
SENATE BILL 5409

State of Washington

67th Legislature

2021 Regular Session

By Senators Dozier and Braun

Read first time 02/02/21. Referred to Committee on Business,
Financial Services & Trade.

1 AN ACT Relating to requiring insurers who use credit information
2 to provide reasonable exceptions to insurance rates for consumers
3 experiencing extraordinary life circumstances; and amending RCW
4 48.18.545 and 48.19.035.

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

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

8 (1) For the purposes of this section:

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

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

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

17 (A) Application of a rating rule;

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

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

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

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

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

13 (b) "Affiliate" has the same meaning as defined in RCW
14 48.31B.005(1).

15 (c) "Consumer" means an individual policyholder or applicant for
16 insurance.

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

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

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

28 (g) "Personal insurance" means:

29 (i) Private passenger automobile coverage;

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

32 (iii) Dwelling property coverage;

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

34 (v) Personal liability and theft coverage;

35 (vi) Personal inland marine coverage; and

36 (vii) Mechanical breakdown coverage for personal auto or home
37 appliances.

38 (h) "Tier" means a category within a single insurer into which
39 insureds with substantially like insuring, risk or exposure factors,

1 and expense elements are placed for purposes of determining rate or
2 premium.

3 (2) An insurer that takes adverse action against a consumer based
4 in whole or in part on credit history or insurance score shall
5 provide written notice to the applicant or named insured. The notice
6 must state the significant factors of the credit history or insurance
7 score that resulted in the adverse action. The insurer shall also
8 inform the consumer that the consumer is entitled to a free copy of
9 their consumer report under the fair credit reporting act.

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

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

17 (a) "Deny" means an insurer refuses to offer insurance coverage
18 to a consumer;

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

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

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

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

28 (b) The number of credit inquiries;

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

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

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

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

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

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

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

9 (b) This subsection only applies 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 (7) (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 (8) The commissioner may adopt rules to implement this section.

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

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

24 (1) For the purposes of this section:

25 (a) "Affiliate" has the same meaning as defined in RCW
26 48.31B.005(1).

27 (b) "Consumer" means an individual policyholder or applicant for
28 insurance.

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

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

38 (e) "Personal insurance" means:

39 (i) Private passenger automobile coverage;

1 (ii) Homeowner's coverage, including mobile homeowners,
2 manufactured homeowners, condominium owners, and renter's coverage;
3 (iii) Dwelling property coverage;
4 (iv) Earthquake coverage for a residence or personal property;
5 (v) Personal liability and theft coverage;
6 (vi) Personal inland marine coverage; and
7 (vii) Mechanical breakdown coverage for personal auto or home
8 appliances.

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

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

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

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

36 (b) The number of credit inquiries;

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

39 (d) The initial purchase or finance of a vehicle or house that
40 adds a new loan to the consumer's existing credit history, if evident

1 from the consumer report; however, an insurer may consider the bill
2 payment history of any loan, the total number of loans, or both;

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

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

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

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

24 (i) Catastrophic event, as declared by the federal or state
25 government;

26 (ii) Serious illness or injury, or serious illness or injury to
27 an immediate family member;

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

29 (iv) Divorce or involuntary interruption of legally owed alimony
30 or support payments;

31 (v) Identity theft;

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

34 (vii) Military deployment overseas; or

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

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

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

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

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

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

7 (v) Grant an exception where the consumer asks for consideration
8 of repeated events or the insurer has considered this event
9 previously.

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

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

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

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

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

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