

HOUSE BILL REPORT

HB 1811

As Reported by House Committee On:
Consumer Protection & Business

Title: An act relating to reasonable exceptions to insurance rates for consumers whose credit information is influenced by extraordinary life circumstances.

Brief Description: Concerning reasonable exceptions to insurance rates for consumers whose credit information is influenced by extraordinary life circumstances.

Sponsors: Representatives Hackney, Corry, Chapman and Walen.

Brief History:

Committee Activity:

Consumer Protection & Business: 2/14/23, 2/15/23 [DP].

Brief Summary of Bill

- Requires insurers to provide reasonable exceptions to their personal insurance rates and underwriting rules when a consumer's credit history is impacted by specified events.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: Do pass. Signed by 13 members: Representatives Walen, Chair; Reeves, Vice Chair; Corry, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Chapman, Cheney, Connors, Donaghy, Hackney, Ryu, Sandlin, Santos and Volz.

Staff: Michelle Rusk (786-7153).

Background:

Personal Insurance.

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.

Personal insurance refers to the following types of insurance policies:

- 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 a 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. The term "insurance score" in the Insurance Code is defined as a number or rating that is derived from an algorithm, computer application, model, or other process 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 by the insurer.

Use of Credit History in Insurance.

Insurers are prohibited from canceling or refusing to renew personal insurance based in whole or in part on a consumer's credit history or insurance score. Additionally, an insurer may use credit history to deny personal insurance only in combination with other substantive underwriting factors. Insurers are also prohibited from denying insurance coverage or determining premiums or rates based on: (1) the absence of credit history or the inability to determine the consumer's credit history; (2) the number of credit inquiries; (3) credit history or an insurance score based on collection accounts identified with a medical industry code; (4) the initial purchase or finance of a vehicle or house that adds a new loan to the consumer's existing credit history, if evident from the consumer report; (5) the consumer's use of a particular type of credit card, charge card, or debit card; or (6) the consumer's total available line of credit.

Written Notifications to Insureds.

Renewing Insurance Policies.

If an insurer wishes to renew an insured's insurance policy, then at least 20 days before the insurance policy's expiration date the insurer must communicate to the insured in writing, either directly or through its agent, the insurer's willingness to renew, and include in that writing a statement of the amount of the premium or portion of the premium required to be paid by the insured to renew the policy. This 20-day notice to the insured must also include the amount of any increased premium resulting from a change of rates and, generally, an explanation of any change in the contract provisions. If the 20-day notice to the insured does not include the amount of any increased premium resulting from a change of rates and an explanation of any change in the contract provisions, the insurer must generally renew the policy according to the rates and contract provisions applicable to the expiring policy.

Adverse Actions.

An insurer that takes adverse action against a consumer based in whole or in part on credit history or insurance score must provide written notice to the applicant or named insured. Adverse actions include: (1) cancellation, denial, or nonrenewal of personal insurance coverage; (2) charging a higher premium for personal insurance than would have been offered if the credit history or insurance score had been more favorable; or (3) any reduction or adverse or unfavorable change in the terms of coverage or amounts of any personal insurance due to a consumer's credit history or insurance score. The required adverse action notice must state the significant factors of the credit history or insurance score that resulted in the adverse action. The insurer must inform the consumer that the consumer is entitled to a free copy of the consumer's credit report under the federal Fair Credit Reporting Act.

Summary of Bill:

Reasonable Exception.

Upon written request of an insured or an applicant for insurance, an insurer that uses credit information must provide reasonable exceptions to their rates, rating classifications, company or tier placement, or underwriting rules or guidelines for applicants or insureds whose credit information has been directly influenced by:

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

If an insured or applicant submits a request for an exception, an insurer may, in its sole discretion:

- require the consumer to provide reasonable, written, and independently verifiable documentation of the event;
- require the consumer to demonstrate that the event had a direct and meaningful impact on the consumer's credit information;
- require that such request be made no more than 60 days from the date of the application for insurance or the policy renewal;
- grant an exception despite the consumer not providing the initial request for an exception in writing; and
- grant an exception when the consumer asks for consideration of repeated events or the insurer has considered this event previously.

An insurer must inform a consumer in writing, or in the same manner a consumer made a

request, of the outcome of the consumer's request for a reasonable exception within 30 days of the insurer's receipt of sufficient documentation of an applicable event. If an insurer grants an exception, it may not be considered out of compliance with any law or rule regarding underwriting, rating, or rate filing.

Insurers must provide notice to consumers that reasonable exceptions are available, and information regarding how a consumer may inquire about such exception.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill just gives insurance companies discretion and provides that when they give a consumer a break, the insurance company cannot be held in noncompliance with state law. It is designed to provide insurers flexibility to provide exceptions to those who suffer extraordinary life events. At least 20 states have enacted this policy by law or rule, or otherwise allow it. Only one state expressly disallows what this policy provides, and that is Washington. This bill adds important consumer protections for Washington consumers and is a commonsense approach to helping people who are having difficulty in their lives right now. The committee has been looking at this issue for many years, and House Bill 1811 is identical to House Bill 1351, which previously passed out of this committee unanimously.

This policy puts compassion and understanding before the basic daily commerce that we see in personal and business lives. The strength of the client relationship with an independent insurance agent is the value of the business for that business owner. It is during that relationship that each of those people get to know each other. This bill gives an agent the opportunity to go to bat for a customer to try and make a difference.

(Opposed) Under this bill, the burden is placed on a person to apply for a credit history-related exemption, and credit scoring should not have a place in the determination of insurance rates to begin with. This policy also allows insurance companies to circumvent antidiscrimination statutes, and if the bill becomes law, similarly-situated consumers could be charged disparate rates for arbitrary reasons. Insurance companies would have discretion to decide whose life circumstances are more or less extraordinary than another's, and this is unseemly at a time when everyone has lived through extraordinary life circumstances over the last few years. With respect to insurance scoring specifically, the connection to race and class is documented. BIPOC individuals, and even poor white and working-class Washingtonians have lower credit scores than their more affluent counterparts, which may

result in poor drivers with great driving records possibly paying higher auto premiums simply because they have fewer resources than richer drivers with spottier driving records.

(Other) Anyone going through an extraordinary life circumstance should have some accommodations with their insurance rates. There are three primary concerns with this policy. First, it is based on an insurance principle around unfair discrimination, because the process in the bill is subjective and at the discretion of the insurance company. It could allow two consumers with the same risk factors to be treated differently for the same type of policy. This is very different from how discounts work. Second, the burden is placed on consumers while recovering from an extraordinary life circumstance and there is no guarantee of relief. Third, data on how these programs work should be made available, since it is completely objective and discretionary. What are the metrics, and how long does relief last, if granted? Are some companies better than others at processing these requests, or the amount of relief offered?

Persons Testifying: (In support) Representative David Hackney, prime sponsor; Bill Stauffacher, Independent Insurance Agents and Brokers of Washington; Jean Leonard, Washington Insurers, Nationwide Insurance, and State Farm Insurance; Kenton Brine, NW Insurance Council; and Christine Brewer, American Property Casualty Insurance Association.

(Opposed) Shaun Scott.

(Other) Bryon Welch and David Forte, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.