S-1136.2

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**SUBSTITUTE SENATE BILL 5010**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senate Business, Financial Services & Trade (originally sponsored by Senators Das, Randall, Billig, Carlyle, Conway, Dhingra, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Nobles, Nguyen, Pedersen, Robinson, Rolfes, Saldaña, Stanford, Van De Wege, and Wilson, C.; by request of Insurance Commissioner and Office of the Governor)

AN ACT Relating to allowing the use of credit history for personal lines of insurance if it improves a consumer's insurance score and lowers their premium for a period of three years; amending RCW 48.19.035; creating a new section; and declaring an emergency.

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

NEW SECTION. **Sec.**  The purpose of this act is to protect insureds from the possibility of adverse effects of the pandemic on their personal insurance rates by limiting the use of consumer credit history for a period of three years. This act will ensure that insurance does not become more unaffordable for individuals and families encountering financial challenges brought on by the pandemic by prohibiting its use unless the affect is an improved insurance score and lower premium. By providing this consumer protection during this extraordinary time, the legislature intends to provide necessary temporary relief to Washington state insureds whose credit scores have been negatively affected because of this economic crisis.

**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; or

(g) Credit history to increase rates or premiums at renewal for any personal insurance policy effective 90 days after approval of the special credit score rate rule, established in subsection (6) of this section, through June 30, 2024.

(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~~)) (a) To comply with subsection (3)(g) of this section, property and casualty insurers must file a special credit score rate rule by July 1, 2021, and apply it to renewals within 90 days after approval. The special credit score rate rule shall contain the following language or substantively equivalent variations thereof: "When the consumer credit history of a policyholder is reordered, it will only be used in the rating of the policy when the consumer credit history reorder result is equal to or better than that of the current consumer credit history under which the policy is rated."

(b) The commissioner shall approve the special credit score rate rule filing within 15 days of receipt.

(7) Rate rule filings submitted in compliance with this section do not violate RCW 48.19.020.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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