

FINAL BILL REPORT

ESHB 2544

C 360 L 02

Synopsis as Enacted

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).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor, Commerce & Financial Institutions

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 three national credit reporting 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. Because the weight given to credit reports, in conjunction with other factors, varies widely within the industry, 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 who contract with insurers to do credit score calculations. Many different modeling programs are used throughout the industry with no uniformity between companies with respect to the criteria used in generating the score.

No explicit state law regulates 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:

An insurer's decision to cancel or not renew an existing policy of personal insurance may not 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; or
- 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.

Votes on Final Passage:

House 93 4

Senate 36 11

Effective: June 13, 2002