Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 21-0594	**Date:**	September 24, 2021
Prime Sponsors:	Sen. Buckner	**Bill Status:**	Signed into Law
	Rep. Ricks; Esgar	**Fiscal Analyst:**	Clare Pramuk | 303-866-2677
			clare.pramuk@state.co.us

Bill Topic:	**RESTRICT INSURERS' USE OF EXTERNAL CONSUMER DATA**

Summary of Fiscal Impact:	☐ State Revenue	☐ TABOR Refund
	☒ State Expenditure	☐ Local Government
	☐ State Transfer	☐ Statutory Public Entity
	The bill prohibits insurers from unfairly discriminating based on an individual's race, color, national or ethnic origin, religion, sex, sexual orientation, disability, gender identity, or gender expression, or using any external consumer data and information sources, algorithms, or predictive models that lead to unfair discrimination. The bill increases state workload on an ongoing basis.	
Appropriation Summary:	No appropriation is required.	
Fiscal Note Status:	The fiscal note reflects the enacted bill.	

Summary of Legislation

The bill prohibits an insurer with regard to any insurance practice from:

- unfairly discriminating based on an individual's race, color, national or ethnic origin, religion, sex, sexual orientation, disability, gender identity, or gender expression; or
- pursuant to rules adopted by the Commissioner of Insurance, using any external consumer data and information sources, algorithms, or predictive models that unfairly discriminates against an individual based on an individual's race, color, national or ethnic origin, religion, sex, sexual orientation, disability, gender identity, or gender expression.

The Commissioner of Insurance is required to conduct a stakeholder process prior to the adoption of rules. The rules will be adopted for specific types of insurance, by insurance practice to establish means testing for insurance companies to test whether their use of external consumer data and information sources, as well as algorithms or predictive models, is unfairly discriminatory. The bill specifies the requirements that are to be included in the rules and provisions for:

- remediating an unfairly discriminatory impact; and

- for insurers to utilize external data and information sources, as well as algorithms or predictive models that the Division of Insurance has assessed to not be unfairly discriminatory.

The rules are not to become effective until January 1, 2023, at the earliest.

The division is required to include certain information in the Department of Regulatory Agency's SMART Act hearing including:

- information on rules adopted to implement the bill;
- information concerning changes in insurance rates resulting from the bill;
- a summary of the stakeholder engagement process; and
- a description of data sources discussed during the stakeholder engagement process.

Title insurance, bonds executed by qualified surety companies, and insurers of exempt commercial policyholders are not subject to the requirements in the -bill.

State Expenditures

This bill will increase workload for the Division of Insurance in the Department of Regulatory Agencies. The division will conduct a stakeholder and rulemaking process. The division will also investigate complaints from consumers regarding violations of the requirements. Compliance with the provisions in the bill will be made part of market conduct examinations, which are performed by third parties and are paid for by companies directly. The workload increase for the division is expected to be accomplished within existing appropriations.

Effective Date

The bill was signed into law by the Governor on July 6, 2021, and it took effect on September 7, 2021.

State and Local Government Contacts

Information Technology   Regulatory Agencies