

**As Introduced**

**131st General Assembly  
Regular Session  
2015-2016**

**S. B. No. 64**

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

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**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  
abating 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) <u>(1) Making or permitting any unfair discrimination</u>	146
<u>between individuals of the same class and of essentially the</u>	147
<u>same hazard in the amount of premium, policy fees, or rates</u>	148
<u>charged for any policy or contract of insurance, other than life</u>	149
<u>insurance, or in the benefits payable thereunder, or in</u>	150
<u>underwriting standards and practices or eligibility</u>	151
<u>requirements, or in any of the terms or conditions of such</u>	152
<u>contract, or in any other manner whatever.</u>	153
<u>(2) Considering an individual's credit score, credit</u>	154
<u>report, or credit history in determining a premium, policy fee,</u>	155
<u>or rate charged for, in setting the coverage provided by,</u>	156
<u>benefits payable under, or other terms and conditions of, or in</u>	157
<u>refusing to issue, canceling, or refusing to renew, any policy</u>	158
<u>or contract of insurance.</u>	159
<u>For purposes of division (M) (2) of this section, "credit</u>	160
<u>score," "credit report," and "credit history" mean any written,</u>	161
<u>oral, or other communication of any information bearing on a</u>	162
<u>consumer's creditworthiness, credit standing, or credit</u>	163
<u>capacity.</u>	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