

BY: Finance Committee

AMENDMENTS TO SENATE BILL NO. 766

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “Underwriting”; in the same line, after “Standards” insert “for Cancellation, Underwriting, and Nonrenewal”; strike beginning with “altering” in line 4 down through “insurance;” in line 9 and substitute “prohibiting insurers from using certain standards for purposes of canceling or refusing to underwrite or renew homeowner’s insurance and private passenger motor vehicle insurance under certain circumstances; specifying that certain standards that relate to a certain purpose do not require certain statistical validation under certain circumstances; authorizing insurers to consider certain factors for purposes of canceling or refusing to underwrite or renew homeowner’s and private passenger motor vehicle insurance under certain circumstances; requiring insurers to disclose certain information to applicants and insureds if the insurer takes into consideration certain factors for purposes of canceling or refusing to underwrite or renew a policy;”; in line 10, strike “underwriting”; and in line 11 after “for” insert “canceling or refusing to underwrite or renew”.

AMENDMENT NO. 2

On page 1, in line 26 strike “SUBJECT TO THE PROVISIONS OF SUBSECTION (I) OF” and substitute “EXCEPT AS PROVIDED IN”.

On page 3, strike beginning with “(I)” in line 8 down through “LOSS.” in line 31 and substitute:

“(I) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITH RESPECT TO HOMEOWNER’S INSURANCE, AN INSURER MAY NOT CANCEL OR REFUSE TO UNDERWRITE OR RENEW COVERAGE FOR HOMEOWNER’S INSURANCE BASED ON THE CLAIMS HISTORY OF AN APPLICANT OR INSURED WHERE TWO OR FEWER OF THE CLAIMS WITHIN THE PRECEDING 3-YEAR PERIOD WERE FOR LOSSES RESULTING FROM WEATHER-RELATED EVENTS.”

(Over)

(2) AN INSURER MAY CONSIDER CLAIMS FOR WEATHER-RELATED EVENTS FOR THE PURPOSE OF CANCELING OR REFUSING TO UNDERWRITE OR RENEW COVERAGE IF:

(I) THE INSURED MADE THREE OR MORE CLAIMS FOR LOSSES RESULTING FROM WEATHER-RELATED EVENTS IN THE PRECEDING 3-YEAR PERIOD;
OR

(II) THE INSURER PROVIDED WRITTEN NOTICE TO THE INSURED FOR REASONABLE OR CUSTOMARY REPAIRS OR REPLACEMENT SPECIFIC TO THE INSURED'S PREMISES OR DWELLING WHICH THE INSURED FAILED TO MAKE AND WHICH, IF MADE, WOULD HAVE PREVENTED THE LOSS FOR WHICH A CLAIM WAS MADE.

(J) IN THE CASE OF HOMEOWNER'S INSURANCE, STANDARDS REASONABLY RELATED TO AN INSURER'S ECONOMIC AND BUSINESS PURPOSE UNDER SUBSECTION (A)(2) OF THIS SECTION, INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING AND DO NOT REQUIRE STATISTICAL VALIDATION:

(1) A MATERIAL MISREPRESENTATION IN CONNECTION WITH THE APPLICATION, POLICY, OR PRESENTATION OF A CLAIM;

(2) NONPAYMENT OF PREMIUM;

(3) A CHANGE IN THE PHYSICAL CONDITION OR CONTENTS OF THE PREMISES OR DWELLING WHICH RESULTS IN AN INCREASE IN A HAZARD INSURED AGAINST AND WHICH, IF PRESENT AND KNOWN TO THE INSURER PRIOR TO THE ISSUANCE OF THE POLICY, THE INSURER WOULD NOT HAVE ISSUED THE POLICY;

(4) CONVICTION WITHIN THE PRECEDING 3-YEAR PERIOD OF ARSON OR OTHER CRIME WHICH DIRECTLY INCREASES THE HAZARD INSURED AGAINST;

(5) SUBJECT TO SUBSECTION (I) OF THIS SECTION, THE CLAIMS HISTORY OF THE INSURED WHERE THE INSURED MAKES MORE THAN THREE CLAIMS IN THE PRECEDING 3-YEAR PERIOD; AND

(6) ANY OTHER STANDARD APPROVED BY THE COMMISSIONER THAT IS BASED ON FACTORS THAT ADVERSELY AFFECT THE LOSSES OR EXPENSES OF THE INSURER UNDER ITS APPROVED RATING PLAN AND FOR WHICH STATISTICAL VALIDATION IS UNAVAILABLE OR IS UNDULY BURDENSOME TO PRODUCE.

(K) WITH RESPECT TO PRIVATE PASSENGER MOTOR VEHICLE INSURANCE, AN INSURER MAY NOT CANCEL OR REFUSE TO UNDERWRITE OR RENEW COVERAGE BASED ON THE CLAIMS HISTORY OF AN APPLICANT OR INSURED WHERE TWO OR FEWER OF THE CLAIMS WITHIN THE PRECEDING 3-YEAR PERIOD WERE FOR ACCIDENTS OR LOSSES WHERE THE INSURED WAS NOT AT FAULT FOR THE LOSS.

(L) IN THE CASE OF PRIVATE PASSENGER MOTOR VEHICLE INSURANCE, STANDARDS REASONABLY RELATED TO THE INSURER'S ECONOMIC AND BUSINESS PURPOSES UNDER SUBSECTION (A)(2) OF THIS SECTION INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING AND DO NOT REQUIRE STATISTICAL VALIDATION:

(1) A MATERIAL MISREPRESENTATION IN CONNECTION WITH THE APPLICATION, POLICY, OR PRESENTATION OF A CLAIM;

(2) NONPAYMENT OF PREMIUM;

(3) SUBJECT TO § 27-606 OF THIS TITLE, REVOCATION OR SUSPENSION OF THE DRIVER'S LICENSE OR MOTOR VEHICLE REGISTRATION WITHIN THE PRECEDING 2-YEAR PERIOD:

(I) OF THE NAMED INSURED OR COVERED DRIVER UNDER THE POLICY; AND

(II) FOR REASONS RELATED TO THE DRIVING RECORD OF THE DRIVER;

(4) SUBJECT TO § 27-606 OF THIS TITLE, TWO OR MORE MOTOR VEHICLE ACCIDENTS OR ANY COMBINATION OF THREE OR MORE ACCIDENTS AND MOVING

(Over)

VIOLATIONS WITHIN THE PRECEDING 3-YEAR PERIOD IF, BASED ON AN INVESTIGATION OF THE CIRCUMSTANCES OF ANY ACCIDENT, THE INSURER DETERMINES THAT THE INSURED WAS THE PROXIMATE CAUSE OF THE ACCIDENT;

(5) SUBJECT TO § 27-606 OF THIS TITLE, THREE OR MORE MOVING VIOLATIONS AGAINST THE INSURED OR A COVERED DRIVER UNDER THE POLICY WITHIN THE PRECEDING 2-YEAR PERIOD;

(6) SUBJECT TO § 27-606 OF THIS TITLE, CONVICTION OF THE NAMED INSURED OR A COVERED DRIVER UNDER THE POLICY OF ANY OF THE FOLLOWING:

(I) DRIVING WHILE INTOXICATED OR IMPAIRED BY DRUGS;

(II) HOMICIDE, ASSAULT, RECKLESS ENDANGERMENT, OR CRIMINAL NEGLIGENCE ARISING OUT OF THE OPERATION OF THE MOTOR VEHICLE;
OR

(III) USING THE MOTOR VEHICLE TO PARTICIPATE IN A FELONY;

AND

(7) ANY OTHER STANDARD APPROVED BY THE COMMISSIONER THAT IS BASED ON FACTORS THAT ADVERSELY AFFECT THE LOSSES OR EXPENSES OF THE INSURER UNDER ITS APPROVED RATING PLAN AND FOR WHICH STATISTICAL VALIDATION IS UNAVAILABLE OR IS UNDULY BURDENSOME TO PRODUCE.

(M) IN THE CASE OF COMMERCIAL INSURANCE OR INSURANCE ISSUED OR PROVIDED BY NONADMITTED INSURERS, AN INSURER IS NOT REQUIRED TO PRODUCE STATISTICAL VALIDATION OF ITS UNDERWRITING STANDARDS IN ORDER TO MEET ITS BURDEN OF PERSUASION UNDER THIS SECTION.

(N) (1) SUBJECT TO THE REQUIREMENTS OF THIS ARTICLE, IF AN INSURER CONSIDERS CLAIMS HISTORY FOR THE PURPOSES OF CANCELING OR REFUSING TO UNDERWRITE OR RENEW COVERAGE, THE INSURER MAY CONSIDER THE FOLLOWING FACTORS IN MITIGATION OF THE PROPOSED DECISION WITHOUT

PRODUCING STATISTICAL VALIDATION:

(I) THE SEVERITY OF THE LOSSES;

(II) THE LENGTH OF TIME THAT AN INSURED HAS BEEN A
POLICYHOLDER WITH THE INSURER;

(III) LOSS MITIGATION OF PREVIOUS LOSSES; AND

(IV) THE AVAILABILITY OF A HIGHER DEDUCTIBLE FOR THE
PARTICULAR POLICY AND TYPES OF LOSSES.

(2) IF AN INSURER CONSIDERS CLAIMS HISTORY FOR PURPOSES OF
CANCELING OR REFUSING TO UNDERWRITE OR RENEW COVERAGE, THE INSURER
SHALL DISCLOSE THE PRACTICE TO AN APPLICANT OR INSURED AT THE INCEPTION
OF THE POLICY AND AT EACH RENEWAL.”.