**South Carolina General Assembly**

119th Session, 2011-2012

**S. 85**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Ford and Leventis

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Companion/Similar bill(s): 3101

Introduced in the Senate on January 11, 2011

Currently residing in the Senate Committee on **Banking and Insurance**

Summary: Insurers

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/1/2010 Senate Prefiled

12/1/2010 Senate Referred to Committee on **Banking and Insurance**

1/11/2011 Senate Introduced and read first time ([Senate Journal‑page 41](file:///h:\sj%20archive\2011\01-11-11.docx))

1/11/2011 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 41](file:///h:\sj%20archive\2011\01-11-11.docx))

**VERSIONS OF THIS BILL**

[12/1/2010](file:///p:\pprever\2011-12\85_20101201.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑55‑35 SO AS TO PROVIDE AN INSURER MAY NOT USE THE CREDIT REPORT OF A PERSON SEEKING A CONTRACT OF INSURANCE TO DETERMINE THE INSURANCE RATE OF THE CONTRACT OR WHETHER TO ISSUE THE INSURANCE CONTRACT, AND TO DEFINE CERTAIN TERMS; BY ADDING SECTION 41‑1‑120 SO AS TO PROVIDE AN EMPLOYER MAY NOT USE A CREDIT REPORT TO EVALUATE A PERSON FOR EMPLOYMENT, AND TO DEFINE CERTAIN TERMS; BY ADDING SECTION 56‑31‑35 SO AS TO PROVIDE A VEHICLE RENTAL COMPANY MAY NOT USE THE CREDIT REPORT OF A PERSON SEEKING TO RENT CERTAIN VEHICLES TO DETERMINE THE RENTAL RATE OF THE VEHICLES OR WHETHER TO RENT THE VEHICLES, AND TO DEFINE CERTAIN TERMS; AND TO AMEND SECTION 37-20-110, RELATING TO THE DEFINITION OF A “CREDIT REPORT”, SO AS TO REMOVE ESTABLISHING A PERSON’S ELIGIBILITY FOR EMPLOYMENT FROM THE PURPOSES FOR WHICH THIS REPORT IS INTENDED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 55, Title 38 of the 1976 Code is amended by adding:

“Section 38‑55‑35. (A) An insurer doing business in this State may not use the credit report of a person seeking a contract of insurance under this title to determine:

(1) the insurance rate for the contract; or

(2) whether to issue the contract.

(B) For the purposes of this section:

(1) ‘Credit report’ means a consumer report or credit report as defined in Section 37‑20‑110(3); and

(2) ‘Creditworthiness’ means creditworthiness as defined in Section 37‑20‑110(5).”

SECTION 2. Article 1, Chapter 1, Title 41 of the 1976 Code is amended by adding:

“Section 41‑1‑120. (A) An employer may not use a credit report to evaluate a person for employment.

(B) For the purposes of this section:

(1) ‘Credit report’ means a consumer report or credit report as defined in Section 37‑20‑110(3); and

(2) ‘Creditworthiness’ means creditworthiness as defined in Section 37‑20‑110(5).”

SECTION 3. Chapter 31, Title 56 of the 1976 Code is amended by adding:

“Section 56‑31‑35. (A) A rental company may not use the credit report of a person seeking to rent a private passenger automobile or rental vehicle under this chapter to determine:

(1) the rental rate, notwithstanding the provisions of Section 56‑31‑30; or

(2) whether to rent the private passenger automobile or rental vehicle to the person seeking the rental.

(B) For the purposes of this section:

(1) ‘Credit report’ means a consumer report or credit report as defined in Section 37‑20‑110(3); and

(2) ‘Creditworthiness’ means creditworthiness as defined in Section 37‑20‑110(5).”

SECTION 4. Section 37‑20‑110(3) of the 1976 Code, as added by Act 190 of 2008, is amended to read:

“(3) ‘Consumer report’ or ‘credit report’ means ~~any~~ written, oral, electronic, or other communication of information by a consumer credit‑reporting agency regarding a consumer’s creditworthiness, credit standing, credit capacity, character, debts, general reputation, personal characteristics, or mode of living that is used or expected to be used or collected in whole or in part for the purpose of establishing a consumer’s eligibility for any of the following:

(a) credit or insurance to be used primarily for personal, family, or household purposes;

(b) employment purposes, meaning the use of a consumer report for the purpose of evaluating a consumer for ~~employment,~~ promotion, reassignment, or retention as an employee; or

(c) any other purpose authorized pursuant to 15 U.S.C. Section 168lb.

‘Consumer report’ or ‘credit report’ does not include a report containing information as to a transaction between the consumer and the person making the report; an authorization or approval by the issuer of a credit card or similar device, directly or indirectly, of a specific extension of credit; a communication of information among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among those persons and the consumer has the opportunity, to direct that the information not be communicated among them, or a report in which a person conveys an adverse decision in response to a request from a third party to make a specific extension of credit, directly or indirectly, to the consumer, if the third party advises the consumer of the name and address of the person to whom the request was made and the person makes the required disclosures to the consumer pursuant to the provisions of the federal ‘Fair Credit Reporting Act’.”

SECTION 5. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. This act takes effect upon approval by the Governor.

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