

FINAL BILL REPORT

SHB 1128

C 117 L 03

Synopsis as Enacted

Brief Description: Prohibiting insurers from taking certain underwriting actions regarding property insurance policies due to claims made for malicious harassment.

Sponsors: By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke, Benson, Simpson, Ruderman, Wallace, Hunt, McDermott, Pflug, Campbell and Upthegrove; by request of Insurance Commissioner).

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Services, Insurance & Housing

Background:

Regulation of Insurance Underwriting: The Office of the Insurance Commissioner (OIC) is responsible for the regulation of the insurance industry in Washington. The OIC is authorized to regulate both the underwriting and rate-setting practices of the companies doing business in this state. In addition, the OIC is given broad regulatory authority to prevent insurance practices that are either unfair, deceptive, or discriminatory. Under current law, there is no explicit regulation of the underwriting practices of insurers with respect to claims stemming from hate crimes or malicious harassment.

Malicious Harassment: The crime of malicious harassment consists of either a threat or an act causing physical injury or property damage that is directed against a person because of his or her race, color, religion, ethnicity, gender, sexual orientation, or disability. The burning of a cross or defacing property with a swastika constitutes a crime per se when directed against an African American or a person of Jewish heritage, respectively. Malicious harassment is a class C felony.

Laws of Other States: California and Illinois have enacted legislation prohibiting insurers from cancelling or non-renewing property insurance policies due to claims resulting from hate crimes involving arson or vandalism. The passage of the California law was the result of a series of arsons against synagogues perpetrated by individuals linked with an anti-Semitic hate group. An insurer later refused to renew the policy of one of the synagogues that suffered extensive property damage.

Summary:

Insurers are prohibited from taking an underwriting action against an insured as the result of a property insurance claim stemming from the crime of malicious harassment. This

prohibition applies with respect to insurance claims made within five years of such action by individuals as well as any religious, charitable, or educational organization that makes an insurance claim due to a loss sustained as the result of malicious harassment.

"Underwriting action" is defined to include: 1) cancellation or non-renewal of an existing policy; or 2) any change in the terms or benefits of a policy.

An injured party is required to file a report with a law enforcement agency that contains facts sufficient to put the insurer on notice that the loss was the result of a malicious harassment offense. The law enforcement agency, in turn, must make a determination that an insured is the victim of a crime in order for the provisions limiting underwriting actions to apply. An insured must cooperate with law enforcement authorities and insurance investigators with respect to the investigation of a claim of malicious harassment.

An insurer must file an annual report with the OIC regarding any underwriting action taken against an insured who has filed a malicious harassment loss claim during the preceding five year period.

Votes on Final Passage:

House 95 0

Senate 49 0 (Senate amended)

House 96 0 (House concurred)

Effective: July 27, 2003