HOUSE BILL REPORT
ESHB 2544

As Passed House:
February 18, 2002

Title: An act relating to using credit history for insurance purposes.

Brief Description: Restricting use of credit history.

Sponsors: By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Cooper, Benson, Santos, Clements, Simpson, McIntire, Armstrong, Hunt, Romero, Dickerson, Upthegrove, Chase, Ogden, Haigh, Conway, Kenney, Campbell and Linville; by request of Governor Locke, Insurance Commissioner and Attorney General).

Brief History:
Committee Activity:
Financial Institutions & Insurance: 1/30/02, 2/8/02 [DPS].
Floor Activity:
Passed House: 2/18/02, 93-4.

Brief Summary of Engrossed Substitute Bill

- Prohibits insurers from cancelling or refusing to renew a personal insurance policy due to a person's credit history.
- Permits an insurer to consider credit history in the evaluation of a new customer applying for insurance, provided such history is considered in conjunction with other substantive factors.
- Prohibits an insurer from considering certain types of credit history information in the process of underwriting and rate setting.
- Requires insurers to make specified disclosures to a consumer if credit history leads to an adverse action against the consumer.
- Requires an insurer to file its insurance scoring model with the Insurance Commissioner.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Cooper, Chair; McIntire, Vice Chair; Hatfield, Miloscia, Santos and Simpson.

Minority Report: Do not pass. Signed by 5 members: Representatives Benson, Ranking Minority Member; Barlean, Cairnes, Mielke and Roach.

Staff: Thamas Osborn (786-7129).

Background:

Credit reports have been used for many years by the insurance industry in making property and casualty underwriting decisions; more recently, the industry has used credit history information in the setting of insurance rates and the development of "credit scoring" models for underwriting and rate setting purposes. The credit reporting industry consists of over 600 credit bureaus that accumulate credit data on a local or regional basis. These bureaus, in turn, provide data to the three national credit reporting companies: TRW, Trans Union, and Equifax. It is these companies that generate the credit reports most often used by financial institutions, insurance companies, and other commercial entities.

Both the federal Fair Credit Reporting Act (15 USC, Section 1681) and the state Fair Credit Reporting Act (Chapter 19.182 RCW) explicitly allow consumer reporting agencies to release credit reports to insurance companies for insurance underwriting purposes. Accordingly, insurance companies have utilized these reports for many years as a factor to be considered in determining which individuals are eligible for coverage and/or what the terms of such coverage will be. The weight given to credit reports, in conjunction with other factors, varies widely within the industry, thus there is no one practice that can be ascribed to the industry as a whole.

In recent years, the review of an individual's credit report in the insurance underwriting process has given way to the consideration of the individual's "credit score." A credit score is a number generated via a computer program that analyzes the data in an individual's credit report. The computer program uses an algorithm to reduce credit report data to a single numerical score, ranging from 300 to 850. According to the proponents of credit scoring, an individual with a higher score poses a lower risk of loss to the insurance company than does an individual with a lower score.

Generally, credit scores are calculated either by the insurance company using its own computer model or by third-party vendors such as the Fair Isaac Company or Choice Point, who contract with insurers to do credit score calculations. Many different modeling programs are used throughout the industry, thus there is no uniformity between companies with respect to the criteria used in generating the score.

At present, there is no explicit state regulation of the insurance industry's use of either consumer credit information or credit scoring. However, the Office of the Insurance Commissioner (OIC) does have general legal authority to regulate the rate setting practices of those insurance companies doing business in Washington. This authority is quite broad and provides a basis for regulatory action whenever a rate setting practice can be proved to be "excessive, inadequate, or unfairly discriminatory." Furthermore, pursuant to administrative rule, the OIC requires that any rate setting process be "actuarially sound," which means that there must be a demonstrable statistical correlation between the premium rate and the actual risk of loss.

Summary of Engrossed Substitute Bill:

An insurer's decision to cancel or not renew an existing policy of personal insurance cannot be based - in whole or in part - on an insured's credit history. However, an insurer may use credit history as the basis for placing an insured with another company affiliated with the insurer.

An insurer is permitted to consider credit history in the evaluation of a new customer applying for insurance, provided such credit history is considered in conjunction with other substantive underwriting factors. An offer of placement with an affiliate insurer does not constitute a denial of coverage.

There are certain types of credit history information that can neither be considered in rate setting nor form the basis of an insurer's decision to deny coverage, including:

- An absence of credit history;
- The number of credit inquiries;
- Credit history related to medical care;
- Entries related to the initial purchase or finance of a house or car;
- Use of a particular type of credit, debit, or charge card;
- The dollar amount of a consumer's available credit.

An insured is provided with remedies if his or her insurance coverage is adversely affected by an inaccurate credit history.

An insurer that takes any adverse action against a consumer based on credit history must provide the consumer with written notice. The notice must identify those aspects of the consumer's credit history that played a significant role in the decision leading to the adverse action. The insurer must also inform the consumer that the consumer is entitled to a free copy of his or her credit report.

An insurer must file its insurance scoring model with the Insurance Commissioner as a condition precedent to the consideration of credit history in either the setting of premium rates or in determining eligibility for coverage. Insurers are prohibited from considering specified categories of credit history information as part of the rate setting process.

The Insurance Commissioner is required to report to the legislature on the implementation of the act and regarding issues related to the use of credit history in personal insurance underwriting.

The provisions of the act pertaining to insurance underwriting are applicable to all policies of personal insurance issued or renewed after January 1, 2003.

The provisions of the act pertaining to premium rate setting are applicable to all personal insurance policies issued or renewed on or after June 30, 2003.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill addresses a fairness issue regarding how insurance companies use credit scoring. Credit scoring is not uniform among companies, and how much weight each company places on credit scoring or how a particular credit report is scored is a mystery. Credit scoring should not be used without a fair indicator of how the number is apprized. Insurance rates should be based on the merits of one's actions. There have been hundreds of complaints filed in the OIC regarding insurance companies use of credit scoring for underwriting and rate setting purposes. For example, one woman who paid her premiums and never had an accident was told that her premiums went up because her credit rating was bad due to a period of unemployment. A woman who had her insurance premium rates increase by 46 percent, even though she paid all her premiums on time, discovered that her credit score was low due to a bankruptcy filed by her ex-husband. A couple was denied access to reasonable rates because they paid all their bills in cash and, therefore, had no credit history. There are many reasons for a low credit score that do not take into account individual circumstances or credit-worthiness. Using credit scoring to determine if a consumer qualifies for insurance and how much they will pay for coverage is a concern for several reasons. The factors used may disadvantage protected classes of people. Some ethnic groups and religious groups do not use credit and their credit scores may be low or non-existent because of this. Credit reports are not always accurate and it is very difficult to correct errors. Credit scoring penalizes people who encounter temporary hardships. Consumers would like an outright ban on insurance credit scoring, however, this bill simply regulates the insurance companies use of credit scoring.

Testimony Against: The restrictions on insurers use of credit based insurance scores will require low risk consumers to pay staggeringly higher home owner and auto insurance premiums in order to subsidize the losses of higher risk policy owners. Using insurance scores for underwriting and rating has helped make insurance coverage more available for millions of drivers and home owners. Credit data helps insurers determine a fair pricing structure by better matching of rates with risk of loss. Any restriction that tends to impose uniformity on how insurers use credit based insurance scores would hamper their ability to enter new markets or take on more customers. Credit information provides an objective, unbiased tool for underwriting and rating risk. Insurance scores do not consider income, address, race, ethnicity, religion, gender, marital status, disability, nationality or age. Insurance scores have proven to predict future losses. The 20 percent cap is arbitrary and without any actuary support. Many insured will see a rate increase if the cap is implemented. For example, one company indicates that 80 percent of its customers have discounts of 25 percent or more; therefore, 80 percent will see their premiums go up. Insurance companies place risks in categories and then charge premiums for those categories. The problem for the industry is that they are not supposed to look at an individual; they are supposed to classify risks and make sure that within a risk category there is enough premium charged to pay the bills when a claim is made.

Testified: (In support) Representative Cooper, prime sponsor; Michael Kreidler, Insurance Commissioner; Ahndrea Blu, Governor's Office; Christine Gregoire, Attorney General; Robert Pregulman, WashPIRG; Mike Dunkin, Insurance Agent; Jenni D'aris and Ron Romer, citizens; Curtis Fackler, Payroll Plus; and Gene Forrester, Senior Citizens Lobby.

(With concerns) Bruce Pleasant, Allstate Agent; Bill Stauffacher, Independent Insurance Agents and Brokers; and Clark Sites, Professional Insurance Agents.

(Opposed) Michael Harrold, National Institute of Independent Insurers; Mike Kapphahn, Farmers Insurance; Larry Kibbee, Alliance of American Insurers; Scott Spriggs, Progressive Auto Insurance; Elizabeth Moceri and Jim DeBruler, Allstate Insurance; Jean Leonard, State Farm Insurance/Alliance of American Insurers; and Basil Badley, American Insurance Agency.