
SENATE BILL 5010

State of Washington

67th Legislature

2021 Regular Session

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

Prefiled 12/10/20. Read first time 01/11/21. Referred to Committee on Business, Financial Services & Trade.

1 AN ACT Relating to prohibiting the use of credit scores to
2 determine rates for personal lines of insurance; amending RCW
3 48.18.547, 48.18.610, and 48.19.035; adding a new section to chapter
4 48.19 RCW; creating a new section; repealing RCW 48.18.545; and
5 providing effective dates.

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

7 NEW SECTION. **Sec. 1.** The use of credit scoring to calculate
8 rates for personal lines of insurance is unfair and has a
9 disproportionate economic impact on the poor and communities of color
10 in our state. Consequently, no insurer engaged in writing personal
11 lines of insurance including property and casualty coverage shall, in
12 connection with underwriting of those lines of insurance, refuse to
13 issue or renew a private insurance policy based upon an individual's
14 credit information or history including, but not limited to, a
15 numerical credit-based insurance score or other credit rating of an
16 applicant or insured. Furthermore, no insurer shall file rates for
17 personal lines of insurance based upon credit information including,
18 but not limited to, a numerical credit-based insurance score or other
19 credit rating of an applicant or insured.

1 **Sec. 2.** RCW 48.18.547 and 2006 c 8 s 211 are each amended to
2 read as follows:

3 (1) For the purposes of this section:

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

5 (b) "Claim" means a demand for monetary damages by a claimant.

6 (c) "Claimant" means a person, including a decedent's estate, who
7 is seeking or has sought monetary damages for injury or death caused
8 by medical malpractice.

9 (d) "Tier" (~~has the same meaning as in RCW 48.18.545(1)(h))~~)
10 means a category within a single insurer into which insureds with
11 substantially similar insuring, risk or exposure factors, and expense
12 elements are placed for purposes of determining rate or premium.

13 (e) "Underwrite" or "underwriting" means the process of
14 selecting, rejecting, or pricing a risk, and includes each of these
15 activities:

16 (i) Evaluation, selection, and classification of risk, including
17 placing a risk with an affiliate insurer that has higher rates and/or
18 rating plan components that will result in higher premiums;

19 (ii) Application of classification plans, rates, rating rules,
20 and rating tiers to an insured risk; and

21 (iii) Determining eligibility for:

22 (A) Insurance coverage provisions;

23 (B) Higher policy limits; or

24 (C) Premium payment plans.

25 (2) During each underwriting process, an insurer may consider the
26 following factors only in combination with other substantive
27 underwriting factors:

28 (a) An insured has inquired about the nature or scope of coverage
29 under a medical malpractice insurance policy;

30 (b) An insured has notified their insurer about an incident that
31 may be covered under the terms of their medical malpractice insurance
32 policy, and that incident does not result in a claim; or

33 (c) A claim made against an insured was closed by the insurer
34 without payment. An insurer may consider the effect of multiple
35 claims if they have a significant effect on the insured's risk
36 profile.

37 (3) If any underwriting activity related to the insured's risk
38 profile results in higher premiums as described under subsection
39 (1)(e)(i) and (ii) of this section or reduced coverage as described
40 under subsection (1)(e)(iii) of this section, the insurer must

1 provide written notice to the insured, in clear and simple language,
2 that describes the significant risk factors which led to the
3 underwriting action. The commissioner must adopt rules that define
4 the components of a risk profile that require notice under this
5 subsection.

6 **Sec. 3.** RCW 48.18.610 and 2016 c 121 s 1 are each amended to
7 read as follows:

8 (1) An insurer may include contractual benefits based on customer
9 satisfaction as part of an insurance policy. The insurer must file
10 the policy or endorsement for approval as required by RCW 48.18.100.
11 The contractual benefits may include sums of money provided or
12 credited to a policyholder if the policyholder is dissatisfied with
13 the service provided by their insurer. A sum that is provided to or
14 credited to a policyholder as part of an approved contractual benefit
15 based on customer satisfaction is not "premium" for the purposes of
16 RCW 48.18.170. A policy premium reduced by such a credit will be
17 taxed on the full cost of the premium before application of the
18 customer satisfaction credit.

19 (2) This section applies only to personal insurance as defined in
20 RCW ((48.18.545(1)(g))) 48.19.035(1)(d).

21 **Sec. 4.** RCW 48.19.035 and 2004 c 86 s 1 are each amended to read
22 as follows:

23 (1) For the purposes of this section:

24 (a) "Affiliate" has the same meaning as defined in RCW
25 48.31B.005(1).

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

28 (c) "Credit history" means any written, oral, or other
29 communication of any information by a consumer reporting agency
30 bearing on a consumer's creditworthiness, credit standing, or credit
31 capacity that is used or expected to be used, or collected in whole
32 or in part, for the purpose of serving as a factor in determining
33 personal insurance premiums or eligibility for coverage. ((~~d~~)
34 ~~"Insurance score" means a~~) Credit history includes, but is not
35 limited to, any number or rating that is derived from an algorithm,
36 computer application, model, or other process that is based in whole
37 or in part on credit history.

38 ((~~e~~)) (d) "Personal insurance" means:

- 1 (i) Private passenger automobile coverage;
- 2 (ii) Homeowner's coverage, including mobile homeowners,
- 3 manufactured homeowners, condominium owners, and renter's coverage;
- 4 (iii) Dwelling property coverage;
- 5 (iv) Earthquake coverage for a residence or personal property;
- 6 (v) Personal liability and theft coverage;
- 7 (vi) Personal inland marine coverage; and
- 8 (vii) Mechanical breakdown coverage for personal auto or home
- 9 appliances.

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

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

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

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

37 ~~(b) The number of credit inquiries;~~

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

1 ~~(d) The initial purchase or finance of a vehicle or house that~~
2 ~~adds a new loan to the consumer's existing credit history, if evident~~
3 ~~from the consumer report; however, an insurer may consider the bill~~
4 ~~payment history of any loan, the total number of loans, or both;~~

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

7 ~~(f) The consumer's total available line of credit; however, an~~
8 ~~insurer may consider the total amount of outstanding debt in relation~~
9 ~~to the total available line of credit.~~

10 ~~(4) If a consumer is charged higher premiums due to disputed~~
11 ~~credit history, the insurer shall rerate the policy retroactive to~~
12 ~~the effective date of the current policy term. As rerated, the~~
13 ~~consumer shall be charged the same premiums they would have been~~
14 ~~charged if accurate credit history was used to calculate an insurance~~
15 ~~score. This subsection applies only if the consumer resolves the~~
16 ~~dispute under the process set forth in the fair credit reporting act~~
17 ~~and notifies the insurer in writing that the dispute has been~~
18 ~~resolved).~~

19 ~~((5))~~ (3) The commissioner may adopt rules to implement this
20 section.

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

23 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.19
24 RCW to read as follows:

25 If an insurer's filed rates and rating rules for personal
26 insurance use credit history:

27 (1) On or after January 1, 2022, the commissioner shall
28 disapprove an insurer's filing of rates and rating rules for any type
29 of personal insurance that uses credit history to determine its rates
30 unless:

31 (a) The filing has the effect of removing credit history from the
32 rates and rating rules for that type of insurance; or

33 (b) The insurer previously submitted a filing to remove the use
34 of credit history from its rates and rating rules for that type of
35 insurance and the commissioner approved that filing.

36 (2) Prior to January 1, 2023, if an insurer's filed rates and
37 rating rules for personal insurance use credit history, the insurer
38 must submit a filing to remove the use of credit from its rates and
39 rating rules.

1 (3) Effective January 1, 2023, insurers must not use credit
2 history to determine premiums for personal insurance policies issued
3 or renewed.

4 NEW SECTION. **Sec. 6.** RCW 48.18.545 (Underwriting restrictions
5 that apply to personal insurance—Credit history or insurance score—
6 Rules) and 2002 c 360 s 1, as now existing or hereafter amended, are
7 each repealed, effective January 1, 2023.

8 NEW SECTION. **Sec. 7.** Sections 2 through 4 of this act take
9 effect January 1, 2023.

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