SENATE BILL REPORT
SB 5010

As Reported by Senate Committee On:
Business, Financial Services & Trade, February 15, 2021

Title: An act relating to prohibiting the use of credit scores to determine rates for personal lines of insurance.

Brief Description: Prohibiting the use of credit scores to determine rates for personal lines of insurance. [**Revised for 1st Substitute:** Allowing the use of credit history for personal lines of insurance if it improves a consumer's insurance score and lowers their premium for a period of three years.]

Sponsors: Senators Das, Randall, Billig, Carlyle, Conway, Dhingra, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Nobles, Nguyen, Pedersen, Robinson, Rolfes, Saldaña, Stanford, Van De Wege and Wilson, C.; by request of Insurance Commissioner, Office of the Governor.

Brief History:

Committee Activity: Business, Financial Services & Trade: 1/14/21, 2/15/21 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Prohibits the use of credit history to increase rates or premiums at renewal for personal insurance policies until June 30, 2024.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Majority Report: That Substitute Senate Bill No. 5010 be substituted therefor, and the substitute bill do pass.

Signed by Senators Mullet, Chair; Hasegawa, Vice Chair; Dozier, Ranking Member; Brown, Hobbs and Wilson, L.

Minority Report: That it be referred without recommendation.

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.

Signed by Senator Frockt.

Staff: Kellee Gunn (786-7429)

Background: Personal Insurance. Personal insurance includes the following:

- 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 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. An insurance score is derived from an algorithm or model 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. Using credit history or an insurance score to determine rates, premiums, or eligibility depends on the insurer and the regulator. Personal information, such as gender, age, or marital status, cannot be used in a credit-based insurance score.

Use of Credit History in Insurance. Insurers may use credit history to determine how much premium to charge or whether to issue or renew an insurance policy. Depending on the state, certain limits and restrictions exist on how an insurer may use credit history.

In Washington State, credit history may only be used to deny personal insurance in combination with other substantive underwriting factors. A person may not be denied insurance coverage or have their premiums or rates determined by the number of credit inquiries; collection accounts identified as medical bills; buying or financing a first vehicle or first house; the type of credit, debit, or charge card used; or the total available line of credit in their credit history. Additionally, a person without credit history cannot be denied insurance coverage.

Summary of Bill (First Substitute): Credit history may only be allowed in determining an insurance score if it improves a consumer's insurance score and lowers their premium. Insurers must file a special credit score rate rule by July 1, 2021, and apply it within 90 days after approval. Within 15 days of receipt, the OIC must approve the special credit score rate rule.

The special credit score rate rule must contain certain language that states credit history will only be used in the rating of the policy when the result is equal to or better than that of the current consumer credit history under which the policy is rated.

The limited use of credit history in determining insurance rates for personal insurance expires June 30, 2024.

EFFECT OF CHANGES MADE BY BUSINESS, FINANCIAL SERVICES & TRADE COMMITTEE (First Substitute):

- Amends title and adds a new intent section.
- Prohibits the use of credit history in increasing rates or premiums at renewal for personal insurance policies until June 30, 2024.
- Requires insurers to file a special credit score rate rule by July 1, 2021, and apply it within 90 days after approval.
- Requires OIC to approve the special credit score rate rule within 15 days of receipt.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill promotes economic fairness and equity. Many people do not know their credit scores are used to determine their insurance rates. Racial inequities are imbedded in the credit scoring system. Women have lower credit scores because of the wage gap, and people of color have had barriers to accumulating wealth. Inequities and systemic racism are perpetuated by using credit scores.

This bill will make it easier for people to become homeowners. In 2007, the Federal Trade Commission saw that insurance scoring unfairly affects people of color. Only a few decades ago, people of color were finally allowed to access good credit rather than relying on predatory lenders. You can still see these effects of redlining on communities of color in their credit scores today.

There is a disproportionate impact of credit scores on drivers 55 years and older. This has to do with employment rates, and because they no longer have a mortgage and no longer use credit cards. Rates should be based on how a person drives. Credit scores are a flawed means of predicting the future and only reflects wealth. After a person has been insured three to five years, an insurance company should have enough data to set rates without the use of credit history.

As a regulator, insurers should use factors that are closely associated with claims. Good public policy should incentivize good driving. Removing credit rating as a factor will have short term effects, like higher rates on some and lower rates for others depending on what their current rates are, but the rates should eventually stabilize.

Credit scoring models are no different from insurance score models and it is subject to bias and errors. The Missouri Department of Insurance found that the single most predictive data element of regional average of insurance scores was the number of people of color in that zip code. Washington drivers with a "fair" credit score pay 35 percent more even though they never had a ticket or filed a claim and a driver with a "low" credit score may pay 79 percent more. This may mean over $500 more paid annually, on average, between a low credit score and high credit score driver.

The higher rates opponents this bill suggests are a scare tactic. Insurance credit scoring undermines the loss prevention role of insurance and minimizes other risk behaviors. Good behaviors related to risk should be incentivized. Washington State has a high rate of uninsured drivers. Removing credit history in insurance scores will help. Massachusetts, California, and Hawaii, which have all passed credit score bans, have higher rates of insured drivers than Washington.

CON: Fair treatment of all insureds is important to insurers. Mutual insurance companies are committed to objectivity and are committed to policy holders. In insurance, underwriting factors are fair if they promote accuracy. An insurance score includes history of payment and total debt, it does not include personal information such as race. Insurance scores provide objective information and are predictive of loss. Prohibiting insurance scores to use credit history will result in higher rates for all insureds. Insurers are required to file rates with the OIC and the rates must be justified.

Today many companies can add telematic technology data to an insurance score. Telematic technology uses driving behaviors to determine risk for drivers. It has been observed that the correlation between risk-based insurance scores and driving behaviors is very high. The consumer impact on the removal of credit will penalize good drivers with good credit. Seniors would bear a heavy price if this bill were to pass.

In the early 2000s, independent insurers were proponents of restrictions on the use of credit in insurance scores. Those restrictions are still in place and they work. By banning credit history in personal insurance rates, the use of credit overall will not be banned. National insurers can still use that information for marketing. This will lead to a competitive disadvantage to independent insurers. This bill will disrupt the marketplace for small independent insurers. Insurance scores help more than hurt and provide insurance companies more options for their customers. If credit history was banned insurance premiums will only go down if insurers were overcharging.

When Alaska passed legislation prohibiting credit history in insurance scores a few years ago, many people received a higher rate on their insurance when their policy was renewed. Increases were between 10 to 20 percent. A similar impact would happen in Washington

State if this bill were enacted. California is not a shining example; it has the 20th highest premiums for drivers while Washington has the 14th highest. Arkansas did a comprehensive study on insurance scores and over 60 percent benefited from the use of credit history.

During the great recession, there was a big down swing in the economy, but rates based off insurance scores went down on average. It is assumed that credit scores are being damaged by the pandemic, but this is not true. Credit scores are rising during the pandemic. People are not taking out new loans or lines of credit. Insurance companies do not penalize people for their credit scores. There are 21 states which allow insurers to respond to extraordinary life circumstances, such as job loss, to make changes to their insurance scores. Washington State does not allow for this.

Persons Testifying: PRO: Senator Mona Das, Prime Sponsor; Birny Birnbaum, Center for Economic Justice; Jon Noski, Office of the Insurance Commissioner; Eric Slavich, Office of the Insurance Commissioner; Douglas Heller, Consumer Federation of America; Mario Villanueva, Washington State Catholic Conference; Catherine West, Legal Voice; Ryan Donohue, Habitat for Humanity Seattle-King County; Shaun Scott, Statewide Poverty Action Network; Cathy MacCaul, AARP Washington State; Maria Siguenza, Commission on Hispanic Affairs; RaShelle Davis, Governor's Office; Armand MacMurray, citizen.

CON: Anthony Cotto, National Association of Mutual Insurance Companies; Lars Powell, PhD, Alabama Center for Insurance Information & Research, University of Alabama; Mark Sektnan, American Property Casualty Insurance Association; Theodore Bell, Progressive Insurance; Bill Stauffacher, Independent Insurance Agents and Brokers of Washington; Tami Ellingson, Inspire Insurance Services Inc. DBA Hutson Insurance; Piilani Benz, Alliance West Insurance, Inc.; Roosevelt Mosely, Pinnacle Actuarial Resources, Inc.; Kenton Brine, North West Insurance Council.

Persons Signed In To Testify But Not Testifying: No one.