

2 **SHB 2544 - H AMD Adopted 2-18-02 February 18, 2002**

3 By Representative Cooper

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. Sec. 1. A new section is added to chapter 48.18 RCW
8 to read as follows:

9 UNDERWRITING RESTRICTIONS THAT APPLY TO PERSONAL INSURANCE. (1)

10 For the purposes of this section:

11 (a) "Adverse action" has the same meaning as defined in the fair
12 credit reporting act, 15 U.S.C. Sec. 1681 et seq. Adverse actions
13 include, but are not limited to:

14 (i) Cancellation, denial, or nonrenewal of personal insurance
15 coverage;

16 (ii) Charging a higher insurance premium for personal insurance
17 than would have been offered if the credit history or insurance score
18 had been more favorable, whether the charge is by:

19 (A) Application of a rating rule;

20 (B) Assignment to a rating tier that does not have the lowest
21 available rates; or

22 (C) Placement with an affiliate company that does not offer the
23 lowest rates available to the consumer within the affiliate group of
24 insurance companies; or

25 (iii) Any reduction, adverse, or unfavorable change in the terms of
26 coverage or amount of any personal insurance due to a consumer's credit
27 history or insurance score. A reduction, adverse, or unfavorable
28 change in the terms of coverage occurs when:

29 (A) Coverage provided to the consumer is not as broad in scope as
30 coverage requested by the consumer but available to other insureds of
31 the insurer or any affiliate; or

32 (B) The consumer is not eligible for benefits such as dividends
33 that are available through affiliate insurers.

34 (b) "Affiliate" has the same meaning as defined in RCW
35 48.31B.005(1).

1 (c) "Consumer" means an individual policyholder or applicant for
2 insurance.

3 (d) "Consumer report" has the same meaning as defined in the fair
4 credit reporting act, 15 U.S.C. Sec. 1681 et seq.

5 (e) "Credit history" means any written, oral, or other
6 communication of any information by a consumer reporting agency bearing
7 on a consumer's creditworthiness, credit standing, or credit capacity
8 that is used or expected to be used, or collected in whole or in part,
9 for the purpose of serving as a factor in determining personal
10 insurance premiums or eligibility for coverage.

11 (f) "Insurance score" means a number or rating that is derived from
12 an algorithm, computer application, model, or other process that is
13 based in whole or in part on credit history.

14 (g) "Personal insurance" means:

15 (i) Private passenger automobile coverage, including motorcycle and
16 recreational vehicle coverage;

17 (ii) Homeowner's coverage, including mobile homeowners,
18 manufactured homeowners, condominium owners, and renter's coverage;

19 (iii) Dwelling property coverage;

20 (iv) Earthquake coverage for a residence or personal property;

21 (v) Personal liability and theft coverage;

22 (vi) Personal inland marine coverage; and

23 (vii) Mechanical breakdown coverage for personal auto or home
24 appliances.

25 (h) "Tier" means a category within a single insurer into which
26 insureds with substantially like insuring, risk or exposure factors,
27 and expense elements are placed for purposes of determining rate or
28 premium.

29 (2) An insurer that takes adverse action against a consumer based
30 in whole or in part on credit history or insurance score shall provide
31 written notice to the applicant or named insured. The notice must
32 state the significant factors of the credit history or insurance score
33 that resulted in the adverse action. The insurer shall also inform the
34 consumer that the consumer is entitled to a free copy of their consumer
35 report under the fair credit reporting act.

36 (3) An insurer shall not cancel or nonrenew personal insurance
37 based in whole or in part on a consumer's credit history or insurance
38 score. Placement with an affiliate insurer does not constitute
39 cancellation or nonrenewal under this section.

1 (4) An insurer may use credit history to deny personal insurance
2 only in combination with other substantive underwriting factors. For
3 the purposes of this subsection:

4 (a) "Deny" means an insurer refuses to offer insurance coverage to
5 a consumer;

6 (b) Placement with an affiliate insurer does not constitute denial
7 of coverage; and

8 (c) An insurer may reject an application when coverage is not bound
9 or cancel an insurance contract within the first sixty days after the
10 effective date of the contract.

11 (5) Insurers shall not deny personal insurance coverage based on:

12 (a) The absence of credit history or the inability to determine the
13 consumer's credit history, if the insurer has received accurate and
14 complete information from the consumer;

15 (b) The number of credit inquiries;

16 (c) Credit history or an insurance score based on collection
17 accounts identified with a medical industry code;

18 (d) The initial purchase or finance of a vehicle or house that adds
19 a new loan to the consumer's existing credit history, if evident from
20 the consumer report; however, an insurer may consider the bill payment
21 history of any loan, the total number of loans, or both;

22 (e) The consumer's use of a particular type of credit card, charge
23 card, or debit card; or

24 (f) The consumer's total available line of credit; however, an
25 insurer may consider the total amount of outstanding debt in relation
26 to the total available line of credit.

27 (6)(a) If disputed credit history is used to determine eligibility
28 for coverage and a consumer is placed with an affiliate that charges
29 higher premiums or offers less favorable policy terms:

30 (i) The insurer shall reissue or rerate the policy retroactive to
31 the effective date of the current policy term; and

32 (ii) The policy, as reissued or rerated, shall provide premiums and
33 policy terms the consumer would have been eligible for if accurate
34 credit history had been used to determine eligibility.

35 (b) This subsection only applies if the consumer resolves the
36 dispute under the process set forth in the fair credit reporting act
37 and notifies the insurer in writing that the dispute has been resolved.

38 (7) The commissioner may adopt rules to implement this section.

1 (8) This section applies to all personal insurance policies issued
2 or renewed after January 1, 2003.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.19 RCW
4 to read as follows:

5 MAKING OF RATES--PERSONAL INSURANCE. (1) For the purposes of this
6 section:

7 (a) "Consumer" means an individual policyholder or applicant for
8 insurance.

9 (b) "Credit history" means any written, oral, or other
10 communication of any information by a consumer reporting agency bearing
11 on a consumer's creditworthiness, credit standing, or credit capacity
12 that is used or expected to be used, or collected in whole or in part,
13 for the purpose of serving as a factor in determining personal
14 insurance premiums or eligibility for coverage.

15 (c) "Insurance score" means a number or rating that is derived from
16 an algorithm, computer application, model, or other process that is
17 based in whole or in part on credit history.

18 (d) "Personal insurance" means:

19 (i) Private passenger automobile coverage, including motorcycle and
20 recreational vehicle coverage;

21 (ii) Homeowner's coverage, including mobile homeowners,
22 manufactured homeowners, condominium owners, and renter's coverage;

23 (iii) Dwelling property coverage;

24 (iv) Earthquake coverage for a residence or personal property;

25 (v) Personal liability and theft coverage;

26 (vi) Personal inland marine coverage; and

27 (vii) Mechanical breakdown coverage for personal auto or home
28 appliances.

29 (2) Credit history shall not be used to determine personal
30 insurance rates, premiums, or eligibility for coverage unless the
31 insurance scoring models are filed with the commissioner. Insurance
32 scoring models include all attributes and factors used in the
33 calculation of an insurance score. RCW 48.19.040(5) does not apply to
34 any information filed under this subsection, and the information shall
35 be withheld from public inspection and kept confidential by the
36 commissioner. All information filed under this subsection shall be
37 considered trade secrets under RCW 48.02.120(3). Information filed

1 under this subsection may be made public by the commissioner for the
2 sole purpose of enforcement actions taken by the commissioner.

3 (3) Insurers shall not use the following types of credit history to
4 calculate a personal insurance score or determine personal insurance
5 premiums or rates:

6 (a) The absence of credit history or the inability to determine the
7 consumer's credit history, unless the insurer has filed actuarial data
8 segmented by demographic factors in a manner prescribed by the
9 commissioner that demonstrates compliance with RCW 48.19.020;

10 (b) The number of credit inquiries;

11 (c) Credit history or an insurance score based on collection
12 accounts identified with a medical industry code;

13 (d) The initial purchase or finance of a vehicle or house that adds
14 a new loan to the consumer's existing credit history, if evident from
15 the consumer report; however, an insurer may consider the bill payment
16 history of any loan, the total number of loans, or both;

17 (e) The consumer's use of a particular type of credit card, charge
18 card, or debit card; or

19 (f) The consumer's total available line of credit; however, an
20 insurer may consider the total amount of outstanding debt in relation
21 to the total available line of credit.

22 (4) If a consumer is charged higher premiums due to disputed credit
23 history, the insurer shall rerate the policy retroactive to the
24 effective date of the current policy term. As rerated, the consumer
25 shall be charged the same premiums they would have been charged if
26 accurate credit history was used to calculate an insurance score. This
27 subsection applies only if the consumer resolves the dispute under the
28 process set forth in the fair credit reporting act and notifies the
29 insurer in writing that the dispute has been resolved.

30 (5) The commissioner may adopt rules to implement this section.

31 (6) This section applies to all personal insurance policies issued
32 or renewed on or after June 30, 2003.

33 NEW SECTION. **Sec. 3.** Captions used in this act are not any part
34 of the law.

35 NEW SECTION. **Sec. 4.** The commissioner shall report to the
36 legislature by January 1, 2004, on issues related to the use of credit

1 history in personal insurance underwriting and rating and the
2 implementation of this act. The report must include:

3 (1) A review of how this act has been implemented and how it has
4 impacted consumers; and

5 (2) A review and analysis of insurance scoring that is due to the
6 legislature by January 1, 2003, which includes, but is not limited to:

7 (a) Which types of consumers, based on demographic factors, benefit
8 from or are harmed by the use of credit history in personal insurance
9 rating and underwriting;

10 (b) The extent to which the use of credit history affects rates
11 charged to the consumer;

12 (c) Whether insurance scoring results in discrimination against a
13 protected class of people or the poor; and

14 (d) Other issues as determined by the commissioner."

15 Correct the title.

EFFECT: Prohibits certain factors from being considered by an insurer in a decision to deny coverage; determines that the placement of an insured with an affiliate does not constitute cancellation or nonrenewal; provides rights to insureds when adversely affected by inaccurate credit history; and requires the commissioner to report to the legislature regarding issues related to the use of credit history by insurers.

--- END ---