

2009 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2109

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2109

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 14, 2009

Recorder Job Number: 6969

Committee Clerk Signature

Eva Lubelt

Minutes:

Larry Maslowski, Senior Analyst and Director, Consumer Protection Property and Casualty Division. North Dakota Insurance Department. (Testimony Attached).

Senator Potter: I don't understand how we allow the use of credit ratings insurance under writing. How does it have anything to do with a persons' ability to drive or the likely hood of them to have an accident.

Larry Maslowski: It is a question that we have a lot in the insurance industry. The institution known as Fair Isaac, developed formulas, they are the ones that do it for the mortgage companies in terms of reading your credit reports and providing credit scores. They developed a similar formula, what is called the insurance score. This is used in the insurance industry. They asked the insurance agency to take about fifty million policy holders. They took this information and they found that they could correlate the insurance scores to people and their frequency and their history loss ratio and loss experiences. So that's the basis on which they approach it.

Chairman Klein: I've sat through these Fair Isaac presentations and it works. The industry was attempting to use it overly zealously and we have curbed it the last few years.

Larry Maslowski: The industry was starting to do this when we had no law in place to regulate it. So we brought in legislation for the Legislature to consider. We didn't get everything we would have liked but we thought there should be some rules for the companies. Some disclosure requirements, some consumer protection built into that. So we came to the Legislative Body and asked what they wanted us to do with it. So we have the law as a way of regulating the companies and how they use the scores.

Senator Potter: For the companies to use it without some kind of casual relationship, between the person with the low credit score and that one with a high credit score. All its doing is piling on, the guy already has trouble and now we're going to charge him higher premiums because of the low credit score, without any relationship. How do the companies justify this? You just can't say its science.

Larry Maslowski: The correlation that I described is the foundation and relationship they are basing it on.

Senator Potter: I actually have a bill in to make this illegal. The trade secret part of this, why is it a trade secret at all?

Larry Maslowski: From day one Fair Isaac is the one who developed the formulas. They sell this service to the insurance industry and from day one they wanted as a business this to be trade secret. That's what they make their money on.

Continued Discussion.

Chairman Klein: Any one in opposition of 2109?

John Rich, United Transportation Union and Railroad Workers: This is really a consumer issue. Credit scoring in general, credit scoring does not predict whether or not you're going to have an accident. Credit scoring really tries to predict whether or not if you have an

accident you will turn in a claim. And in the end lower income folks don't have a choice because they don't have enough disposable income just too simply eat the loss. They have to turn it in to the insurance companies and in the end lower income people by and large have lower insurance scores and have to pay higher rates. So from a consumer stand point it has an adverse effect on those who can afford it the least.

Chairman Klein: Close hearing on Senate Bill 2109.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2109

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 14, 2009

Recorder Job Number: 6975

Committee Clerk Signature

Eva Lubert

Minutes:

Chairman Klein: Let's move back to Senate Bill 2109.

Moved by Senator Potter do pass and Seconded by Senator Wanzek

Roll Call Vote: Yes 7- No 0-Absent 0

Floor Assignment: Senator Klein

REPORT OF STANDING COMMITTEE (410)
January 14, 2009 1:05 p.m.

Module No: SR-07-0297
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2109: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2109 was placed on the Eleventh order on the calendar.

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2109

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2109

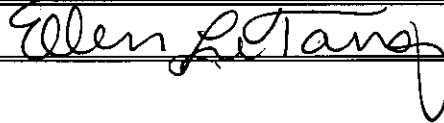
House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: March 4, 2009

Recorder Job Number: 10119

Committee Clerk Signature



Chairman Keiser: Opened the hearing on SB 2109 relating to insurance credit scores.

Larry Maslowski~Senior Analyst & Director, Consumer Protection Property & Casualty Division, North Dakota Insurance Department. See testimony attachment.

Representative N Johnson: Has there been abuse?

Maslowski: Not abuse but inquiries into filing from various sources.

Chairman Keiser: For example, if I as a consumer called up and said "do you know that my insurance company is using my credit score as part of his calibration, you could not answer that question.

Maslowski: I believe we could answer in the affirmative but we can't provide them with trade secret information formulas.

Chairman Keiser: Not with the bill, but under current law, could you answer that question?

Maslowski: Yes.

Representative Ruby: I trying to understand what type of information you are talking about because in your testimony it says that this would allow public access to those portions of the filing that are not specifically related to credit use information and the original bill say any filing relating to credit information is considered trade secrets so, I'm trying to understand what information has financial that is not necessarily credit information.

Maslowski: In my example for what you determine filing to be everything that comes in that one shipment of papers and in many instances companies just don't file their credit information formulas in that filing. They might pertain to new insurance policy and it might contain new or revised forms and endorsements that go with that policy. As it is now, it says "any filing", so the whole filing now being treated as a trade secret, we are wanting to open it up to the public to get to the other pieces that aren't.

Representative Vigesaa: When we passed that previous law, did that just pertain to new filings after that law or did it take everybody into that?

Maslowski: I would be our interpretation that effective the day that the law goes into effect, so just those filing from that point on.

Representative Vigesaa: How many filings were in that time period?

Maslowski: This is a wild stab at it but in the neighborhood of 50 to 100.

Representative Clark: I have a little trouble understanding why a company's pricing policy shouldn't a trade secret. Once you lay all your information on the table, everybody should have access to it. Why should that have to happen?

Maslowski: I'm not sure how to respond to that in that was part of the debate when this law was implemented and prior to us implementing this particular section in code that had no tools, regulations or credit information. We finally came into legislature and said that we need some tools and here are some dos and don'ts and disclosure requirements. In that process, one of the things that the industry wanted was the trade secret. You raise a good question, I guess the policy cited that we would treat it as a trade secret and we are working within the confines of the current law.

Chairman Keiser: What if you have two different companies, one uses credit scoring and the other doesn't, does the one that doesn't, are they protected because they are not covered under, is their entire filing protected?

Maslowski: Theirs would be open to public access.

Chairman Keiser: All of it.

Maslowski: All of it.

Chairman Keiser: But if they do use the credit scoring model or something like it, it's all open except for that month.

Maslowski: (inaudible).

Pat Gordon~State Farm Insurance and represent other members in the insurance in the industry. Some of the questions raised good points and we do support this legislation. I have

heard some concerns expressed. What industry is biggest fear isn't so much the public or the department looking at these filings. Industries concern is the accusations were being made that this was being used for red lining and unfair practices. In order to prove that it wasn't, ok, let's allow the commissioners to have a look so they can see nothing wrong is going on.

Where industries biggest fear is when we start to open up these filing is that our competitors can look. There's been a competition using these computer models. State Farm is developing their own computer model that uses only their own customer base but they have a highly complex model with 70 or more variables that they use in there. The concern with the companies would have is that more the file is open, the easier for someone to go in and look filing and reverse engineer filing. The way they are doing it, as long as long as it accepted, the designated trade secret can be protected, under that umbrella of trade secret protection, then it's ok.

Representative Clark: Is the next step then to forbid the use of credit scoring at all in setting rates. Then everything is wide open for everybody?

Gordon: Yes and that's been happening in some states. There's been bills like that and (inaudible), because it takes that competition away and make the industry less competitive. The purpose of putting the insurance industry is the less competitive, the more the ratings go up so the consumers with good credit lose.

Chairman Keiser: Anyone here is opposition of SB 2109, neutral? Closes the hearing, what are the wishes of the committee?

Representative Ruby: Moves a Do Pass on SB 2109.

Representative Schneider: Second.

Chairman Keiser: Further discussion?

Representative Ruby: If I have this right in my mind, right now, more information is tied up because of the existing law and there an unequal exposure in how the rates are set. This is going to open it up little more to make it more equitable?

Chairman Keiser: That's correct.

Voting roll call was taken on SB 2109 for a Do Pass with 11 ayes, 1 nay, 1 absent with Representative Vigesaa as the carrier.

Date: Mar 4

Roll Call Vote # _____

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2109

House House, Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass Do Not Pass As Amended

Motion Made By Boe Seconded By Schneider

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman Kasper			Representative Boe	✓	
Representative Clark		✓	Representative Gruchalla	✓	
Representative N Johnson	✓		Representative Schneider	✓	
Representative Nottestad	✓		Representative Thorpe	✓	
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total (Yes) 11 No 1

Absent 1

Floor Assignment Vigesaa

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 4, 2009 10:37 a.m.

Module No: HR-39-4012
Carrier: Vigesaa
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2109: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2109 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2109

SENATE BILL NO. 2109

Presented by: Larry Maslowski
**Senior Analyst and Director, Consumer Protection Property
and Casualty Division
North Dakota Insurance Department**

Before: Senate Industry, Business and Labor Committee
Senator Jerry Klein, Chairman

Date: January 14, 2009

TESTIMONY

Good morning, Chairman Klein and members of the committee. My name is Larry Maslowski and I am the Senior Analyst and Director of the Consumer Protection Property and Casualty Division of the North Dakota Insurance Department. I appear before you today in support of this bill.

Presently statutes require insurance companies to file the rates, rules and forms that they plan to use in North Dakota with the Insurance Commissioner for approval.

In a previous session the Legislative Assembly enacted a statute (N.D.C.C. ch. 26.1-25.1) directed at the regulation of insurance companies' use of credit information in personal lines insurance.

Section 26.1-25.1-07, as currently written, makes any personal lines insurance filing that includes the use of credit information such as insurance scores (otherwise known as credit scores) and scoring models to be considered a trade secret and not subject to public access. In its present format, the trade secret status would arguably apply to the complete filing including those portions of a filing that did not contain information related to the credit information such as policies, forms and other noncredit-related rules.

*Summe given
to House*

For example, if a company wished to file a new or revised automobile insurance program with a new policy, 75 new and revised endorsements, revised rating rules and a revised rating manual, all of this noncredit information would be inaccessible to the public as a part of the filing.

To clarify what we believe to be the original intent of the original legislation, the North Dakota Insurance Department is recommending that the Legislative Assembly amend the current language to clarify that the application of the trade secret status applies only to those portions of the filing that are specifically related to the credit information. This would allow public access to those portions of the filing that are not specifically related to credit use information.

The proposed change would more clearly limit the application of trade status to the following portions of the filing having to do with insurance scores (credit scores): scoring models, scoring processes, and information related to scoring models or processes.

The amended subsection 2 would read as follows:

“Any scoring model, scoring processes, and information related to scoring models or processes filed by or on behalf of an insurer pursuant to subsection 1 is considered a trade secret.”

We ask for the committee’s favorable decision on this amendment.

Thank you. Are there any questions?