

SENATE BILL REPORT

SB 5969

As of February 1, 2022

Title: An act relating to delaying the office of the insurance commissioner from conducting rule making on the use of credit scores in setting insurance premiums until a work group can address ways to reduce insurance costs for Washington residents with below average credit scores.

Brief Description: Delaying the office of the insurance commissioner from conducting rule making on the use of credit scores in setting insurance premiums.

Sponsors: Senator Mullet.

Brief History:

Committee Activity:

Brief Summary of Bill

- Establishes a work group, convened by a mediator, to examine the use of credit history in insurance scores.
- Requires the work group to develop viable policy options for the Legislature's consideration by December 1, 2022.
- Prohibits the Office of the Insurance Commissioner (OIC) from adopting any rules that would conflict with current law regarding the use of credit history in insurance scores until June 30, 2023.
- Requires insurers to provide information on the consumer experience with the OIC's emergency rule within three months from the date of the request by the work group.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Staff: Kellee Gunn (786-7429)

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.

Background: 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. An insurance score is derived from an algorithm or model 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 (OIC) by the insurer. Using credit history or an insurance score to determine rates, premiums, or eligibility depends on the insurer and the regulator. Personal information, such as gender, age, or marital status, cannot be used in a credit-based insurance score.

Since 2002, credit-based insurance scores (CBIS) in Washington State have been controlled by state law. Under that law, credit history may only be used to deny personal insurance in combination with other substantive underwriting factors. Certain debts and parts of a credit history—such as medical debt and lack of credit—cannot be used in insurance scores. CBIS may be used by insurers for new insurance applicants and for current policy holders at renewal.

Emergency Rules Prohibiting the Use of Credit History in Insurance Scores. On March 22, 2021, the OIC filed an emergency rule-making order to temporarily prohibit the use of credit history in determining premiums and eligibility for coverage in certain personal insurance products, namely private automobile, homeowners, and renter's insurance. On June 20, 2021, the prohibitions in this rule were required for all new policies, and those up for renewal on or after that date.

In October 2021, the emergency rule was overturned by Thurston County Superior Court. Normal rule-making has begun to make this emergency rule permanent, with the most recent rule-making hearing on November 23, 2021.

Summary of Bill: A work group is established to examine the use of credit history in insurance scores and develop viable policy options for creating an insurance environment that is affordable and equitable for everyone, including those with low credit scores. The work group must be convened by a mediator, appointed by the Office of Financial Management.

The mediator must promptly meet with the representatives of the work group and assist them in developing viable policy options to present to the Legislature. The mediator cannot force an agreement between the parties.

Policy options must be submitted to the Legislature by December 1, 2022.

To assist in the work group's deliberations, insurers must provide information on the consumer experience with the OIC's emergency rule. Information may be provided on an aggregate basis through an insurance information organization and must be produced within three months from the date of the request by the work group. The OIC is prohibited from adopting any rules that would conflict with current law regarding the use of credit history in

insurance scores until June 30, 2023.

The work group must consist of :

- five members, representing the insurance industry, chosen by a nonprofit, member-supported council representing property and casualty insurers in the Pacific Northwest; and
- five members, representing consumer advocacy organizations and insurance regulators, chosen by the OIC.

All work group members must be residents of Washington State.

Appropriation: None.

Fiscal Note: Requested on January 30, 2022.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: I have received more emails from people of color who have seen their rates go up than those who have seen their rates go down. While the intent of the OIC emergency bill is good, stakeholder work needs to be done. There needs to be a thoughtful examination, with an actuarial analysis, of how insureds' rates went up. We can have policy disagreements; but we need to be careful when we call policies racist. The work group will give us a level of transparency to find a middle ground. We are supportive of this bill as it lays out a plan to go forward. We request three amendments: the title needs to reflect the work group's efforts and final work product, the final work product needs to include a road map if the state were to prohibit the use of credit history in insurance, and the Department of Enterprise Services should appoint the mediator for convening this work group. Insurers and their customers wish to avoid another rule prohibiting the use of credit history. Untold numbers of consumers could be hurt by a statewide ban, and this will allow for a thoughtful analysis and will benefit all policy holders.

CON: The OIC is a proponent of permanently banning the use of credit and would be supportive of having a work group create a plan for the eventual complete prohibition of the use of credit history in insurance scores. The bill before you removes OIC's ability to prohibit the use of credit history. The intent of the work group's process is premised on the continued use of credit. Credit scoring is biased and is based on a foundation of inequality and injustice. Credit scores, along with homeownership and zip codes, are proxies for race. Other things, such as driving history, are better for determining risk. We are supportive of working towards a phase out of credit history being used in insurance.

Persons Testifying: PRO: Paula Sardinias, WA Build-Back Black Alliance (WBBA);

Jean (Leonard) Leonard, WA Insurers; RaShelle Davis, Governor's Office.

CON: Jon Noski, Office of the Insurance Commissioner; Marcy Bowers, Statewide Poverty Action Network.

Persons Signed In To Testify But Not Testifying: No one.