HOUSE BILL REPORT
HB 1928

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to prohibiting the use of consumer credit histories for personal insurance renewal decisions.

Brief Description: Prohibiting the use of consumer credit histories for personal insurance renewal decisions.

Sponsors: Representatives Kirby, Hasegawa, Dickerson and Chase.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/23/05, 3/1/05 [DPS].

Brief Summary of Substitute Bill

- Prohibits insurers from raising premiums based on credit history or an insurance score at the time of renewal of personal insurance.

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 Kirby, Chair; Ericks, Vice Chair; Santos, Schual-Berke, Simpson and Williams.

Minority Report: Do not pass. Signed by 5 members: Representatives Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, Serben and Strow.

Staff: Jon Hedegard (786-7127).

Background:

An insurance 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. Generally, insurance scores are calculated either by insurers using their own computer model or by third-party vendors who contract with insurers to do credit score calculations. In 2002, Washington passed a law limiting the ways in which a credit history or an insurance score can be used by insurers in underwriting and rating personal insurance.

Insurance scoring models.

Insurers may use credit history to determine premiums, rates, or eligibility for coverage unless the insurer has filed the insurance scoring models with the Insurance Commissioner.

<u>Credit information that may not be used by insurers.</u>
There are certain types of credit history information that an insurer cannot consider in rate setting or use 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.

<u>Applicants.</u>
An insurer is permitted to consider credit history in the evaluation of a new customer applying for insurance. Credit history must be considered with other substantive underwriting factors. An offer of placement with an affiliate insurer does not constitute a denial of coverage.

<u>Cancellation and non renewal.</u>
An insurer's decision to cancel or not renew an existing policy of personal insurance may not be based 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.

<u>Notice to the consumer.</u>
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 insured is provided with certain remedies if his or her insurance coverage is adversely affected by an inaccurate credit history.

Summary of Substitute Bill:

At the time of renewal of a personal insurance policy, an insurer may not base a decision on a policyholder's credit history or insurance score unless the decision will reduce the premium for the policyholder or continue the premium for the policyholder at the same amount. Insurers are not precluded from increasing rates based on other information or for other appropriate reasons.

Substitute Bill Compared to Original Bill:

Prohibits insurers from raising premiums based on credit history or an insurance score at the time of renewal of personal insurance. Language regarding the Consumer Protection Act is struck.

Appropriation: None.

Fiscal Note: Requested on February 24, 2005.

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

Testimony For: Credit scoring ought to be banned. The data on individuals today exceeds the amount that has been available at any other time in the history of the world. Insurers believe there is a correlation between credit scores and risk. However, an insurer can't even tell a consumer how to improve a credit score. The confidentiality of the models limits the Insurance Commissioner's ability to help consumers. If a person is late paying a bill on one occasion, how does that make them a worse driver or more likely to have their house burn down than a person who has never made a late payment?

Testimony Against: There has been constant changes in regulation of credit scoring since 2002. The law was enacted in 2002 and was amended last year. The Insurance Commissioner adopted rules in 2002 and revised the rules this year. The recent laws and rules limit the use of credit history. The Legislature should allow those laws and rules to settle before the regulatory structure is changed again. This tool is an accurate predictor of risk. Credit history allows insurers to predict risk and rate appropriately. The amount an insurer charges their entire book of business may not change but most policyholders would pay more without credit scoring. Studies show the correlation between credit history and risk. It is in everyone's best interest to allow insurers the use of the most accurate tools to predict risk. We don't know why this tool works but we know that it does work. People should be able to take advantage of every favorable factor. Seventy percent of the insurance buying public is helped by credit scoring. People who have better credit scores are not the wealthiest people, they are the people who guard their credit. Credit history doesn't look at age, income, race, religion, or gender. It looks only at behavior. The insurance scoring models today are more varied than in the initial use of credit scoring. Different models will give better deals to different people. This drives down rates. It could be difficult for people who own small businesses and use personal credit for the small business. There may be an unintended consequence with the prohibition on using credit related to the initial purchase of a house. The house is usually a person's biggest asset. It may be impossible to distinguish if it is an initial home purchase so the insurer may not use any purchase of a house. There has not been any appreciable disparate impact. The Texas Department of Insurance report indicates that credit history is predictive and is not unfairly discriminatory. The bill may lead to problems with dual regulation involved by moving part of responsibility of insurance regulation under the responsibility of the Attorney General. Insurers may not cancel or nonrenew due to credit scores today. Direct writers of insurance may be given an unfair advantage under the credit scoring laws. The new rules adopted by the Insurance Commissioner should help with disclosure.

Persons Testifying: (In support) Representative Kirby, prime sponsor.

(Opposed) Mel Sorensen, Professional Insurance Agents Association; Ray Perettie, Hub Insurance; Elizabeth Moceri, Allstate Insurance; Andy Kaplowitz, Kaplowitz Financial; Jim DeBruler, DeBruler Incorporated and Allstate Insurance; Bill Stauffacher, Independent Insurance Agents; and Cliff Webster, American Insurance Association.

Persons Signed In To Testify But Not Testifying: None.