
ENGROSSED SUBSTITUTE HOUSE BILL 2544

State of Washington

57th Legislature

2002 Regular Session

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)

Read first time 02/08/2002. Referred to Committee on .

1 AN ACT Relating to using credit history for insurance purposes;
2 adding a new section to chapter 48.18 RCW; adding a new section to
3 chapter 48.19 RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.18 RCW
6 to read as follows:

7 UNDERWRITING RESTRICTIONS THAT APPLY TO PERSONAL INSURANCE. (1)
8 For the purposes of this section:

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

12 (i) Cancellation, denial, or nonrenewal of personal insurance
13 coverage;

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

17 (A) Application of a rating rule;

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

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

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

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

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

13 (b) "Affiliate" has the same meaning as defined in RCW
14 48.31B.005(1).

15 (c) "Consumer" means an individual policyholder or applicant for
16 insurance.

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

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

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

28 (g) "Personal insurance" means:

29 (i) Private passenger automobile coverage;

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

32 (iii) Dwelling property coverage;

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

34 (v) Personal liability and theft coverage;

35 (vi) Personal inland marine coverage; and

36 (vii) Mechanical breakdown coverage for personal auto or home
37 appliances.

38 (h) "Tier" means a category within a single insurer into which
39 insureds with substantially like insuring, risk or exposure factors,

1 and expense elements are placed for purposes of determining rate or
2 premium.

3 (2) An insurer that takes adverse action against a consumer based
4 in whole or in part on credit history or insurance score shall provide
5 written notice to the applicant or named insured. The notice must
6 state the significant factors of the credit history or insurance score
7 that resulted in the adverse action. The insurer shall also inform the
8 consumer that the consumer is entitled to a free copy of their consumer
9 report under the fair credit reporting act.

10 (3) An insurer shall not cancel or nonrenew personal insurance
11 based in whole or in part on a consumer's credit history or insurance
12 score. An offer of placement with an affiliate insurer does not
13 constitute cancellation or nonrenewal under this section.

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

17 (a) "Deny" means an insurer refuses to offer insurance coverage to
18 a consumer;

19 (b) An offer of placement with an affiliate insurer does not
20 constitute denial of coverage; and

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

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

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

28 (b) The number of credit inquiries;

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

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

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

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

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

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

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

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

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

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

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

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

19 (a) "Consumer" means an individual policyholder or applicant for
20 insurance.

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

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

30 (d) "Personal insurance" means:

31 (i) Private passenger automobile coverage;

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

34 (iii) Dwelling property coverage;

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

36 (v) Personal liability and theft coverage;

37 (vi) Personal inland marine coverage; and

1 (vii) Mechanical breakdown coverage for personal auto or home
2 appliances.

3 (2) Credit history shall not be used to determine personal
4 insurance rates, premiums, or eligibility for coverage unless the
5 insurance scoring models are filed with the commissioner. Insurance
6 scoring models include all attributes and factors used in the
7 calculation of an insurance score. RCW 48.19.040(5) does not apply to
8 any information filed under this subsection, and the information shall
9 be withheld from public inspection and kept confidential by the
10 commissioner. All information filed under this subsection shall be
11 considered trade secrets under RCW 48.02.120(3). Information filed
12 under this subsection may be made public by the commissioner for the
13 sole purpose of enforcement actions taken by the commissioner.

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

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

21 (b) The number of credit inquiries;

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

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

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

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

33 (4) If a consumer is charged higher premiums due to disputed credit
34 history, the insurer shall rerate the policy retroactive to the
35 effective date of the current policy term. As rerated, the consumer
36 shall be charged the same premiums they would have been charged if
37 accurate credit history was used to calculate an insurance score. This
38 subsection applies only if the consumer resolves the dispute under the

1 process set forth in the fair credit reporting act and notifies the
2 insurer in writing that the dispute has been resolved.

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

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

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

8 NEW SECTION. **Sec. 4.** The commissioner shall report to the
9 legislature by January 1, 2004, on issues related to the use of credit
10 history in personal insurance underwriting and rating and the
11 implementation of this act. The report must include:

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

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

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

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

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

23 (d) Other issues as determined by the commissioner.

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