

# HOUSE BILL REPORT

## HB 1351

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**As Reported by House Committee On:**  
Consumer Protection & Business

**Title:** An act relating to reasonable exceptions to insurance rates for consumers whose credit information is influenced by extraordinary life circumstances.

**Brief Description:** Concerning reasonable exceptions to insurance rates for consumers whose credit information is influenced by extraordinary life circumstances.

**Sponsors:** Representatives Kirby, Vick, Shewmake, Ryu, Sutherland, Duerr, Hackney, Walen, Young, Santos and Harris-Talley.

**Brief History:**

**Committee Activity:**

Consumer Protection & Business: 2/1/21, 2/4/21 [DP].

**Brief Summary of Bill**

- Requires an insurer to provide reasonable exceptions to personal insurance rates and underwriting rules when a consumer's credit history is impacted by certain events.

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### HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

**Majority Report:** Do pass. Signed by 7 members: Representatives Kirby, Chair; Walen, Vice Chair; Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Corry, Ryu and Santos.

**Staff:** Serena Dolly (786-7150).

**Background:**

Personal Insurance.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Personal insurance refers to the following types of insurance policies:

- private passenger automobile coverage;
- homeowner's coverage, including mobile homeowner's, manufactured homeowner's, condominium owners, and renter's coverage;
- dwelling property coverage;
- earthquake coverage for a residence and personal property;
- personal liability and theft coverage;
- personal inland marine coverage; and
- mechanical breakdown coverage for personal auto or home appliances.

#### Credit History and Insurance Scores.

Credit history is any information provided by a consumer reporting agency on a consumer's creditworthiness, credit standing, or credit capacity. The term "insurance score" is defined to mean a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit history. Credit history may only be used if the insurance scoring models are filed with the Office of the Insurance Commissioner (OIC) by the insurer.

#### Use of Credit History in Insurance.

Insurers are prohibited from canceling or refusing to renew personal insurance based in whole or in part on a consumer's credit history or insurance score. Additionally, an insurer may use credit history to deny personal insurance only in combination with other substantive underwriting factors. Insurers also are prohibited from denying insurance coverage or determining premiums or rates based on: (1) the absence of credit history or the inability to determine the consumer's credit history; (2) the number of credit inquiries; (3) credit history or an insurance score based on collection accounts identified with a medical industry code; (4) the initial purchase or finance of a vehicle or house that adds a new loan to the consumer's existing credit history, if evident from the consumer report; (5) the consumer's use of a particular type of credit card, charge card, or debit card; or (6) the consumer's total available line of credit.

#### Written Notifications to Insureds.

##### *Renewing Insurance Policies.*

If an insurer wishes to renew an insured's insurance policy then at least 20 days before the insurance policy's expiration date the insurer must communicate, either directly or through its agent, the insurer's willingness to renew in writing to the insured and include in that writing a statement of the amount of the premium or portion of the premium required to be paid by the insured to renew the policy. This 20-day notice to the insured must also include the amount of any increased premium resulting from a change of rates and, generally, an explanation of any change in the contract provisions. If the 20-day notice to the insured does not include the amount of any increased premium resulting from a change of rates and an explanation of any change in the contract provisions, the insurer must generally renew the policy according to the rates and contract provisions applicable to the expiring policy.

*Adverse Actions.*

An insurer that takes adverse action against a consumer based in whole or in part on credit history or insurance score must provide written notice to the applicant or named insured. Adverse actions include: (1) cancellation, denial, or nonrenewal of personal insurance coverage; (2) charging a higher premium for personal insurance than would have been offered if the credit history or insurance score had been more favorable; or (3) any reduction, adverse, or unfavorable change in the terms of coverage or amounts of any personal insurance due to a consumer's credit history or insurance score. The required adverse action notice must state the significant factors of the credit history or insurance score that resulted in the adverse action. The insurer must inform the consumer that the consumer is entitled to a free copy of the consumer's credit report under the federal Fair Credit Reporting Act.

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**Summary of Bill:**

Upon written request from a consumer, an insurer must provide reasonable exceptions to insurance rates, rating classifications, company or tier placement, or underwriting rules and guidelines for a consumer whose credit information has been directly influenced by any of the following:

- a catastrophic event declared by the state or federal government;
- the death of a spouse, child, or parent;
- divorce or involuntary interruption of alimony or child support payments;
- identity theft;
- involuntary loss of employment for three or more months;
- overseas military deployment; or
- any other events determined by the insurer.

An insurer must provide notice to consumers that reasonable exceptions are available. An insurer may require a consumer to provide written and independently verifiable documentation of the event and demonstrate that it had direct and meaningful impact on the consumer's credit information. An insurer must notify the consumer whether the request has been approved within 30 days of the insurer's receipt of the written documentation.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Credit history is embedded in insurance scores, and abruptly removing credit history from all insurance scores will result in an increase in rates for many consumers. This bill does not interfere with attempts to ban the use of credit history as it will take time to enact a complete ban. With the pandemic, many consumers have seen and are seeing negative impacts to their credit scores. People need help now. Insurance agents are hearing every day about how people are struggling through the pandemic and want to provide help. This is a benefit that can be offered exactly when the consumer needs it. Washington is the only state that does not allow insurers to consider extraordinary life circumstances, and insurers would face administrative penalties for granting this type of exception now. Consumers should be able to ask their insurers for an exception when facing a life-altering event. This is no different than advising people to reach out to their lenders when they are struggling financially. The language provides a consumer right by requiring insurers to offer reasonable exceptions. Nothing in the bill prohibits oversight by the OIC, and it specifically allows the OIC to adopt implementation rules.

(Opposed) A great power imbalance between consumers and insurance companies already exists. This proposal imposes an additional burden on consumers and grants much discretion to insurers. Consumers would be required to jump through many hoops to get the exception. The bill does not address how a consumer would know about the opportunity to make a request or how long a granted exception would last. The bill does not provide for an appeal or review process if a consumer's request is denied. Anti-discrimination laws prohibit insurers from charging different rates to similarly situated consumers. The bill only offers relief to those who have excellent credit now, not those whose credit has already been impacted by an extraordinary life circumstance. This bill fails to address the core issues of using consumer credit scores in determining insurance rates, which perpetuates systemic racism. People with poorer credit pay higher insurance rates than those who may have had an accident. The pandemic has further exposed the unfairness of using credit scores. Consumers should not have to explain that their credit scores are being impacted right now, and insurance companies do not have the capacity to grant the number of exceptions that could be requested due to the pandemic. The OIC would have no regulatory oversight of the administration of exceptions.

(Other) While the intent to provide relief for people who experience events outside their control is appreciated, many people do not know that credit history impacts insurance rates and would not know they could request an exception. There is also a long history of discrimination and redlining in the state. The OIC should be given the discretion to allow exceptions for extraordinary life circumstances and advertise the availability of these exceptions. The state should offer low-cost insurance options, like California does.

**Persons Testifying:** (In support) Representative Kirby, prime sponsor; Kenton Brine, Northwest Insurance Council; Mel Sorensen, American Property Casualty Insurance Association and Professional Insurance Agents Washington/Alaska; Bill Stauffacher, Independent Insurance and Brokers of Washington; Anthony Cotto and Lawrence Powell, National Association of Mutual Insurance Companies; and Jean Leonard, Nationwide

Insurance, State Farm Insurance Companies, and Washington Insurers.

(Opposed) Birny Birnbaum, Center for Economic Justice; Jon Noski and David Forte, Office of the Insurance Commissioner; and Michael DeLong, Consumer Federation of America.

(Other) Shaun Scott, Statewide Poverty Action Network.

**Persons Signed In To Testify But Not Testifying:** None.