
SUBSTITUTE HOUSE BILL 1220

State of Washington 62nd Legislature 2011 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Rolfes, Cody, Appleton, Frockt, Hinkle, Lias, Fitzgibbon, Jenkins, Hunt, Van De Wege, Moeller, and Kenney; by request of Insurance Commissioner)

READ FIRST TIME 02/16/11.

1 AN ACT Relating to regulating insurance rates; and amending RCW
2 48.02.120, 48.19.035, 48.19.040, and 48.29.147.

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

4 **Sec. 1.** RCW 48.02.120 and 1985 c 264 s 2 are each amended to read
5 as follows:

6 (1) The commissioner shall preserve in permanent form records of
7 his or her proceedings, hearings, investigations, and examinations, and
8 shall file such records in his or her office.

9 (2)(a) The records of the commissioner and insurance filings in his
10 or her office shall be open to public inspection, except as otherwise
11 provided by this code and (b) of this subsection.

12 (b) Rate filings for individual and small group health benefit
13 plans shall be open to public inspection on the effective date set
14 forth in the filing.

15 ~~((3) Actuarial formulas, statistics, and assumptions submitted in~~
16 ~~support of a rate or form filing by an insurer, health care service~~
17 ~~contractor, or health maintenance organization or submitted to the~~
18 ~~commissioner upon his or her request shall be withheld from public~~

1 ~~inspection in order to preserve trade secrets or prevent unfair~~
2 ~~competition.))~~

3 **Sec. 2.** RCW 48.19.035 and 2004 c 86 s 1 are each amended to read
4 as follows:

5 (1) For the purposes of this section:

6 (a) "Affiliate" has the same meaning as defined in RCW
7 48.31B.005(1).

8 (b) "Consumer" means an individual policyholder or applicant for
9 insurance.

10 (c) "Credit history" means any written, oral, or other
11 communication of any information by a consumer reporting agency bearing
12 on a consumer's creditworthiness, credit standing, or credit capacity
13 that is used or expected to be used, or collected in whole or in part,
14 for the purpose of serving as a factor in determining personal
15 insurance premiums or eligibility for coverage.

16 (d) "Insurance score" means a number or rating that is derived from
17 an algorithm, computer application, model, or other process that is
18 based in whole or in part on credit history.

19 (e) "Personal insurance" means:

20 (i) Private passenger automobile coverage;

21 (ii) Homeowner's coverage, including mobile homeowners,
22 manufactured homeowners, condominium owners, and renter's coverage;

23 (iii) Dwelling property coverage;

24 (iv) Earthquake coverage for a residence or personal property;

25 (v) Personal liability and theft coverage;

26 (vi) Personal inland marine coverage; and

27 (vii) Mechanical breakdown coverage for personal auto or home
28 appliances.

29 (2)(a) Credit history shall not be used to determine personal
30 insurance rates, premiums, or eligibility for coverage unless the
31 insurance scoring models are filed with the commissioner. Insurance
32 scoring models include all attributes and factors used in the
33 calculation of an insurance score. RCW 48.02.120 and 48.19.040(5)
34 (~~does~~) do not apply to any information filed under this subsection,
35 and the information shall be withheld from public inspection and kept
36 confidential by the commissioner. All information filed under this
37 subsection shall be considered trade secrets (~~under~~ RCW

1 ~~48.02.120(3))~~). Information filed under this subsection may be made
2 public by the commissioner for the sole purpose of enforcement actions
3 taken by the commissioner.

4 (b) Each insurer that uses credit history or an insurance score to
5 determine personal insurance rates, premiums, or eligibility for
6 coverage must file all rates and rating plans for that line of coverage
7 with the commissioner. This requirement applies equally to a single
8 insurer and two or more affiliated insurers. RCW 48.19.040(5) applies
9 to information filed under this subsection except that any eligibility
10 rules or guidelines shall be withheld from public inspection (~~under~~
11 ~~RCW 48.02.120(3))~~) from the date that the information is filed and
12 after it becomes effective.

13 (3) Insurers shall not use the following types of credit history to
14 calculate a personal insurance score or determine personal insurance
15 premiums or rates:

16 (a) The absence of credit history or the inability to determine the
17 consumer's credit history, unless the insurer has filed actuarial data
18 segmented by demographic factors in a manner prescribed by the
19 commissioner that demonstrates compliance with RCW 48.19.020;

20 (b) The number of credit inquiries;

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

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

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

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

32 (4) If a consumer is charged higher premiums due to disputed credit
33 history, the insurer shall rerate the policy retroactive to the
34 effective date of the current policy term. As rerated, the consumer
35 shall be charged the same premiums they would have been charged if
36 accurate credit history was used to calculate an insurance score. This
37 subsection applies only if the consumer resolves the dispute under the

1 process set forth in the fair credit reporting act and notifies the
2 insurer in writing that the dispute has been resolved.

3 (5) The commissioner may adopt rules to implement this section.

4 (6) This section applies to all personal insurance policies issued
5 or renewed on or after June 30, 2003.

6 **Sec. 3.** RCW 48.19.040 and 1994 c 131 s 8 are each amended to read
7 as follows:

8 (1) Every insurer or rating organization shall, before using, file
9 with the commissioner every classifications manual, manual of rules and
10 rates, rating plan, rating schedule, minimum rate, class rate, and
11 rating rule, and every modification of any of the foregoing which it
12 proposes. The insurer need not so file any rate on individually rated
13 risks as described in (~~subdivision (1) of~~) RCW 48.19.030(1); except
14 that any such specific rate made by a rating organization shall be
15 filed.

16 (2) Every such filing shall indicate the type and extent of the
17 coverage contemplated and must be accompanied by sufficient information
18 to permit the commissioner to determine whether it meets the
19 requirements of this chapter. An insurer or rating organization shall
20 offer in support of any filing:

21 (a) The experience or judgment of the insurer or rating
22 organization making the filing;

23 (b) An exhibit detailing the major elements of operating expense
24 for the types of insurance affected by the filing;

25 (c) An explanation of how investment income has been taken into
26 account in the proposed rates; and

27 (d) Any other information which the insurer or rating organization
28 deems relevant.

29 (3) If an insurer has insufficient loss experience to support its
30 proposed rates, it may submit loss experience for similar exposures of
31 other insurers or of a rating organization.

32 (4) Every such filing shall state its proposed effective date.

33 (5) A filing made pursuant to this chapter (~~shall be exempt from~~
34 ~~the provisions of RCW 48.02.120(3). However, the filing and all~~
35 ~~supporting information accompanying it~~) shall be open to public
36 inspection only after the filing becomes effective.

1 (6) Where a filing is required no insurer shall make or issue an
2 insurance contract or policy except in accordance with its filing then
3 in effect, except as is provided by RCW 48.19.090.

4 **Sec. 4.** RCW 48.29.147 and 2008 c 110 s 5 are each amended to read
5 as follows:

6 (1) Every title insurer shall, before using, file with the
7 commissioner every manual of title insurance rules and rates, rating
8 plan, rate schedule, minimum rate, class rate, and rating rule, and
9 every modification of any of the filings under this subsection which it
10 proposes.

11 (2) Every filing shall be accompanied by sufficient information to
12 permit the commissioner to determine whether the filing meets the
13 requirements of RCW 48.29.143.

14 (3) Data used to justify title insurance rates may not include
15 escrow income or expenses. The title insurance company shall include
16 a detailed explanation showing how expenses are allocated between the
17 title operations and escrow operations of the insurer or title
18 insurance agent.

19 (4) Every such filing shall state its proposed effective date.

20 (5) The commissioner shall review a filing as soon as reasonably
21 possible after it is received, to determine whether it meets the
22 requirements of RCW 48.29.143.

23 (6) The filing's proposed effective date shall be no earlier than
24 thirty days after the date on which the filing is received by the
25 commissioner. By giving notice to the insurer within this thirty days,
26 the commissioner may extend this waiting period for an additional
27 period not to exceed an additional fifteen days. The commissioner may,
28 upon application and for cause shown, waive part or all of the waiting
29 period with respect to a filing the commissioner has not disapproved.
30 If the commissioner does not disapprove the filing during the waiting
31 period, the filing takes effect on its proposed effective date.

32 (7) If within the waiting period or any extension thereof as
33 provided in subsection (6) of this section, the commissioner finds that
34 a filing does not meet the requirements of RCW 48.29.143 or the
35 requirements of subsections (2) through (4) of this section, the
36 commissioner shall disapprove the filing and shall give notice to the
37 insurer that the filing has been disapproved. This notice shall

1 specify the respect in which the commissioner finds the filing fails to
2 meet the requirements and shall state that the filing does not become
3 effective as proposed.

4 (8) If a filing is not disapproved by the commissioner within the
5 waiting period or any extension thereof, the filing becomes effective
6 as proposed.

7 (9) A filing made under this section (~~(is exempt from RCW~~
8 ~~48.02.120(3)). However, the filing~~) and all supporting and
9 accompanying information (~~(accompanying it)~~) is open to public
10 inspection (~~(only)~~) after the filing becomes effective.

11 (10) A title insurer or title insurance agent shall not make or
12 issue a title insurance contract or policy, or use or collect any
13 premium on or after a date set by the commissioner by rule, which date
14 shall not be any earlier than January 1, 2010, except in accordance
15 with rates and rules filed with the commissioner as required by this
16 section.

17 (11) If at any time subsequent to the applicable review period
18 provided for in subsection (6) of this section, the commissioner has
19 reason to believe that a title insurer's rates do not meet the
20 requirements of RCW 48.29.143 or are otherwise contrary to law, or if
21 any person having an interest in the rates makes a written complaint to
22 the commissioner setting forth specific and reasonable grounds for the
23 complaint and requests a hearing, or if any insurer upon notice of the
24 commissioner's disapproval of a filing made under this section requests
25 a hearing, the commissioner shall hold a hearing within thirty days and
26 shall, in advance of it, give written notice of the hearing to all
27 parties in interest. The commissioner may, by issuing an order,
28 confirm, modify, change, or rescind any previous action, if it is
29 warranted by the facts shown at the hearing. The order shall not
30 affect any contract or policy made or issued prior to a reasonable
31 period of time, to be specified in the order, after the order is
32 issued.

33 (12) In any hearing regarding rates filed under this chapter the
34 burden shall be upon the title insurer to prove by a preponderance of
35 the evidence that the rates comply with RCW 48.29.143.

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