

§ 58-39-15. Definitions.

As used in this Article:

- (1) "Adverse underwriting decision" means:
 - a. Any of the following actions with respect to insurance transactions involving insurance coverage that is individually underwritten:
 1. A declination of insurance coverage;
 2. A termination of insurance coverage;
 3. Failure of an agent to apply for insurance coverage with a specific insurance institution that an agent represents and that is requested by an applicant;
 4. In the case of a property or casualty insurance coverage:
 - I. Placement by an insurance institution or agent of a risk with a residual market mechanism, an unauthorized insurer, or an insurance institution that specializes in substandard risks; or
 - II. The charging of a higher rate on the basis of information that differs from that which the applicant or policyholder furnished; or
 5. In the case of a life, health, or disability insurance coverage, an offer to insure at higher than standard rates.
 - b. Notwithstanding subdivision (1)a. of this section, the following actions shall not be considered adverse underwriting decisions, but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:
 1. The termination of an individual policy form on a class or statewide basis;
 2. A declination of insurance coverage solely because such coverage is not available on a class or statewide basis; or
 3. The rescission of a policy.
- (2) "Affiliate" or "affiliated" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.
- (3) "Agent" has the meaning as set forth in G.S. 58-33-10, and includes limited representatives, limited line credit insurance producers, limited lines producers, insurance producers, and surplus lines licensees.
- (4) "Applicant" means any person who seeks to contract for insurance coverage other than a person seeking group insurance that is not individually underwritten.
- (5) "Consumer report" means any written, oral, or other communication of information bearing on a natural person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is used or expected to be used in connection with an insurance transaction.
- (6) "Consumer reporting agency" means any person who:
 - a. Regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee;
 - b. Obtains information primarily from sources other than insurance institutions; and

- c. Furnishes consumer reports to other persons.
- (7) "Control," including the terms "controlled by" or "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.
 - (8) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.
 - (9) "Individual" means any natural person who:
 - a. In the case of property or casualty insurance, is a past, present, or proposed named insured or certificate holder;
 - b. In the case of life, health, or disability insurance, is a past, present, or proposed principal insured or certificate holder;
 - c. Is a past, present or proposed policy owner;
 - d. Is a past or present applicant;
 - e. Is a past or present claimant;
 - f. Derived, derives, or is proposed to derive insurance coverage under an insurance policy or certificate subject to this Article; or
 - g. Is the subject of personal information collected or maintained by an insurance institution, agent, or insurance-support organization in connection with mortgage guaranty insurance.
 - (10) "Institutional source" means any person or governmental entity that provides information about an individual to an agent, insurance institution, or insurance-support organization, other than:
 - a. An agent;
 - b. The individual who is the subject of the information; or
 - c. A natural person acting in a personal capacity rather than in a business or professional capacity.
 - (11) "Insurance institution" means any corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal benefit society, or other person engaged in the business of insurance, including health maintenance organizations and medical, surgical, hospital, dental, and optometric service plans, governed by Articles 65 through 67 of this Chapter. "Insurance institution" shall not include agents or insurance-support organizations.
 - (12) "Insurance-support organization" means any person who regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurance institution or agent for insurance transactions, including: (i) the furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction; or (ii) the collection of personal information from insurance institutions, agents, or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity; provided, however, the following persons shall not be considered "insurance-support organizations" for purposes of this Article: agents,

- governmental institutions, insurance institutions, medical-care institutions, and medical professionals.
- (13) "Insurance transaction" means any transaction involving insurance primarily for personal, family, or household needs rather than business or professional needs that entails:
- a. The determination of an individual's eligibility for an insurance coverage, benefit, or payment; or
 - b. The servicing of an insurance application, policy, contract, or certificate.
- (14) "Investigative consumer report" means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances, or others who may have knowledge concerning such items of information.
- (15) "Life insurance" includes annuities.
- (16) "Medical-care institution" means any facility or institution that is licensed to provide health care services to natural persons, including but not limited to, hospitals, skilled nursing facilities, home-health agencies, medical clinics, rehabilitation agencies, public health agencies, or health-maintenance organizations.
- (17) "Medical professional" means any person licensed or certified to provide health care services to natural persons, including but not limited to, a physician, dentist, nurse, chiropractor, optometrist, physical or occupational therapist, licensed clinical social worker, clinical dietitian, clinical psychologist, pharmacist, or speech therapist.
- (18) "Medical-record information" means personal information that:
- a. Relates to an individual's physical or mental condition, medical history, or medical treatment; and
 - b. Is obtained from a medical professional or medical-care institution, from the individual, or from the individual's spouse, parent, or legal guardian.
- (19) "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics. "Personal information" includes an individual's name and address and medical-record information, but does not include privileged information.
- (20) "Policyholder" means any person who:
- a. In the case of individual property or casualty insurance, is a present named insured;
 - b. In the case of individual life or accident and health insurance, is a present policy owner; or
 - c. In the case of group insurance that is individually underwritten, is a present group certificate holder.
- (21) "Pretext interview" means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:
- a. Pretends to be someone he is not;

- b. Pretends to represent a person he is not in fact representing;
 - c. Misrepresents the true purpose of the interview; or
 - d. Refuses to identify himself upon request.
- (22) "Privileged information" means any individually identifiable information that (i) relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual, and (ii) is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual: Provided, however, information otherwise meeting the requirements of this subsection shall nevertheless be considered personal information under this Article if it is disclosed in violation of G.S. 58-39-75.
- (23) "Residual market mechanism" means any reinsurance facility, joint underwriting association, assigned risk plan, or other similar plan established under the laws of this State.
- (24) "Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.
- (25) "Unauthorized insurer" means an insurance institution that has not been granted a license by the Commissioner to transact the business of insurance in this State. (1981, c. 846, s. 1; 1987, c. 629, s. 13; 1993, c. 464, s. 1; 2001-203, s. 30; 2001-351, ss. 2, 3; 2001-487, s. 40(f); 2003-262, s. 2(1).)