

SENATE BILL REPORT

SB 5409

As of February 9, 2021

Title: An act relating to requiring insurers who use credit information to provide reasonable exceptions to insurance rates for consumers experiencing extraordinary life circumstances.

Brief Description: Requiring insurers who use credit information to provide reasonable exceptions to insurance rates for consumers experiencing extraordinary life circumstances.

Sponsors: Senators Dozier and Braun.

Brief History:

Committee Activity: Business, Financial Services & Trade: 2/09/21.

Brief Summary of Bill

- Requires insurers to provide reasonable exceptions to insurance rates for consumers experiencing extraordinary life circumstances if contacted in writing.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Staff: Kellee Gunn (786-7429)

Background: Extraordinary Life Circumstances and Insurance. The National Council of Insurance Legislators (NCOIL) developed the Model Act Regarding Use of Credit Information in Personal Insurance (Model Act) in 2002. It has been readopted multiple times, most recently in November 2015. The Model Act allows insurance rates, where credit information is used, to be reconsidered in the event of an extraordinary life circumstance (ELC). More than 20 states have adopted some form of the Model Act, including ELC language.

Summary of Bill: An insurer who uses credit information must provide reasonable exceptions to their rates, rating classification, company or tier placement, or underwriting

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rules or guidelines for consumers whose credit has been affected by certain events. The insured or insurance applicant must request the reasonable exception in writing.

ELCs or events include:

- a catastrophic event, as declared by the federal or state government;
- serious illness or injury of themselves or an immediate family member;
- death of a spouse, child, or parent;
- divorce or involuntary interruption or legally owed alimony or support payments;
- identity theft;
- temporary loss of employment for three months or more, if involuntary terminated;
- military deployment overseas; or
- other events determined by the insurer.

Information and notice to consumers about the availability of these exceptions must be provided by the insurer.

No more than 60 days from the date of the insurance application or policy renewal, the insurer may request:

- written and independently verifiable documentation of the event;
- demonstration that the event had a direct and meaningful impact on the consumer's credit information;
- grant an exception without a written consumer request; and
- grant an exception for a repeated or previously considered event.

Within 30 days of receipt of sufficient documentation of an event, the insurer must inform the consumer of the outcome.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Many individuals know when a life event has affected their credit, and the insurance broker would provide that information to the applicant or insured. This bill considers many factors and will be beneficial to consumers. Consumers should have the same rights as in other states. In states with this law, most consumers who make an application for an ELC get it. The documentation required is just to ensure there is no fraud. Consumers are struggling. There is a deep and narrow group negatively affected by the circumstances happening now because of the pandemic. This bill provides a tool for insurance agents to help their consumers. Consumers need relief when they are going through ELCs. Agents communicate regularly with their customers and can

work with them through the process.

In Washington, there is a strict requirement about an insurance score notice. If something happens to a consumer's insurance score, whether credit-related or not, that information must be provided to that consumer. Many states have adopted the NCOIL model and many, if not most, states have discrimination language in statute. This is a valuable consumer protection measure. This language has been fine-tuned over 20 years. Those who struggle with personal catastrophes deserve access to these protections. The idea that Washington citizens cannot ask their insurers for a credit rating cut is unfair. This is a critical consumer protection bill.

CON: The intent is appreciated, as any relief to consumers going through economic hardships is good. Anything that uses credit scores, however, has inherent issues. Consumers do not know their credit score is used in insurance scores. There are significant hurdles for consumers to access the information necessary. The state should establish a low-cost insurance program like California which would work in situations of an ELC. The inherent problems credit scores bring into ratings are not addressed in this bill. The ELC provision does not provide meaningful consumer protections. Since insurers have ELC in other states, we request the state collect that data and the actual use of the ELC by consumers. This bill memorializes current bias and unfair discrimination. Insurance consumers already get relief outside of this bill. To make this bill meaningful, there are several changes necessary.

This bill will not fairly and equitably benefit all consumers. This grants insurers the ability to make subjective decisions for consumer rates and goes against current law which requires them to treat all insureds ratings equally. Consumers would need to jump through hoops to get the rate cut, without a possibility to appeal. This codifies industry discretion and does not guarantee fair rates. If two people experience the same event, and only one gets a rating cut, is that equitable? This may subject the consumer to bias by the insurer. The term reasonable exception is undefined in the bill. It is up to the insurer. There is no standard. RCW 48.18.480 determined it is unfair for the same insurer to receive disparate treatment on their rates. Insurers are required to apply discounts right now to all consumers equally. When asked by the OIC, other insurance commissioners with the NCOIL ELC language do not seem to think ELC is used very often. Further guidelines around the disapproval of an ELC should be considered.

Persons Testifying: PRO: Senator Perry Dozier, Prime Sponsor; Mel Sorensen, American Property/Casualty Insurance Association; Professional Insurance Agents; Bill Stauffacher, Independent Insurance Agents and Brokers of Washington; Jean Leonard, Washington Insurers, National Association of Mutual Insurance Companies, State Farm Insurance, and Nationwide Insurance; Anthony Cotto, National Association of Mutual Insurance Companies.

CON: Shaun Scott, Statewide Poverty Action Network; Birny Birnbaum, Center for

Economic Justice; Jon Noski, Office of the Insurance Commissioner; David Forte, Office of the Insurance Commissioner.

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