H-0528.2

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 1368**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Johnson, Springer, Stambaugh, Robinson, Appleton, Jinkins, McCabe, Ortiz-Self, Haler, and Riccelli

AN ACT Relating to transparency in underwriting and rating personal insurance; amending RCW 48.18.2901, 48.18.292, 48.18.545, and 48.19.035; adding a new section to chapter 48.18 RCW; and providing an effective date.

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

NEW SECTION. **Sec.**  A new section is added to chapter 48.18 RCW to read as follows:

(1)(a) If the amount of any premium charged by an insurer to an insured under a personal insurance policy is increasing at renewal, the insurer shall deliver or mail written notification of the significant reasons for the premium increase to the insured at least twenty days before the expiration of the current policy period. The written notification must clearly and conspicuously disclose to the insured the significant reasons for the premium increase.

(b) The written notification required by this section must be included in the notice required under RCW 48.18.2901 (1)(b) and (2), and 48.18.292(1)(b), if applicable.

(c) Examples of significant reasons for the premium increase may include, among any other actual significant reason for the premium increase, the following as appropriate:

(i) A change in the insurer's rating territories negatively affects the insured's premium;

(ii) The insured no longer qualifies for a discount the insured previously received;

(iii) The scope of the insured's coverage under the policy is changing;

(iv) The addition of another insured or insureds to the insured's policy results in an increase in premium;

(v) The policy is subject to a premium-capping rule and removing or reducing the cap negatively affects the insured's premium;

(vi) The insured's driving history negatively affects the insured's premium;

(vii) The insured's claims history negatively affects the insured's premium;

(viii) The insured's credit history negatively affects the insured's premium; and

(ix) The insured's address changed and it negatively affects the insured's premium.

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

(3) The definition in this subsection applies throughout this section unless the context clearly requires otherwise.

"Personal insurance" means:

(a) Private passenger automobile coverage;

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

(c) Dwelling property coverage;

(d) Earthquake coverage for a residence or personal property;

(e) Personal liability and theft coverage;

(f) Personal inland marine coverage; and

(g) Mechanical breakdown coverage for personal auto or home appliances.

**Sec.**  RCW 48.18.2901 and 2006 c 8 s 213 are each amended to read as follows:

(1) Each insurer must renew any insurance policy subject to RCW 48.18.290 unless one of the following situations exists:

(a)(i) For all insurance policies subject to RCW 48.18.290(1)(a):

(A) The insurer must deliver or mail written notice of nonrenewal to the named insured at least forty-five days before the expiration date of the policy; and

(B) The notice must include the insurer's actual reason for refusing to renew the policy.

(ii) For medical malpractice insurance policies subject to RCW 48.18.290(1)(b):

(A) The insurer must deliver or mail written notice of the nonrenewal to the named insured at least ninety days before the expiration date of the policy; and

(B) The notice must include the insurer's actual reason for refusing to renew the policy and describe the significant risk factors that led to the insurer's underwriting action, as defined under RCW 48.18.547(1)(e);

(b) At least twenty days prior to its expiration date, the insurer has communicated, either directly or through its agent, its willingness to renew in writing to the named insured and has included in that writing a statement of the amount of the premium or portion thereof required to be paid by the insured to renew the policy and, if applicable, the written disclosure required by section 1 of this act, and the insured fails to discharge when due his or her obligation in connection with the payment of such premium or portion thereof;

(c) The insured has procured equivalent coverage prior to the expiration of the policy period;

(d) The contract is evidenced by a written binder containing a clearly stated expiration date which has expired according to its terms; or

(e) The contract clearly states that it is not renewable, and is for a specific line, subclassification, or type of coverage that is not offered on a renewable basis. This subsection (1)(e) does not restrict the authority of the insurance commissioner under this code.

(2) Any insurer failing to include in the notice required by subsection (1)(b) of this section the amount of any increased premium resulting from a change of rates ((~~and~~)), an explanation of any change in the contract provisions, and, if applicable, the written disclosure required by section 1 of this act shall renew the policy if so required by that subsection according to the rates and contract provisions applicable to the expiring policy. However, renewal based on the rates and contract provisions applicable to the expiring policy shall not prevent the insurer from making changes in the rates and/or contract provisions of the policy once during the term of its renewal after at least twenty days' advance notice of such change has been given to the named insured.

(3) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal, or with respect to cancellation of fire policies under chapter 48.53 RCW.

(4) "Renewal" or "to renew" means the issuance and delivery by an insurer of a contract of insurance replacing at the end of the contract period a contract of insurance previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a contract beyond its policy period or term. However, (a) any contract of insurance with a policy period or term of six months or less whether or not made continuous for successive terms upon the payment of additional premiums shall for the purpose of RCW 48.18.290 and 48.18.293 through 48.18.295 be considered as if written for a policy period or term of six months; and (b) any policy written for a term longer than one year or any policy with no fixed expiration date, shall, for the purpose of RCW 48.18.290 and 48.18.293 through 48.18.295, be considered as if written for successive policy periods or terms of one year.

(5) A midterm blanket reduction in rate, approved by the commissioner, for medical malpractice insurance shall not be considered a renewal for purposes of this section.

**Sec.**  RCW 48.18.292 and 2008 c 217 s 17 are each amended to read as follows:

(1) Each insurer shall be required to renew any contract of insurance subject to RCW 48.18.291 unless one of the following situations exists:

(a) The insurer gives the named insured at least twenty days' notice in writing as provided for in RCW 48.18.291(1), that it proposes to refuse to renew the insurance contract upon its expiration date; and sets forth therein the actual reason for refusing to renew; or

(b) At least twenty days prior to its expiration date, the insurer has communicated its willingness to renew in writing to the named insured, and has included therein a statement of the amount of the premium or portion thereof required to be paid by the insured to renew the policy, including the amount by which the premium or deductibles have changed from the previous policy period, ((~~and~~)) the date by which such payment must be made, and, if applicable, the written disclosure required by section 1 of this act, and the insured fails to discharge when due his or her obligation in connection with the payment of such premium or portion thereof; or

(c) The insured's insurance producer has procured other coverage acceptable to the insured prior to the expiration of the policy period.

(2) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(3) "Renewal" or "to renew" means the issuance and delivery by an insurer of a contract of insurance replacing at the end of the contract period a contract of insurance previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a contract beyond its policy period or term: PROVIDED, HOWEVER, That any contract of insurance with a policy period or term of six months or less whether or not made continuous for successive terms upon the payment of additional premiums shall for the purpose of RCW 48.18.291 through 48.18.297 be considered as if written for a policy period or term of six months: PROVIDED, FURTHER, That any policy written for a term longer than one year or any policy with no fixed expiration date, shall, for the purpose of RCW 48.18.291 through 48.18.297, be considered as if written for successive policy periods or terms of one year.

(4) On and after January 1, 1980, no policy of insurance subject to RCW 48.18.291 shall be issued for a policy period or term of less than six months.

(5) No insurer shall refuse to renew the liability and/or collision coverage of an automobile insurance policy on the basis that an insured covered by the policy of the insurer has submitted one or more claims under the comprehensive, road service, or towing coverage of the policy. Nothing in this subsection shall prohibit the nonrenewal of comprehensive, road service, or towing coverage on the basis of one or more claims submitted by an insured.

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

(1) For the purposes of this section:

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

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

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

(A) Application of a rating rule;

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

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

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

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

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

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

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

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

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

(f) "Insurance score" means 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.

(g) "Personal insurance" means:

(i) Private passenger automobile coverage;

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

(iii) Dwelling property coverage;

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

(v) Personal liability and theft coverage;

(vi) Personal inland marine coverage; and

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

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

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

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

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

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

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

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

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

(a) 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;

(b) The number of credit inquiries;

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

(d) 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;

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

(f) 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.

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

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

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

(b) This subsection only applies if the consumer 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.

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

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

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

(1) For the purposes of this section:

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

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

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

(d) "Insurance score" means 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.

(e) "Personal insurance" means:

(i) Private passenger automobile coverage;

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

(iii) Dwelling property coverage;

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

(v) Personal liability and theft coverage;

(vi) Personal inland marine coverage; and

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

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

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

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

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

(b) The number of credit inquiries;

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

(d) 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;

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

(f) 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.

(4) If a consumer is charged higher premiums due to disputed credit history, the insurer shall rerate the policy retroactive to the effective date of the current policy term. As rerated, the consumer shall be charged the same premiums they would have been charged if accurate credit history was used to calculate an insurance score. This subsection applies only if the consumer 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.

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

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

NEW SECTION. **Sec.**  Sections 1 through 5 of this act take effect January 1, 2018.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**--- END ---**