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**HOUSE BILL 1351**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

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

Read first time 01/22/21. Referred to Committee on Consumer Protection & Business.

1 AN ACT Relating to reasonable exceptions to insurance rates for  
2 consumers whose credit information is influenced by extraordinary  
3 life circumstances; and amending RCW 48.18.545 and 48.19.035.

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

5 **Sec. 1.** RCW 48.18.545 and 2002 c 360 s 1 are each amended to  
6 read as follows:

7 (1) For the purposes of this section:

8 (a) "Adverse action" has the same meaning as defined in the fair  
9 credit reporting act, 15 U.S.C. Sec. 1681 et seq. Adverse actions  
10 include, but are not limited to:

11 (i) Cancellation, denial, or nonrenewal of personal insurance  
12 coverage;

13 (ii) Charging a higher insurance premium for personal insurance  
14 than would have been offered if the credit history or insurance score  
15 had been more favorable, whether the charge is by:

16 (A) Application of a rating rule;

17 (B) Assignment to a rating tier that does not have the lowest  
18 available rates; or

19 (C) Placement with an affiliate company that does not offer the  
20 lowest rates available to the consumer within the affiliate group of  
21 insurance companies; or

1 (iii) Any reduction, adverse, or unfavorable change in the terms  
2 of coverage or amount of any personal insurance due to a consumer's  
3 credit history or insurance score. A reduction, adverse, or  
4 unfavorable change in the terms of coverage occurs when:

5 (A) Coverage provided to the consumer is not as broad in scope as  
6 coverage requested by the consumer but available to other insureds of  
7 the insurer or any affiliate; or

8 (B) The consumer is not eligible for benefits such as dividends  
9 that are available through affiliate insurers.

10 (b) "Affiliate" has the same meaning as defined in RCW  
11 48.31B.005(1).

12 (c) "Consumer" means an individual policyholder or applicant for  
13 insurance.

14 (d) "Consumer report" has the same meaning as defined in the fair  
15 credit reporting act, 15 U.S.C. Sec. 1681 et seq.

16 (e) "Credit history" means any written, oral, or other  
17 communication of any information by a consumer reporting agency  
18 bearing on a consumer's creditworthiness, credit standing, or credit  
19 capacity that is used or expected to be used, or collected in whole  
20 or in part, for the purpose of serving as a factor in determining  
21 personal insurance premiums or eligibility for coverage.

22 (f) "Insurance score" means a number or rating that is derived  
23 from an algorithm, computer application, model, or other process that  
24 is based in whole or in part on credit history.

25 (g) "Personal insurance" means:

26 (i) Private passenger automobile coverage;

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

29 (iii) Dwelling property coverage;

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

31 (v) Personal liability and theft coverage;

32 (vi) Personal inland marine coverage; and

33 (vii) Mechanical breakdown coverage for personal auto or home  
34 appliances.

35 (h) "Tier" means a category within a single insurer into which  
36 insureds with substantially like insuring, risk or exposure factors,  
37 and expense elements are placed for purposes of determining rate or  
38 premium.

39 (2) An insurer that takes adverse action against a consumer based  
40 in whole or in part on credit history or insurance score shall

1 provide written notice to the applicant or named insured. The notice  
2 must state the significant factors of the credit history or insurance  
3 score that resulted in the adverse action. The insurer shall also  
4 inform the consumer that the consumer is entitled to a free copy of  
5 their consumer report under the fair credit reporting act.

6 (3) An insurer shall not cancel or nonrenew personal insurance  
7 based in whole or in part on a consumer's credit history or insurance  
8 score. An offer of placement with an affiliate insurer does not  
9 constitute cancellation or nonrenewal under this section.

10 (4) An insurer may use credit history to deny personal insurance  
11 only in combination with other substantive underwriting factors. For  
12 the purposes of this subsection:

13 (a) "Deny" means an insurer refuses to offer insurance coverage  
14 to a consumer;

15 (b) An offer of placement with an affiliate insurer does not  
16 constitute denial of coverage; and

17 (c) An insurer may reject an application when coverage is not  
18 bound or cancel an insurance contract within the first sixty days  
19 after the effective date of the contract.

20 (5) Insurers shall not deny personal insurance coverage based on:

21 (a) The absence of credit history or the inability to determine  
22 the consumer's credit history, if the insurer has received accurate  
23 and complete information from the consumer;

24 (b) The number of credit inquiries;

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

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

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

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

36 (6) (a) If disputed credit history is used to determine  
37 eligibility for coverage and a consumer is placed with an affiliate  
38 that charges higher premiums or offers less favorable policy terms:

39 (i) The insurer shall reissue or rerate the policy retroactive to  
40 the effective date of the current policy term; and

1 (ii) The policy, as reissued or rerated, shall provide premiums  
2 and policy terms the consumer would have been eligible for if  
3 accurate credit history had been used to determine eligibility.

4 (b) This subsection only applies if the consumer resolves the  
5 dispute under the process set forth in the fair credit reporting act  
6 and notifies the insurer in writing that the dispute has been  
7 resolved.

8 (7)(a) Notwithstanding any other law or regulation, an insurer  
9 that uses credit information shall, on written request from an  
10 applicant for insurance coverage or an insured, provide reasonable  
11 exceptions to the insurer's rates, rating classifications, company or  
12 tier placement, or underwriting rules or guidelines for a consumer  
13 who has experienced and whose credit information has been directly  
14 influenced by any of the following events:

15 (i) Catastrophic event, as declared by the federal or state  
16 government;

17 (ii) Serious illness or injury, or serious illness or injury to  
18 an immediate family member;

19 (iii) Death of a spouse, child, or parent;

20 (iv) Divorce or involuntary interruption of legally owed alimony  
21 or support payments;

22 (v) Identity theft;

23 (vi) Temporary loss of employment for a period of three months or  
24 more, if it results from involuntary termination;

25 (vii) Military deployment overseas; or

26 (viii) Other events, as determined by the insurer.

27 (b) If an applicant or insured submits a request for an exception  
28 as set forth in (a) of this subsection, an insurer may, in its sole  
29 discretion, but is not mandated to:

30 (i) Require the consumer to provide reasonable written and  
31 independently verifiable documentation of the event;

32 (ii) Require the consumer to demonstrate that the event had  
33 direct and meaningful impact on the consumer's credit information;

34 (iii) Require such request be made no more than 60 days from the  
35 date of the application for insurance or the policy renewal;

36 (iv) Grant an exception despite the consumer not providing the  
37 initial request for an exception in writing; and

38 (v) Grant an exception where the consumer asks for consideration  
39 of repeated events or the insurer has considered this event  
40 previously.

1 (c) An insurer is not out of compliance with any law or rule  
2 relating to underwriting, rating, or rate filing as a result of  
3 granting an exception under this section. Nothing in this section  
4 shall be construed to provide a consumer or other insured with a  
5 cause of action that does not exist in the absence of this section.

6 (d) The insurer shall provide notice to consumers that reasonable  
7 exceptions are available and information about how the consumer may  
8 inquire further.

9 (e) Within 30 days of the insurer's receipt of sufficient  
10 documentation of an event described in (a) of this subsection, the  
11 insurer shall inform the consumer of the outcome of the request for a  
12 reasonable exception. Such communication shall be in writing or  
13 provided to an applicant in the same medium as the request.

14 (8) The commissioner may adopt rules to implement this section.

15 ~~((8) This section applies to all personal insurance policies~~  
16 ~~issued or renewed after January 1, 2003.))~~

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

19 (1) For the purposes of this section:

20 (a) "Affiliate" has the same meaning as defined in RCW  
21 48.31B.005(1).

22 (b) "Consumer" means an individual policyholder or applicant for  
23 insurance.

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

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

33 (e) "Personal insurance" means:

34 (i) Private passenger automobile coverage;

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

37 (iii) Dwelling property coverage;

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

39 (v) Personal liability and theft coverage;

1 (vi) Personal inland marine coverage; and  
2 (vii) Mechanical breakdown coverage for personal auto or home  
3 appliances.

4 (2)(a) Credit history shall not be used to determine personal  
5 insurance rates, premiums, or eligibility for coverage unless the  
6 insurance scoring models are filed with the commissioner. Insurance  
7 scoring models include all attributes and factors used in the  
8 calculation of an insurance score. RCW 48.19.040(5) does not apply to  
9 any information filed under this subsection, and the information  
10 shall be withheld from public inspection and kept confidential by the  
11 commissioner. All information filed under this subsection shall be  
12 considered trade secrets under RCW 48.02.120(3). Information filed  
13 under this subsection may be made public by the commissioner for the  
14 sole purpose of enforcement actions taken by the commissioner.

15 (b) Each insurer that uses credit history or an insurance score  
16 to determine personal insurance rates, premiums, or eligibility for  
17 coverage must file all rates and rating plans for that line of  
18 coverage with the commissioner. This requirement applies equally to a  
19 single insurer and two or more affiliated insurers. RCW 48.19.040(5)  
20 applies to information filed under this subsection except that any  
21 eligibility rules or guidelines shall be withheld from public  
22 inspection under RCW 48.02.120(3) from the date that the information  
23 is filed and after it becomes effective.

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

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

31 (b) The number of credit inquiries;

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

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

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

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

4 (4) If a consumer is charged higher premiums due to disputed  
5 credit history, the insurer shall rerate the policy retroactive to  
6 the effective date of the current policy term. As rerated, the  
7 consumer shall be charged the same premiums they would have been  
8 charged if accurate credit history was used to calculate an insurance  
9 score. This subsection applies only if the consumer resolves the  
10 dispute under the process set forth in the fair credit reporting act  
11 and notifies the insurer in writing that the dispute has been  
12 resolved.

13 (5)(a) Notwithstanding any other law or regulation, an insurer  
14 that uses credit information shall, on written request from an  
15 applicant for insurance coverage or an insured, provide reasonable  
16 exceptions to the insurer's rates, rating classifications, company or  
17 tier placement, or underwriting rules or guidelines for a consumer  
18 who has experienced and whose credit information has been directly  
19 influenced by any of the following events:

20 (i) Catastrophic event, as declared by the federal or state  
21 government;

22 (ii) Serious illness or injury, or serious illness or injury to  
23 an immediate family member;

24 (iii) Death of a spouse, child, or parent;

25 (iv) Divorce or involuntary interruption of legally owed alimony  
26 or support payments;

27 (v) Identity theft;

28 (vi) Temporary loss of employment for a period of three months or  
29 more, if it results from involuntary termination;

30 (vii) Military deployment overseas; or

31 (viii) Other events, as determined by the insurer.

32 (b) If an applicant or insured submits a request for an exception  
33 as set forth in (a) of this subsection, an insurer may, in its sole  
34 discretion, but is not mandated to:

35 (i) Require the consumer to provide reasonable written and  
36 independently verifiable documentation of the event;

37 (ii) Require the consumer to demonstrate that the event had  
38 direct and meaningful impact on the consumer's credit information;

39 (iii) Require such request be made no more than 60 days from the  
40 date of the application for insurance or the policy renewal;

1 (iv) Grant an exception despite the consumer not providing the  
2 initial request for an exception in writing; and

3 (v) Grant an exception where the consumer asks for consideration  
4 of repeated events or the insurer has considered this event  
5 previously.

6 (c) An insurer is not out of compliance with any law or rule  
7 relating to underwriting, rating, or rate filing as a result of  
8 granting an exception under this section. Nothing in this section  
9 shall be construed to provide a consumer or other insured with a  
10 cause of action that does not exist in the absence of this section.

11 (d) The insurer shall provide notice to consumers that reasonable  
12 exceptions are available and information about how the consumer may  
13 inquire further.

14 (e) Within 30 days of the insurer's receipt of sufficient  
15 documentation of an event described in (a) of this subsection, the  
16 insurer shall inform the consumer of the outcome of the request for a  
17 reasonable exception. Such communication shall be in writing or  
18 provided to an applicant in the same medium as the request.

19 (6) The commissioner may adopt rules to implement this section.

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

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