
**Financial Institutions &
Insurance Committee**

HB 1128

Brief Description: Prohibiting insurers from canceling, denying, or refusing to renew property insurance policies due to claims made for malicious harassment.

Sponsors: Representatives Schual-Berke, Benson, Simpson, Ruderman, Wallace, Hunt, McDermott, Pflug, Campbell and Upthegrove; by request of Insurance Commissioner.

Brief Summary of Bill

- Prohibits an insurer from taking an adverse underwriting action against an insured as the result of an insurance claim stemming from the crime of malicious harassment.
- Requires insurers to report annually to the Insurance Commissioner regarding any underwriting action taken against an insured who has filed a malicious harassment loss claim during the preceding five years.
- Engaging in prohibited underwriting practices constitutes an unfair business practice under state anti-discrimination laws.

Hearing Date: 1/28/03.

Staff: Thamas Osborn (786-7129).

Background:

Regulation of Insurance Underwriting: The Office of the Insurance Commissioner (OIC) is responsible for the regulation of the insurance industry in the state of Washington. The commissioner is authorized to regulate both the underwriting and rate-setting practices of the companies doing business in this state. In addition, the OIC is given broad regulatory authority to prevent insurance practices that are either unfair, deceptive, or discriminatory. Under current law, there is no explicit regulation of the underwriting practices of insurers with respect to claims stemming from hate crimes or malicious harassment.

Malicious harassment: The crime of malicious harassment consists of either a threat, or an act causing physical injury or property damage, that is directed against a person because of his or her race, color, religion, ethnicity, gender, sexual orientation, or disability. The

burning of a cross or defacing property with a swastika constitutes a crime per se when directed against an African - American or a person of Jewish heritage, respectively. Malicious harassment is a class C felony.

Anti-discrimination laws: Washington's anti-discrimination act guarantees the right of all citizens to be free of discrimination based on race, religion, ethnicity, gender, or disability. The rights encompassed by the act include those related to employment, public accommodations, real estate, credit acquisition, and insurance transactions. Unfair business practices which violate the act are considered per se violations of the Consumer Protection Act. In addition, legal remedies are provided for any person injured as the result of the violation of the act.

Laws of other states: In response to several widely reported hate crimes involving arson and vandalism, both California and Illinois have enacted legislation prohibiting insurers from cancelling or non-renewing property insurance policies due to claims resulting from such crimes. The passage of the California law was the result of a series of arsons against synagogues perpetrated by individuals linked with an anti-Semitic hate group. An insurer later refused to renew the policy of one of the synagogues that suffered extensive property damage.

Summary of Bill:

Insurers are prohibited from taking an "underwriting action" against an insured as the result of a property insurance claim stemming from the crime of malicious harassment. This prohibition applies with respect to insurance claims made within five years of such action. "Underwriting action" is defined to include:

cancellation or non-renewal of an existing policy; or

- an insurer's refusal to issue a new policy; or
- any change of the terms or benefits of a policy.

An insurer must file an annual report with the OIC regarding any underwriting action taken against an insured who has filed a malicious harassment loss claim during the preceding five year period.

The protections provided by the bill apply to individuals as well as any religious, charitable or educational organization that makes an insurance claim due to a loss sustained as the result of malicious harassment. However, the bill requires an injured party to file a report with a law enforcement agency that contains facts sufficient to put the insurer on notice that the loss was the result of such a crime.

Failure to abide by these underwriting requirements constitutes an unfair business practice under Washington's anti-discrimination laws. Conversely, underwriting practices that are consistent with the requirements of the bill are deemed to be in compliance with state anti-discrimination laws.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.