

# SENATE BILL REPORT

## SB 5623

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As of January 11, 2022

**Title:** An act relating to protecting consumers by limiting the ability of insurers to use credit histories to increase personal insurance premiums at renewal, but not prohibiting the use of credit history by insurers.

**Brief Description:** Protecting consumers by limiting the ability of insurers to use credit histories to increase personal insurance premiums at renewal, but not prohibiting the use of credit history by insurers.

**Sponsors:** Senators Mullet, Conway, Dozier and Gildon.

**Brief History:**

**Committee Activity:** Business, Financial Services & Trade: 1/11/22.

**Brief Summary of Bill**

- Prohibits the use of credit history to increase rates or premiums at renewal for any personal insurance policy holder beginning on July 1, 2023.
- Allows insurers to resume the use of credit history effective immediately.

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**SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE**

**Staff:** Kellee Gunn (786-7429)

**Background:** 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 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.

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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.*

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.

Since 2002, credit-based insurance scores (CBIS) in Washington State have been controlled by state law. Under that law, credit history may only be used to deny personal insurance in combination with other substantive underwriting factors. Certain debts and parts of a credit history—such as medical debt and lack of credit—cannot be used in insurance scores. CBIS may be used by insurers for new insurance applicants and for current policy holders at renewal.

Emergency Rule Prohibiting the Use of Credit History in Insurance Scores. On March 22, 2021, the OIC filed an emergency rule-making order to temporarily prohibit the use of credit history in determining premiums and eligibility for coverage in certain personal insurance products—namely private automobile, homeowners, and renter's insurance. On June 20, 2021, the prohibitions in this rule were required for all new policies, and those up for renewal on or after that date.

In October 2021, the emergency rule was overturned by Thurston County Superior Court. Normal rule-making has begun to make this emergency rule permanent, with the most recent rule-making hearing on November 23, 2021.

Personal Insurance. Personal insurance includes the following:

- private passenger automobile coverage;
- homeowner's coverage, including mobile homeowner's, manufactured homeowner's, condominium owner's, 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.

**Summary of Bill:** Beginning July 1, 2023, the use of credit history to increase rates or premiums at renewal for any personal insurance policy holder is prohibited. Thereafter credit history may only be used for new applicants or for improving an insured's score that results in a lower premium, and policyholders may request, no more than annually, that the insurer rerate the policy holders' insurance score, and use the rerated score if the result is a lower premium at renewal.

Effective immediately, insurers may resume the use of credit history. An insurer is not required to update insurance scores more frequently than upon a consumer's request.

Any rule that may conflict with this law, must comply with this law. Additionally, any rule adopted to implement the laws prohibiting discrimination in insurance must comply.

**Appropriation:** None.

**Fiscal Note:** Requested on January 4, 2022.

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

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony:** PRO: This bill is a middle ground. As of today, credit history can be used in insurance scores. About 90 percent of seniors experienced the largest increase in premiums in their lives during the emergency rule banning credit history. This bill limits the use of credit history to just improving an insured's score that results in a lower premium at renewal. This bill will allow seniors to keep their discounts.

I have never seen anything like what happened after the emergency rule went into effect. It was chaos. Clients were outraged and frustrated, as many of them are on fixed incomes. As an agent in a small agency, a stable and robust insurance market is important. Our small family-owned insurance company has been on the front line of what has occurred by the emergency rule. While all our clients have been impacted, seniors have been the hardest hit. This bill provides rate stability and critically provides businesses like us the ability to meet clients needs. These rate increases this last summer has had a significant impact on personal and family budgets.

Dramatic premium increases will have a detrimental effect on the state of Washington.

This bill will allow consumers to benefit from good credit history and will not preclude others from seeking a good deal. Driving under the influence (DUI) violations are serious and often come at a high price for those seeking insurance. If this bill goes through, we will have conversations with our clients about how to save on their premiums in other ways.

CON: OIC's mission is to protect consumers. The OIC is opposed to this bill because credit history will still be used for personal insurance policy applicants. This bill does not address racial and economic inequities in the underwriting involved. It also requires consumers to know to ask for a rerating. The law regarding discrimination in insurance is being subverted. With this bill, you are creating an uneven playing field for insureds. An insurer may have people with the same credit and risk but would be treated differently depending on if they are new or are an established policyholder.

Credit scores have an outside influence on insurance rates. Black and Hispanic Americans are unfairly impacted by the use of credit history. In determining your credit score, timely payments for mortgages are considered—but payments for utilities are not. Many people of color do not own homes. A consumer would need to know to ask for certain payment histories to be included in their insurance score. A person who has a DUI and good credit may pay less than a person without a DUI and bad credit. Washington State has one of the

highest levels of uninsured motorists in the nation. Ending the practice of using credit history will not hurt insurers. California prohibits the use of credit history and their insurance industry is doing fine. OIC is currently gathering information from insurers to understand the impact from the emergency rule. This bill does not go far enough.

OTHER: Insurers believe credit-based insurance scores are effective in determining risk. The Legislature has a responsibility to the public due to the coronavirus. Insurers are interpreting this bill as a middle ground between current law and the emergency rule. Oregon has had a similar law since 2010. This has a benefit to consumers.

**Persons Testifying:** PRO: Senator Mark Mullet, Prime Sponsor; Amberlyn McQuary, Independent Insurance Agents and Association of Washington; Claudia McClain, McClain Insurance Services; Wayne Lunday, PIA—Professional Insurance Agents; Clark Sitzes, Professional Insurance Agents of WA/AK; Scott Potter, Potter Insurance.

CON: Shaun Scott; Catherine West, Legal Voice; Michael DeLong, Consumer Federation of America; Jon Noski, Office of the Insurance Commissioner; Michael Walker, Office of the Insurance Commissioner; Eric Slavich, Office of the Insurance Commissioner; Mario Villanueva, Washington State Catholic Conference; RaShelle Davis, Governor's Office.

OTHER: Kenton Brine, Northwest Insurance Council.

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