HOUSE BILL REPORT
HB 2434

As Reported by House Committee On:
Financial Institutions & Insurance

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

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

Sponsors: Representatives Kirby, Campbell, Chase, McDonald, Blake, Morrell, Moeller, Linville, Conway and Schual-Berke.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/18/06, 2/2/06 [DPS].

Brief Summary of Substitute Bill

- Requires the Insurance Commissioner to review the findings of a Federal Trade Commission (FTC) study after the FTC releases the study.
- Requires the Insurance Commissioner to make any recommendations to the Legislature necessary to protect Washington consumers within 180 days of receipt of the FTC study.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Newhouse, O'Brien, Santos, Simpson, Strow and Williams.

Minority Report: Do not pass. Signed by 2 members: Representatives Tom, Assistant Ranking Minority Member and Serben.

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.

<u>Insurance scoring models.</u>
Insurers may use credit history to determine premiums, rates, or eligibility for coverage unless the insurers have 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:

The Federal Trade Commission (FTC) is currently studying the issue of credit-based insurance scores and its effect on consumers. The Insurance Commissioner (Commissioner) is directed to obtain this report when it is completed by the FTC and review the findings as they may apply to Washington consumers. The Commissioner must make any recommendations to the Legislature necessary to protect Washington consumers within 180 days of receipt of the report.

Substitute Bill Compared to Original Bill:

Definitions are removed. The prohibition of the use of credit history to increase the rates of a policyholder at the time of renewal is removed. The language regarding the study is added.

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: My wife and I learned that our auto insurance premiums are higher because we have "short credit histories." This came as a surprise, as we both have excellent records of prompt payment on all of our credit accounts over the past almost 30 years. Further investigation revealed that in insurance industry lingo, "short credit history" means the average duration or the longest duration of any credit history entry. Credit accounts that get paid in full and closed get excluded from credit histories. For nearly seven years we have used and continue to use a single credit card account. We applied for the account through a retailer and a bank. This spawned four different credit entries in both of our credit histories, none of which indicate the duration of the account. In 2001, the retailer and the bank that bought the original banks decided to end their arrangement. The retailer switched to a different lender. The old banks sold my information to a third bank. The third bank created a credit card for me; I never requested it, desired it, applied for it, or used it. This is the type of information in my credit history. After discovering this, I have worked to get these types of entries removed from my credit report. The credit reporting agencies don't distinguish between people opening new accounts and lenders selling or changing existing accounts. If a lender creates the issue in the credit report, why should that impact the insured? How is a policyholder a riskier driver because their bank sold information? This happens to many people. Every person enrolled in that retailer's credit card program was penalized. Insurers should be prohibited from using bad data. If the insurers can't guarantee good data or precise models, the factors should be eliminated. My insurer told me my score went from the 700s to the 600s. I'm not sure why it went down. My insurer told me I have too many accounts. I try to be a smart consumer and I do use interest-free and no-payment offers to save money. I pay my bills and many accounts have no balance. I closed many of those accounts because of what the insurer told me and then I was told my credit score went down. I questioned my insurer about this and they said that they couldn't tell me how to raise my score but I shouldn't open any new accounts. I now pay hundreds of dollars more in insurance. I've been with the same insurer for many years. My rates went up 20 percent in one year despite the fact that they say I get a good credit discount and a discount for being claims-free. I was told I have too many accounts. I have no mortgage and little debt. I pay for things with credit cards and then pay the cards off. I was told I have more accounts than other consumers. Not more debt, more accounts. My credit report shows I have little debt and my accounts are in good standing. I open accounts when a retailer makes it worthwhile to do so. I switched insurers. Consumer Reports had a story on

Fair Isaac in 2005. They wrote that they couldn't get enough information on the Fair Isaac models to determine if it was accurate. I work at a retail store that offers zero down, zero interest, zero payment for 12 months. Many people use that offer even though they may be able to pay cash. I had a customer who was interested in the offer but ultimately refused because of the potential impact on her insurance rates. Many people are being penalized for being good consumers. I believe credit scoring is wrong and harmful to consumers. Information may be inaccurate or it may be accurate and used inappropriately. If credit scoring can't be eliminated, it should be restricted. There should be credible outside analysis. The methodology of the insurers should be examined. I received a notice due to my credit score. My credit score was the only reason for the increased rates. My credit score was impacted by the sale of every one of my credit cards from one institution to another. It isn't about my credit or credit history. I didn't open any more accounts but insurers are rating me as if I did. The Commissioner supports this bill but would prefer a ban on credit scoring. There is a difference between an insurance score and a credit score. The insurance score may have factors that are unrelated to credit. The models are proprietary and that can be a problem since people don't know how they are being evaluated.

(With concerns) The language of the bill is identical to the bill from last year. Many insurers accepted that language. There has been an intervening issue. In the last year, the Insurance Commissioner issued a Technical Assistance Advisory (TAA) that has been very controversial. The TAA pertains to notices. When the credit scoring laws passed and the rule-makings were adopted, adverse notices were required for factors related to the credit history. The TAA requires a notice for anything in the insurance score. There are factors unrelated to credit but we have to send a notice and tell the consumer that they can get a free credit report. Insurers are struggling to comply with the TAA. My clients need to review this bill in the context of the TAA. The credit scoring tool is very effective in predicting risk. Numerous independent groups have reviewed the use of credit scoring and confirmed its objectivity. Many insurers believe the credit score is more predictive than an insured's driving record. The tool evaluates risk. It treats one class of consumers differently than another class. Insurers don't want to be credit counselors and may not perform those functions well. A majority of consumers benefit from credit scoring. All insurers use the information differently and consumers should shop around.

Testimony Against: Four years ago, insurance agents asked for major reforms in the use of credit scoring. We worked with all parties to pass the farthest reaching credit scoring law in the country. In the original bill, we asked for and received a prohibition on allowing credit scoring to be the sole factor in insurer decisions. We asked that you prohibit certain factors like medical debt and you did. Insurers can't use the type of credit card to a consumer's disadvantage. In the last four years, there have been two bills passed and three major rule efforts, and a controversial TAA. It is time to let the law settle. The law says if you don't receive the very best rate offered by the company, you must get an adverse action notice. If there are 20 tiers and you aren't in Tier 1, you get the notice. You may have great credit, you may get a great rate but if you don't get the best rate, you get the notice. The fact a notice is sent often makes people believe that something is wrong and they are being penalized when, in fact, their credit may have earned them a discount. The original notices were difficult to understand and led to a flood of complaints. We worked with all parties to have more complete and understandable notices. At some point, the issue should be looked at again. Right now, the law should be allowed to settle. Insurance is fluid. Factors change every day. Insurers should be able to use the latest and most current information. Complaints have dropped over the last several years due to the restrictions and the improved notices. If a ban is enacted, it could not impact direct sellers. Those insurers would cherry pick the customers.

Persons Testifying: (In support) Waltrand "Val" Tiner; Ben Pfeiffer; and Fred Gillis.

(With concerns) Jean Leonard, Washington Insurers; and Mel Sorensen, Property and Casualty Insurers.

(Opposed) Bill Stauffacher, Independent Insurance Agents and Brokers.

Persons Signed In To Testify But Not Testifying: None.