

# HOUSE BILL REPORT

## HB 2836

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### As Reported by House Committee On:

Financial Institutions & Insurance

**Title:** An act relating to homeowners' insurance.

**Brief Description:** Restricting adverse underwriting decisions for homeowners' insurance.

**Sponsors:** Representatives Schual-Berke, Benson and Linville.

### Brief History:

#### Committee Activity:

Financial Institutions & Insurance: 1/30/04, 2/6/04 [DPS].

#### Brief Summary of Substitute Bill

- Requires insurers to consider the following only in combination with other substantive underwriting factors prior to taking an adverse action: the fact that an insured has inquired about the nature and scope of insurance coverage when the information was received from a consumer reporting organization and the inquiry did not result in the filing of a claim.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Schual-Berke, Chair; G. Simpson, Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Cairnes, Carrell, Cooper, Hatfield, Roach, Santos and D. Simpson.

**Staff:** Carrie Tellefson (786-7127).

### Background:

The Insurance Commissioner (Commissioner) is responsible for the licensing and regulation of insurance companies doing business in this state. The authority of the Commissioner includes the oversight of homeowner's insurance policies. Current law prohibits "unfair discrimination" between insureds that have substantially similar risk factors, exposure factors, and expense elements.

Consumer reporting organizations operate databases of consumer claims that an insurance company can access when it underwrites or rates an insurance policy. The most commonly known database is the Comprehensive Loss Underwriting Exchange (CLUE) operated by ChoicePoint; however, there are other databases operated by different companies. The CLUE report, and reports like it, contains consumer claim information provided by the insurance companies. It includes policy information such as name, date of birth, and policy number, claim information, and a description of the property covered. For homeowners coverage, the report includes the property address and for auto coverage, it includes specific vehicle information. This database contains up to five years of personal property claims history. These reports can only be accessed by the owner or lender of the property.

Under the Fair Credit Reporting Act, a person can request a copy of their report and may challenge the accuracy of specific information that an insurance company provided. In addition, a consumer may enter a statement explaining the loss more fully.

The Fair Credit Reporting Act provides authority for an insurer to request a report for underwriting purposes. An insurer may use the prior owner's loss history in determining whether to offer insurance to a purchaser of the property or to determine how much to charge for the premium.

An insurer may consider information regarding claims that have been closed without payment and may consider inquiries about a potential loss that does not result in a claim.

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### **Summary of Substitute Bill:**

Defines "adverse action" as in the Fair Credit Reporting Act. An adverse action also includes, but is not limited to: cancellation, denial, nonrenewal of homeowners insurance coverage; charging a higher premium; applying a rating rule or assigning a rating tier that does not have the lowest available rates; placement with an affiliate that does not offer the lowest rates; or any unfavorable change in the terms of coverage under a homeowners insurance policy.

With respect to homeowners insurance, the bill requires insurers to consider the following only in combination with other substantive underwriting factors prior to taking an adverse action: the fact that an insured has inquired about the nature and scope of insurance coverage when the information was received from a consumer reporting organization and the inquiry did not result in the filing of a claim.

### **Substitute Bill Compared to Original Bill:**

With respect to homeowners insurance, requires insurers to consider the following only in combination with other substantive underwriting factors prior to taking an adverse action:

the fact that an insured has inquired about the nature and scope of insurance coverage when the information was received from a consumer reporting organization and the inquiry did not result in the filing of a claim.

Language is deleted stating that the insurer may not base an adverse underwriting decision, in whole or in part, on the above factors. In addition, the language is deleted prohibiting an insurer from basing an adverse action solely on the loss history of the previous owner of the property.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support) The realtors have been working on this issue with the National Association of Realtors task force, which has recently issued a report. Underwriting decisions are very complex. In some cases, despite requests by Choicepoint to not submit inquiry information that doesn't result in a claim, some companies are still submitting this information and taking action based on it. The realtors like the amendment language. There are situations where work is done by a previous owner of the property that was not good work. There may be reasons why insurers would want to take this information into account.

The agents group doesn't use inquiries and have no problems with this language. Agents have different concerns relating to possible liability regarding knowledge of claims.

(Concerns) The amendment in section (a) is a movement in the right direction. They are still concerned about the language in (b) in the amendment that says that loss history of a prior owner can only be used in combination with other substantive underwriting factors. They are concerned about having to find other substantive factors, when the claims on the property from a previous owner may be substantial.

It's hard for an insurer to distinguish between an inquiry and a claim. Once a company is put on notice that a loss has occurred that falls within the policy, the company is required to set up a loss reserve with that information. An informal inquiry can come to an agent's office in the form of a request for advise about an occurrence on the owner's property. In many cases, these never get turned in to the insurer. However, if someone calls the insurer directly, for example - by calling the 1 800 number on the back of their insurance card, the insurer is required to assume that a claim is going to be filed.

Some insurers have more conservative underwriting standards and will consider the facts

that are provided in a consumer's inquiry relevant to the risk of future loss, regardless of whether a claim was filed. Other insurers will not consider inquiries because they know it's a competitive market and they may drive customers away.

Regulatory requirements related to claims processing require insurers to establish a reserve. The WACS say they must investigate a claim. They have to be cautious how they define "inquiry."

**Testimony Against:** Farmers opposes the bill in this form and probably with the amendment too; however, it is better with the amendment. They don't like any restrictions on underwriting standards. They like to use claims history and in a homeowners policy, claims history on the property is important information.

**Persons Testifying:** (In support) Bob Mitchell, Washington Association of Realtors; and Bill Stauffacher, Independent Insurance Agents and Brokers.

(Concerns) Mel Sorenson, Property and Casualty Insurance Association and Allstate.

(Opposed) Mike Kappahn, Farmers Insurance Company; and Jean Leonard, State Farm Washington Insurers.

**Persons Signed In To Testify But Not Testifying:** None.