
SENATE BILL 5275

State of Washington 59th Legislature 2005 Regular Session

By Senators Fairley, Benton, Regala, Kline, Franklin and Mulliken

Read first time 01/19/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to prohibiting the use of consumer credit histories
2 for personal insurance renewal decisions; amending RCW 48.18.545; and
3 adding a new section to chapter 48.18 RCW.

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

5 **Sec. 1.** RCW 48.18.545 and 2002 c 360 s 1 are each amended to read
6 as follows:

7 (1) For the purposes of this section:

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

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

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

16 (A) Application of a rating rule;

17 (B) Assignment to a rating tier that does not have the lowest
18 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.

1 (h) "Tier" means a category within a single insurer into which
2 insureds with substantially like insuring, risk or exposure factors,
3 and expense elements are placed for purposes of determining rate or
4 premium.

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

12 (3) An insurer shall not cancel or nonrenew personal insurance
13 based in whole or in part on a consumer's credit history or insurance
14 score. An offer of placement with an affiliate insurer does not
15 constitute cancellation or nonrenewal under this section. Any use of
16 credit history for renewal decisions by insurers violates the consumer
17 protection act.

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

21 (a) "Deny" means an insurer refuses to offer insurance coverage to
22 a consumer;

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

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

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

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

32 (b) The number of credit inquiries;

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

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

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

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

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

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

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

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

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

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

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.18 RCW
21 to read as follows:

22 The legislature finds that the practices covered by RCW
23 48.18.545(3) are matters vitally affecting the public interest for the
24 purpose of applying the consumer protection act, chapter 19.86 RCW. A
25 violation of RCW 48.18.545(3) is not reasonable in relation to the
26 development and preservation of business and is an unfair or deceptive
27 act in trade or commerce and an unfair method of competition for the
28 purpose of applying the consumer protection act, chapter 19.86 RCW.

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