

THE SAGA CONTINUES ON USE OF CREDIT SCORING IN FLORIDA

By R. Michael Underwood

The Florida Office of Insurance Regulation has proposed new regulations to implement a 2003 state statute regulating insurers' use of credit reports and scores in underwriting and rating insurance policies. The proposed Rules 69O-125.005 and 69O-125.006 were unveiled on October 27, 2008.

Although the statute purported to be implemented by the new rules, Section 626.9741, Florida Statutes, was enacted in 2003, implementing regulations have never become effective because of continuous litigation opposing the regulations as contrary to the underlying statute. The opponents have been trade associations for property and casualty insurers. They contend that while the legislation seeks to regulate use of consumers' credit scores and other credit history information to develop an "insurance score," the proposed regulations effectively prohibit it.

By a stipulation dated September 26, 2008, the Florida insurance regulator and the industry agreed to dismiss the litigation in order to make way for the new proposed rules. Meanwhile, a statute enacted as a companion to Section 626.9741 that provided for confidentiality of credit scoring methodologies and related data submitted to the regulator, Section 626.9741, Florida Statutes, was allowed to expire on October 2, 2008.

Critics of credit scoring say it discriminates against low income and minority consumers. It is claimed the current financial crisis, moreover, is making the problem worse as many consumers at risk of losing their homes or facing other financial pressures experience increased home and automobile insurance premiums because of credit scoring. Predictions are that the

latest version of implementing regulations will not solve the impasse. An industry challenge to the new rule is likely as the saga continues.

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