

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**Introduced**

## **Senate Bill 75**

BY SENATORS RUCKER AND MARONEY

[Introduced February 10, 2021; referred  
to the Committee on Banking and Insurance]

1 A BILL to amend and reenact §33-6B-3 of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §33-17A-6 of said code, all relating to prohibiting insurance companies  
 3 from using credit ratings when establishing home and automobile insurance premiums.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 6B. DECLINATION OF AUTOMOBILE LIABILITY INSURANCE AND  
SETTING OF PREMIUMS.**

**§33-6B-3. Declinations; setting of premiums; prohibited reasons.**

1 (a) The declination of an application for a private passenger policy of automobile liability  
 2 insurance by an insurer, agent or broker is prohibited if the declination is:

3 ~~(a)~~ (1) Based upon the race, religion, nationality or ethnic group, of the applicant or named  
 4 insured;

5 ~~(b)~~ (2) Based solely upon the lawful occupation or profession of the applicant or named  
 6 insured, unless the decision is for a business purpose that is not a mere pretext for unfair  
 7 discrimination: *Provided*, That this provision does not apply to any insurer, agent or broker that  
 8 limits its market to one lawful occupation or profession or to several related lawful occupations or  
 9 professions;

10 ~~(c)~~ (3) Based upon the principal location of the insured motor vehicle unless the decision  
 11 is for a business purpose which is not a mere pretext for unfair discrimination;

12 ~~(d)~~ (4) Based solely upon the age, sex or marital status of an applicant or an insured,  
 13 except that this subsection does not prohibit rating differentials based on age, sex or marital  
 14 status;

15 ~~(e)~~ (5) Based upon the fact that the applicant has previously obtained insurance coverage  
 16 with a substandard insurance carrier;

17 ~~(f)~~ (6) Based upon the fact that the applicant has not previously been insured;

18 ~~(g)~~ (7) Based upon the fact that the applicant did not have insurance coverage for a period

19 of time prior to the application;

20 ~~(h)~~ (8) Based upon the fact that the applicant or named insured previously obtained  
21 insurance coverage through a residual market insurance mechanism;

22 ~~(i)~~ (9) Based upon the fact that another insurer previously declined to insure the applicant  
23 or terminated an existing policy in which the applicant was the named insured;

24 ~~(j)~~ (10) Based solely upon an adverse credit report or adverse credit scoring.

25 (b) No insurer may use credit scoring or credit rating in setting insurance premiums.

26 (c) Nothing in this section may be construed to prohibit an insurer, agent or broker from  
27 using legitimate, documented, underwriting data in making their own independent risk  
28 assessment of an applicant for insurance.

**ARTICLE 17A. PROPERTY INSURANCE DECLINATION, TERMINATION AND  
DISCLOSURE AND SETTING OF PREMIUMS.**

**§33-17A-6. Discriminatory terminations, premium settings and declinations prohibited.**

1 (a) No insurer may decline to issue or terminate a policy of insurance subject to this article  
2 if the declination or termination is:

3 ~~(a)~~ (1) Based upon the race, religion, nationality, ethnic group, age, sex, or marital status  
4 of the applicant or named insured;

5 ~~(b)~~ (2) Based solely upon the lawful occupation or profession of the applicant or named  
6 insured, unless the decision is for a business purpose that is not a mere pretext for unfair  
7 discrimination: *Provided*, That this provision does not apply to any insurer, agent or broker that  
8 limits its market to one lawful occupation or profession or to several related lawful occupations or  
9 professions;

10 ~~(c)~~ (3) Based upon the age or location of the residence of the applicant or named insured  
11 unless the decision is for a business purpose that is not a mere pretext for unfair discrimination  
12 or unless the age or location materially affects the risk;

13           ~~(d)~~ (4) Based upon the fact that another insurer previously declined to insure the applicant  
14 or terminated an existing policy in which the applicant was the named insured;

15           ~~(e)~~ (5) Based upon the fact that the applicant or named insured previously obtained  
16 insurance coverage through a residual market insurance mechanism;

17           ~~(f)~~ (6) Based upon the fact that the applicant has not previously been insured;

18           ~~(g)~~ (7) Based upon the fact that the applicant did not have insurance coverage for a period  
19 of time prior to the application; or

20           ~~(h)~~ (8) Based solely upon an adverse credit report or adverse credit scoring.

21           (b) No insurer may use credit scoring or credit rating in setting insurance premiums.

NOTE: The purpose of this bill is to prohibit insurance companies from using credit ratings when establishing home and automobile insurance premiums.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.