Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Financial Institutions & Insurance Committee

HB 2513

Brief Description: Using credit history, education, and income for insurance purposes.

Sponsors: Representatives Nelson, Kirby, Chase, Kenney, Morrell, Hasegawa, Ormsby, Darneille and Moeller; by request of Insurance Commissioner.

Brief Summary of Bill

- Prohibits an insurer from considering a consumer's credit history education, or income in determining personal insurance rates, premiums, or eligibility for coverage.

Hearing Date: 1/20/10

Staff: Jon Hedegard (786-7127).

Background:

Insurance Scores.
An insurance score is a number generated via a computer program that analyzes the data in an individual's credit report. The computer program uses an algorithm to reduce credit report data to a single numerical score. Generally, insurance scores are calculated either by insurers using their own computer model or by third-party vendors who contract with insurers to do credit score calculations. In 2002, Washington passed a law limiting the ways in which a credit history or an insurance score can be used by insurers in underwriting and rating personal insurance.

Personal Insurance.
Personal insurance" is defined as the following coverages:
- private passenger automobile coverage;
- homeowner's coverage, including mobile homeowners, manufactured homeowners, condominium owners, and renter's coverage;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- dwelling property coverage;
- earthquake coverage for a residence or personal property;
- personal liability and theft coverage;
- personal inland marine coverage; and
- mechanical breakdown coverage for personal auto or home appliances

Insurance Scoring Models.
Insurers may use credit history to determine premiums, rates, or eligibility for personal insurance coverage unless the insurer has filed the insurance scoring models with the Insurance Commissioner.

Credit Information that May not be Used by Insurers.
There are certain types of credit history information that an insurer must not consider in rate setting or use to deny coverage, including:
- an absence of credit history;
- the number of credit inquiries;
- credit history related to medical care;
- entries related to the initial purchase or finance of a house or car;
- use of a particular type of credit, debit, or charge card; or
- the dollar amount of a consumer's available credit.

Applicants.
An insurer is permitted to consider credit history in the evaluation of a new customer applying for insurance. Credit history must be considered with other substantive underwriting factors. An offer of placement with an affiliate insurer does not constitute a denial of coverage.

Denials.
Insurers must not deny personal insurance coverage based on:
- the absence of credit history or the inability to determine the consumer's credit history, if the insurer has received accurate and complete information from the consumer;
- the number of credit inquiries;
- credit history or an insurance score based on collection accounts identified with a medical industry code;
- 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; however, an insurer may consider the bill payment history of any loan, the total number of loans, or both;
- the consumer's use of a particular type of credit card, charge card, or debit card; or
- the consumer's total available line of credit; however, an insurer may consider the total amount of outstanding debt in relation to the total available line of credit.

Cancellation and Nonrenewal.
An insurer's decision to cancel or not renew an existing policy of personal insurance may not be based on an insured's credit history. However, an insurer may use credit history as the basis for placing an insured with another company affiliated with the insurer.

Notice to the Consumer.

An insurer that takes any adverse action against a consumer based on credit history must provide the consumer with written notice. This includes placement with an affiliate that does not offer the lowest rates. The notice must identify those aspects of the consumer's credit history that played a significant role in the decision leading to the adverse action. The insurer must also inform the consumer that the consumer is entitled to a free copy of his or her credit report. An insured is provided with certain remedies if his or her insurance coverage is adversely affected by an inaccurate credit history.

Inaccurate Credit Histories.
An insured is provided with certain remedies if his or her insurance coverage is adversely affected by an inaccurate credit history. If the insured is overcharged, they are rerated. If the insured is placed with an affiliate that charged more or has less favorable contract terms, the insurer must reissue or rerate the policy retroactive to the effective date of the current policy term. These remedies only apply if the insured resolves the dispute under the process set forth in the Fair Credit Reporting Act and notifies the insurer in writing that the dispute has been resolved.

Use of Education and Income Factors by Insurers.
An insurer may consider education and/or income in determining rates or eligibility for insurance. The insurer must actuarially justify any proposed rates to the Office of the Insurance Commissioner when submitting the rates for OIC approval. Rates may not be excessive, inadequate, or unfairly discriminatory.

Consumer Protection Act.
The Consumer Protection Act (CPA) prohibits unfair or deceptive practices in trade or commerce. The Office of the Attorney General may bring an action in the name of the state on behalf of persons injured by a violation of the CPA. A private party may also bring an action to enforce the CPA. In an action for a CPA violation, a prevailing plaintiff may recover: (1) the actual damages sustained; (2) the costs of the suit; and (3) a reasonable attorney's fee. Additionally, the court has the discretion to award additional damages in the amount of up to three times the actual damages sustained by the plaintiff. These discretionary treble damages are limited to $25,000.

Summary of Bill:

"Education" is defined as enrollment in a public or private school, college, or university or completion of a grade level, a diploma, or a degree. It does not mean completion of a traffic safety course or scholastic achievement while enrolled in a school, college, or university.

An insurer must not, in any manner, use a consumer's credit history, education, or income to determine personal insurance rates, premiums, or eligibility for coverage. A violation is a violation of the CPA.

The provisions of the bill apply to all personal insurance policies issued or renewed after July 1, 2011.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 1, 2010.