

**ALABAMA DEPARTMENT OF INSURANCE
INSURANCE REGULATION**

CHAPTER 482-1-???

**USE OF CREDIT INFORMATION FOR DETERMINING RATES AND ELIGIBILITY
FOR PERSONAL INSURANCE**

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482-1-???-01 Purpose. The purpose of this regulation is to set forth restrictions and procedural requirements for personal lines insurers licensed in Alabama regarding the use of applicants' credit history for calculating rates and determining eligibility for coverage or tier placement.

Author: Ryan Donaldson, Associate Counsel
Statutory Authority: Code of Alabama 1975, § 27-2-17
History: New _____, Effective _____

482-1-???-02 Authority. This regulation is promulgated by the Commissioner of Insurance pursuant to the authority set forth in Section 27-2-17, Code of Alabama 1975.

Author: Ryan Donaldson, Associate Counsel
Statutory Authority: Code of Alabama 1975, § 27-2-17
History: New _____, Effective _____

482-1-???-03 Scope. This regulation shall apply to all personal lines insurers doing business in the State of Alabama.

Author: Ryan Donaldson, Associate Counsel

1 **Statutory Authority:** Code of Alabama 1975, § 27-2-17

2 **History:** New _____, Effective _____

3

4 482-1-???-04. Definitions. The following definitions shall apply for purposes of this regulation:

5 A. Adverse Action. As described in Section 1681a (k) of the federal Fair Credit

6 Reporting Act.

7 B. Affiliate. Any company that controls, is controlled by, or is under common

8 control with another company.

9 C. Applicant. An individual who seeks to obtain, obtains, or has obtained an

10 insurance product or service from an insurer.

11 D. Company. A corporation, limited liability company, business trust, general or

12 limited partnership, association, sole proprietorship, or similar organization.

13 E. Consumer Reporting Agency. As described in Section 1681a (f) of the federal

14 Fair Credit Reporting Act.

15 F. Credit History. A written, oral, or other communication of any information by a

16 consumer reporting agency bearing on an applicant's creditworthiness, credit standing, credit

17 capacity, or financial responsibility that is used or expected to be used, or collected in whole or

18 in part, for the purpose of serving as a factor in determining personal insurance premiums,

19 eligibility for coverage, or tier placement.

20 G. Denial. The act of refusing to offer personal insurance coverage to an applicant.

21 An offer of placement with an affiliate insurer does not constitute denial, cancellation or

22 nonrenewal of coverage.

1 H. Insurance Score. A number or rating that is derived from an algorithm, computer
2 application, model, or other process that is based in whole or in part on credit history for the
3 purposes of predicting the future loss exposure of an applicant.

4 I. Insurer. Any company providing personal lines insurance in Alabama.

5 J. Personal Lines or Personal Insurance. Any one of the following:

6 (1) Private Passenger Automobile coverage.

7 (2) Homeowner's coverage, including Renter's coverage.

8 (3) Mobile or Manufactured Homeowner's coverage.

9 (4) Condominium Owner's coverage.

10 (5) Non-commercial Dwelling Fire or Dwelling Property coverage.

11 (6) Earthquake coverage for a residence or personal property.

12 (7) Comprehensive Personal Liability.

13 (8) Personal Inland Marine coverage.

14 K. No-Hit. An absence of credit history.

15 L. Thin File. An inability to determine credit history.

16 M. Tier. A category within a single insurer into which applicants with substantially

17 like insuring risk, or exposure factors, and expense elements are placed for purposes of

18 determining rate or premium.

19 **Author:** Ryan Donaldson, Associate Counsel

20 **Statutory Authority:** Code of Alabama 1975, § 27-2-17

21 **History:** New _____, Effective _____

22

23 482-1-???-05 Requirements.

1 A. Insurers must maintain and make available upon request by the Department specific
2 written procedures detailing their practices regarding credit history and insurance scores,
3 including the following information:

4 (1) When credit history will be ordered and when insurance scores will be ordered or
5 calculated, e.g. at initial underwriting, upon applicant's request, etc.

6 (2) About whom such information will be ordered or calculated, e.g. the named
7 applicant, all known household members, etc.

8 (3) How such information will be used, e.g. to calculate rates, to determine eligibility for
9 coverage, etc.

10 B. If the insurer relies, in whole or in part, on an insurance score to initially underwrite
11 or rate any applicant or re-rate any existing class or subclass of insureds, or offer insurance
12 pursuant to 15 U.S.C. 1681c, the insurer shall, before its use on any applicant risk:

13 (1) File the insurance scoring system with the Commissioner. This filing shall include
14 the factors or characteristics from an applicant's credit history that are utilized in determining an
15 insurance score, and the algorithm, computer program, model, or other process used in
16 determining an insurance score. The underlying support, including statistical validation, for the
17 development of the algorithm, computer program, model, or other process that is used in
18 determining a insurance score shall also be filed;

19 (2) Maintain the following forms and make available upon request by the Department:

20 (a) any language provided to the applicant to advise them that credit report information
21 will be ordered; and

22 (b) the adverse action form.

1 C. If an applicant is eligible for a particular rate or tier, based on all other criteria, except
2 for the fact that an applicant's credit history is unavailable ("no-hit") or incomplete ("thin file")
3 for that applicant, the applicant will be given that rate or tier unless said insurer files and the
4 Department concurs with actuarial documentation which supports other practices. The actuarial
5 documentation shall include age segmentation as well as other reasonable criteria.

6 D. If a credit reporting agency determines that the credit history of an applicant is
7 incorrect due to inaccurate information and if the insurer receives notice and documentation of
8 this determination from the consumer reporting agency, the insurer shall within 30 days after
9 receiving notice:

- 10 (a) Re-underwrite the applicant;
11 (b) Re-rate the consumer; and
12 (c) Adjust the premium as indicated (5)(E) below.

13 E. If it is determined by the re-underwriting or re-rating in accordance with the
14 subsection (5)(D) above that the applicant has overpaid the premium, the insurer shall refund or
15 credit to the applicant the amount of the overpayment of premium. Such payment shall be
16 calculated back to the time from which the inaccurate credit history was originally used.

17 F. Any filing relating to credit information is considered to be a commercially valuable
18 trade secret and proprietary information of the entity filing the information. The Department,
19 absent a court order, will not release information that is filed on a proprietary basis. Any
20 proprietary information shall be submitted under separate cover and must clearly state the desires
21 of the party filing the information as to its confidentiality.

22 **Author:** Ryan Donaldson, Associate Counsel

23 **Statutory Authority:** Code of Alabama 1975, § 27-2-17

24 **History:** New _____, Effective _____

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1 482-1-???-06. Prohibited Procedures.

2 A. Insurers shall not deny personal insurance coverage, calculate an insurance score,
3 determine personal insurance premiums or rates, or place an applicant in a tier based in whole or
4 in part on the following types of credit history:

5 (1) An applicant's number of credit inquiries unless said insurer files and the Department
6 concurs with actuarial documentation which supports other practices.

7 (2) The type of credit card, charge card, or debit card used by an applicant.

8 B. Insurers shall not deny personal insurance coverage based solely on a lack of
9 credit history ("no-hit") or incomplete credit history ("thin file") if the insurer has received
10 accurate and complete information from the applicant.

11 C. Insurers shall not refuse to insure an applicant based solely on the applicant's
12 credit history or insurance score.

13 D. Insurers shall not rely solely on an applicant's credit history or insurance score
14 when electing to cancel or non-renew a policy.

15 E. Insurers shall not use credit history or insurance score for any arbitrary,
16 capricious, or unfairly discriminatory reason.

17 F. Insurers shall not request an applicant's credit history or an insurance score based
18 wholly or partially on residence, sex, race, color, creed, occupation, income, physical handicap,
19 disability of an applicant.

20 G. Insurers shall not refuse to issue or renew a policy solely because the applicant or
21 insured does not possess a credit card.

1 H. Insurers shall not use the following as a negative factor in any insurance scoring
2 methodology or in reviewing credit information for the purpose of underwriting or rating a
3 policy of personal insurance:

4 (1) Credit inquiries not initiated by the applicant or inquiries requested by the applicant
5 for his or her own credit information.

6 (2) Inquiries relating to insurance coverage, if so identified on a applicant's credit report.

7 (3) Collection accounts with a medical industry code, if so identified on the applicant's
8 credit report.

9 (4) Multiple lender inquiries, if coded by the applicant reporting agency on the
10 applicant's credit report as being from the home mortgage industry and/or the automobile
11 lending industry made within 30 days of one another, unless only one inquiry is considered.

12 **Author:** Ryan Donaldson, Associate Counsel

13 **Statutory Authority:** Code of Alabama 1975, § 27-2-17

14 **History:** New _____, Effective _____

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16 482-1-???-07 Protection of Fair Credit Reporting Act.

17 Nothing in this Regulation shall be construed to modify, limit, or supersede the operation
18 of the federal Fair Credit Reporting Act (15 U.S.C. §§ 1681, *et seq.*).

19 **Author:** Ryan Donaldson, Associate Counsel

20 **Statutory Authority:** Code of Alabama 1975, § 27-2-17

21 **History:** New _____, Effective _____

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23 482-1-???-08 Notice Requirements.

24 A. Any rejection, refusal to quote or application for insurance extended over the Internet,
25 by telephone, or in person shall comply with the notice requirements of 15 U.S.C. § 1681.

1 B. For purposes of the notices required by the Fair Credit Reporting Act, 15 U.S.C. §
2 1681, an adverse action includes any act detrimental to the applicant based upon the information
3 contained in or derived from an applicant's credit history and may include by way of illustration
4 any of the following actions:

5 (1) Refusing to write an insurance policy for an applicant;

6 (2) Refusing to quote a premium;

7 (3) Any increase in an existing premium;

8 (4) Any premium for an initial policy or application for insurance that is higher than the
9 premium that otherwise would have been paid if not for the information in or derived from an
10 applicant's credit history.

11 C. If an insurer takes any type of adverse action that is based at least in part on
12 information contained in an applicant's credit history, the insurer is required by 15 U.S.C. § 1681
13 to notify the applicant. The notification may be done in writing, orally or by electronic means. It
14 must include the following:

15 (1) The name, address and telephone number of the credit reporting agency (Including a
16 toll-free telephone number if it is a nationwide credit reporting agency) that provided the report.

17 (2) A statement that the credit reporting agency did not make the adverse decision and is
18 not able to explain why the decision was made.

19 (3) A statement setting forth the applicant's right to obtain a free disclosure of the
20 applicant's file from the credit reporting agency.

21 (4) A statement setting forth the applicant's right to dispute directly with the credit
22 reporting agency the accuracy or completeness of any information provided by the credit
23 reporting agency.

1 D. If an applicant has a dispute concerning any adverse action, a complaint may be filed
2 with the Alabama Department of Insurance.

3 **Author:** Ryan Donaldson, Associate Counsel
4 **Statutory Authority:** Code of Alabama 1975, § 27-2-17
5 **History:** New _____, Effective _____
6

7 482-1-???-09 Revocation of certificate of authority.

8 Failure to comply with a material provision of this or any regulation is considered a
9 violation of Section 27-2-17, Code of Alabama 1975. Pursuant to Section 27-3-21, violation of
10 said statute, may subject the insurer to the suspension or revocation of the insurer's Certificate of
11 Authority.

12 **Author:** Ryan Donaldson, Associate Counsel
13 **Statutory Authority:** Code of Alabama 1975, § 27-2-17
14 **History:** New _____, Effective _____
15

16 482-1-???-10 Severability.

17 If any section or portion of a section of this Regulation or its applicability to any person
18 or circumstance is held invalid by a court, the remainder of the Regulation or the applicability of
19 the provision to other persons or circumstances shall not be affected.

20 **Author:** Ryan Donaldson, Associate Counsel
21 **Statutory Authority:** Code of Alabama 1975, § 27-2-17
22 **History:** New _____, Effective _____
23

24 482-1-???-11 Effective Date.

25 This Regulation is prospective and shall be effective _____, upon its approval
26 by the Commissioner of Insurance and upon its having been on file as a public document in the
27 office of the Secretary of State for ten days. In order to provide sufficient time for licensees to

1 establish policies and systems to comply with the requirements of this Regulation, the time for
2 compliance with this Regulation is extended until _____.

3 **Author:** Ryan Donaldson, Associate Counsel

4 **Statutory Authority:** Code of Alabama 1975, § 27-2-17

5 **History:** New _____, Effective _____

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