiums for a policy 28  
which refers to the net cost after credit for an assumed dividend, 29  
without an accurate written statement of the gross premiums, cash 30  
values, and dividends based on the insurer's current dividend 31  
scale, which are used to compute the net cost for such policy, and 32  
a prominent warning that the rate of dividend is not guaranteed, 33  
is a misrepresentation for the purposes of this division. 34

(B) Making, publishing, disseminating, circulating, or 35  
placing before the public or causing, directly or indirectly, to 36  
be made, published, disseminated, circulated, or placed before the 37  
public, in a newspaper, magazine, or other publication, or in the 38  
form of a notice, circular, pamphlet, letter, or poster, or over 39  
any radio station, or in any other way, or preparing with intent 40  
to so use, an advertisement, announcement, or statement containing 41  
any assertion, representation, or statement, with respect to the 42  
business of insurance or with respect to any person in the conduct 43  
of the person's insurance business, which is untrue, deceptive, or 44  
misleading. 45

(C) Making, publishing, disseminating, or circulating, 46  
directly or indirectly, or aiding, abetting, or encouraging the 47  
making, publishing, disseminating, or circulating, or preparing 48  
with intent to so use, any statement, pamphlet, circular, article, 49  
or literature, which is false as to the financial condition of an 50  
insurer and which is calculated to injure any person engaged in 51  
the business of insurance. 52

(D) Filing with any supervisory or other public official, or 53  
making, publishing, disseminating, circulating, or delivering to 54  
any person, or placing before the public, or causing directly or 55  
indirectly to be made, published, disseminated, circulated, 56  
delivered to any person, or placed before the public, any false 57  
statement of financial condition of an insurer. 58

Making any false entry in any book, report, or statement of 59  
any insurer with intent to deceive any agent or examiner lawfully 60  
appointed to examine into its condition or into any of its 61  
affairs, or any public official to whom such insurer is required 62  
by law to report, or who has authority by law to examine into its 63  
condition or into any of its affairs, or, with like intent, 64  
willfully omitting to make a true entry of any material fact 65  
pertaining to the business of such insurer in any book, report, or 66  
statement of such insurer, or mutilating, destroying, suppressing, 67  
withholding, or concealing any of its records. 68

(E) Issuing or delivering or permitting agents, officers, or 69  
employees to issue or deliver agency company stock or other 70  
capital stock or benefit certificates or shares in any common-law 71  
corporation or securities or any special or advisory board 72  
contracts or other contracts of any kind promising returns and 73  
profits as an inducement to insurance. 74

(F) Making or permitting any unfair discrimination among 75  
individuals of the same class and equal expectation of life in the 76  
rates charged for any contract of life insurance or of life 77  
annuity or in the dividends or other benefits payable thereon, or 78  
in any other of the terms and conditions of such contract. 79

(G)(1) Except as otherwise expressly provided by law, 80  
knowingly permitting or offering to make or making any contract of 81  
life insurance, life annuity or accident and health insurance, or 82  
agreement as to such contract other than as plainly expressed in 83  
the contract issued thereon, or paying or allowing, or giving or 84

offering to pay, allow, or give, directly or indirectly, as 85  
inducement to such insurance, or annuity, any rebate of premiums 86  
payable on the contract, or any special favor or advantage in the 87  
dividends or other benefits thereon, or any valuable consideration 88  
or inducement whatever not specified in the contract; or giving, 89  
or selling, or purchasing, or offering to give, sell, or purchase, 90  
as inducement to such insurance or annuity or in connection 91  
therewith, any stocks, bonds, or other securities, or other 92  
obligations of any insurance company or other corporation, 93  
association, or partnership, or any dividends or profits accrued 94  
thereon, or anything of value whatsoever not specified in the 95  
contract. 96

(2) Nothing in division (F) or division (G)(1) of this 97  
section shall be construed as prohibiting any of the following 98  
practices: (a) in the case of any contract of life insurance or 99  
life annuity, paying bonuses to policyholders or otherwise abating 100  
their premiums in whole or in part out of surplus accumulated from 101  
nonparticipating insurance, provided that any such bonuses or 102  
abatement of premiums shall be fair and equitable to policyholders 103  
and for the best interests of the company and its policyholders; 104  
(b) in the case of life insurance policies issued on the 105  
industrial debit plan, making allowance to policyholders who have 106  
continuously for a specified period made premium payments directly 107  
to an office of the insurer in an amount which fairly represents 108  
the saving in collection expenses; (c) readjustment of the rate of 109  
premium for a group insurance policy based on the loss or expense 110  
experience thereunder, at the end of the first or any subsequent 111  
policy year of insurance thereunder, which may be made retroactive 112  
only for such policy year. 113

(H) Making, issuing, circulating, or causing or permitting to 114  
be made, issued, or circulated, or preparing with intent to so 115  
use, any statement to the effect that a policy of life insurance 116

is, is the equivalent of, or represents shares of capital stock or 117  
any rights or options to subscribe for or otherwise acquire any 118  
such shares in the life insurance company issuing that policy or 119  
any other company. 120

(I) Making, issuing, circulating, or causing or permitting to 121  
be made, issued or circulated, or preparing with intent to so 122  
issue, any statement to the effect that payments to a policyholder 123  
of the principal amounts of a pure endowment are other than 124  
payments of a specific benefit for which specific premiums have 125  
been paid. 126

(J) Making, issuing, circulating, or causing or permitting to 127  
be made, issued, or circulated, or preparing with intent to so 128  
use, any statement to the effect that any insurance company was 129  
required to change a policy form or related material to comply 130  
with Title XXXIX of the Revised Code or any regulation of the 131  
superintendent of insurance, for the purpose of inducing or 132  
intending to induce any policyholder or prospective policyholder 133  
to purchase, amend, lapse, forfeit, change, or surrender 134  
insurance. 135

(K) Aiding or abetting another to violate this section. 136

(L) Refusing to issue any policy of insurance, or canceling 137  
or declining to renew such policy because of the sex or marital 138  
status of the applicant, prospective insured, insured, or 139  
policyholder. 140

(M)(1) Making or permitting any unfair discrimination between 141  
individuals of the same class and of essentially the same hazard 142  
in the amount of premium, policy fees, or rates charged for any 143  
policy or contract of insurance, other than life insurance, or in 144  
the benefits payable thereunder, or in underwriting standards and 145  
practices or eligibility requirements, or in any of the terms or 146  
conditions of such contract, or in any other manner whatever. 147

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

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

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

(O) Refusing, when offering maternity benefits under any individual or group sickness and accident insurance policy, to make maternity benefits available to the policyholder for the individual or individuals to be covered under any comparable policy to be issued for delivery in this state, including family members if the policy otherwise provides coverage for family members. Nothing in this division shall be construed to prohibit an insurer from imposing a reasonable waiting period for such benefits under an individual sickness and accident insurance policy issued to an individual who is not a federally eligible individual or a nonemployer-related group sickness and accident insurance policy, but in no event shall such waiting period exceed two hundred seventy days.

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

(P) Using, or permitting to be used, a pattern settlement as the basis of any offer of settlement. As used in this division,

"pattern settlement" means a method by which liability is 179  
routinely imputed to a claimant without an investigation of the 180  
particular occurrence upon which the claim is based and by using a 181  
predetermined formula for the assignment of liability arising out 182  
of occurrences of a similar nature. Nothing in this division shall 183  
be construed to prohibit an insurer from determining a claimant's 184  
liability by applying formulas or guidelines to the facts and 185  
circumstances disclosed by the insurer's investigation of the 186  
particular occurrence upon which a claim is based. 187

(Q) Refusing to insure, or refusing to continue to insure, or 188  
limiting the amount, extent, or kind of life or sickness and 189  
accident insurance or annuity coverage available to an individual, 190  
or charging an individual a different rate for the same coverage 191  
solely because of blindness or partial blindness. With respect to 192  
all other conditions, including the underlying cause of blindness 193  
or partial blindness, persons who are blind or partially blind 194  
shall be subject to the same standards of sound actuarial 195  
principles or actual or reasonably anticipated actuarial 196  
experience as are sighted persons. Refusal to insure includes, but 197  
is not limited to, denial by an insurer of disability insurance 198  
coverage on the grounds that the policy defines "disability" as 199  
being presumed in the event that the eyesight of the insured is 200  
lost. However, an insurer may exclude from coverage disabilities 201  
consisting solely of blindness or partial blindness when such 202  
conditions existed at the time the policy was issued. To the 203  
extent that the provisions of this division may appear to conflict 204  
with any provision of section 3999.16 of the Revised Code, this 205  
division applies. 206

(R)(1) Directly or indirectly offering to sell, selling, or 207  
delivering, issuing for delivery, renewing, or using or otherwise 208  
marketing any policy of insurance or insurance product in 209  
connection with or in any way related to the grant of a student 210

loan guaranteed in whole or in part by an agency or commission of 211  
this state or the United States, except insurance that is required 212  
under federal or state law as a condition for obtaining such a 213  
loan and the premium for which is included in the fees and charges 214  
applicable to the loan; or, in the case of an insurer or insurance 215  
agent, knowingly permitting any lender making such loans to engage 216  
in such acts or practices in connection with the insurer's or 217  
agent's insurance business. 218

(2) Except in the case of a violation of division (G) of this 219  
section, division (R)(1) of this section does not apply to either 220  
of the following: 221

(a) Acts or practices of an insurer, its agents, 222  
representatives, or employees in connection with the grant of a 223  
guaranteed student loan to its insured or the insured's spouse or 224  
dependent children where such acts or practices take place more 225  
than ninety days after the effective date of the insurance; 226

(b) Acts or practices of an insurer, its agents, 227  
representatives, or employees in connection with the solicitation, 228  
processing, or issuance of an insurance policy or product covering 229  
the student loan borrower or the borrower's spouse or dependent 230  
children, where such acts or practices take place more than one 231  
hundred eighty days after the date on which the borrower is 232  
notified that the student loan was approved. 233

(S) Denying coverage, under any health insurance or health 234  
care policy, contract, or plan providing family coverage, to any 235  
natural or adopted child of the named insured or subscriber solely 236  
on the basis that the child does not reside in the household of 237  
the named insured or subscriber. 238

(T)(1) Using any underwriting standard or engaging in any 239  
other act or practice that, directly or indirectly, due solely to 240  
any health status-related factor in relation to one or more 241



individuals, does either of the following:	242
(a) Terminates or fails to renew an existing individual	243
policy, contract, or plan of health benefits, or a health benefit	244
plan issued to an employer, for which an individual would	245
otherwise be eligible;	246
(b) With respect to a health benefit plan issued to an	247
employer, excludes or causes the exclusion of an individual from	248
coverage under an existing employer-provided policy, contract, or	249
plan of health benefits.	250
(2) The superintendent of insurance may adopt rules in	251
accordance with Chapter 119. of the Revised Code for purposes of	252
implementing division (T)(1) of this section.	253
(3) For purposes of division (T)(1) of this section, "health	254
status-related factor" means any of the following:	255
(a) Health status;	256
(b) Medical condition, including both physical and mental	257
illnesses;	258
(c) Claims experience;	259
(d) Receipt of health care;	260
(e) Medical history;	261
(f) Genetic information;	262
(g) Evidence of insurability, including conditions arising	263
out of acts of domestic violence;	264
(h) Disability.	265
(U) With respect to a health benefit plan issued to a small	266
employer, as those terms are defined in section 3924.01 of the	267
Revised Code, negligently or willfully placing coverage for	268
adverse risks with a certain carrier, as defined in section	269
3924.01 of the Revised Code.	270

(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.

(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.

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

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

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

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

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

(2) Nothing in division (Y)(1) of this section shall be 302  
construed to prohibit an insurer from inquiring as to, or from 303  
underwriting or rating a risk on the basis of, a person's physical 304  
or mental condition, even if the condition has been caused by 305  
domestic violence, provided that all of the following apply: 306

(a) The insurer routinely considers the condition in 307  
underwriting or in rating risks, and does so in the same manner 308  
for a victim of domestic violence as for an insured or applicant 309  
who is not a victim of domestic violence; 310

(b) The insurer does not refuse to issue any policy or 311  
contract of life or health insurance or cancel or refuse to renew 312  
any policy or contract of life insurance, solely on the basis of 313  
the condition, except where such refusal to issue, cancellation, 314  
or refusal to renew is based on sound actuarial principles or is 315  
related to actual or reasonably anticipated experience; 316

(c) The insurer does not consider a person's status as being 317  
or as having been a victim of domestic violence, in itself, to be 318  
a physical or mental condition; 319

(d) The underwriting or rating of a risk on the basis of the 320  
condition is not used to evade the intent of division (Y)(1) of 321  
this section, or of any other provision of the Revised Code. 322

(3)(a) Nothing in division (Y)(1) of this section shall be 323  
construed to prohibit an insurer from refusing to issue a policy 324  
or contract of life insurance insuring the life of a person who is 325  
or has been a victim of domestic violence if the person who 326  
committed the act of domestic violence is the applicant for the 327  
insurance or would be the owner of the insurance policy or 328  
contract. 329

(b) Nothing in division (Y)(2) of this section shall be 330  
construed to permit an insurer to cancel or refuse to renew any 331  
policy or contract of health insurance in violation of the "Health 332

Insurance Portability and Accountability Act of 1996," 110 Stat. 333  
1955, 42 U.S.C.A. 300gg-41(b), as amended, or in a manner that 334  
violates or is inconsistent with any provision of the Revised Code 335  
that implements the "Health Insurance Portability and 336  
Accountability Act of 1996." 337

(4) An insurer is immune from any civil or criminal liability 338  
that otherwise might be incurred or imposed as a result of any 339  
action taken by the insurer to comply with division (Y) of this 340  
section. 341

(5) As used in division (Y) of this section, "domestic 342  
violence" means any of the following acts: 343

(a) Knowingly causing or attempting to cause physical harm to 344  
a family or household member; 345

(b) Recklessly causing serious physical harm to a family or 346  
household member; 347

(c) Knowingly causing, by threat of force, a family or 348  
household member to believe that the person will cause imminent 349  
physical harm to the family or household member. 350

For the purpose of division (Y)(5) of this section, "family 351  
or household member" has the same meaning as in section 2919.25 of 352  
the Revised Code. 353

Nothing in division (Y)(5) of this section shall be construed 354  
to require, as a condition to the application of division (Y) of 355  
this section, that the act described in division (Y)(5) of this 356  
section be the basis of a criminal prosecution. 357

(Z) Disclosing a coroner's records by an insurer in violation 358  
of section 313.10 of the Revised Code. 359

(AA) Making, issuing, circulating, or causing or permitting 360  
to be made, issued, or circulated any statement or representation 361  
that a life insurance policy or annuity is a contract for the 362

purchase of funeral goods or services. 363

With respect to private passenger automobile insurance, no 364  
insurer shall charge different premium rates to persons residing 365  
within the limits of any municipal corporation based solely on the 366  
location of the residence of the insured within those limits. 367

The enumeration in sections 3901.19 to 3901.26 of the Revised 368  
Code of specific unfair or deceptive acts or practices in the 369  
business of insurance is not exclusive or restrictive or intended 370  
to limit the powers of the superintendent of insurance to adopt 371  
rules to implement this section, or to take action under other 372  
sections of the Revised Code. 373

This section does not prohibit the sale of shares of any 374  
investment company registered under the "Investment Company Act of 375  
1940," 54 Stat. 789, 15 U.S.C.A. 80a-1, as amended, or any 376  
policies, annuities, or other contracts described in section 377  
3907.15 of the Revised Code. 378

As used in this section, "estimate," "statement," 379  
"representation," "misrepresentation," "advertisement," or 380  
"announcement" includes oral or written occurrences. 381

**Section 2.** That existing section 3901.21 of the Revised Code 382  
is hereby repealed. 383