
HOUSE BILL 1368

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

Read first time 01/18/17. Referred to Committee on Business & Financial Services.

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

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.18
7 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 "Personal insurance" means:

23 (a) Private passenger automobile coverage;

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

26 (c) Dwelling property coverage;

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

28 (e) Personal liability and theft coverage;

29 (f) Personal inland marine coverage; and

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

32 **Sec. 2.** RCW 48.18.2901 and 2006 c 8 s 213 are each amended to
33 read as follows:

34 (1) Each insurer must renew any insurance policy subject to RCW
35 48.18.290 unless one of the following situations exists:

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

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

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

3 (ii) For medical malpractice insurance policies subject to RCW
4 48.18.290(1)(b):

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

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

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

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

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

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

30 (2) Any insurer failing to include in the notice required by
31 subsection (1)(b) of this section the amount of any increased premium
32 resulting from a change of rates (~~and~~), an explanation of any
33 change in the contract provisions, and, if applicable, the written
34 disclosure required by section 1 of this act shall renew the policy
35 if so required by that subsection according to the rates and contract
36 provisions applicable to the expiring policy. However, renewal based
37 on the rates and contract provisions applicable to the expiring
38 policy shall not prevent the insurer from making changes in the rates
39 and/or contract provisions of the policy once during the term of its

1 renewal after at least twenty days' advance notice of such change has
2 been given to the named insured.

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

7 (4) "Renewal" or "to renew" means the issuance and delivery by an
8 insurer of a contract of insurance replacing at the end of the
9 contract period a contract of insurance previously issued and
10 delivered by the same insurer, or the issuance and delivery of a
11 certificate or notice extending the term of a contract beyond its
12 policy period or term. However, (a) any contract of insurance with a
13 policy period or term of six months or less whether or not made
14 continuous for successive terms upon the payment of additional
15 premiums shall for the purpose of RCW 48.18.290 and 48.18.293 through
16 48.18.295 be considered as if written for a policy period or term of
17 six months; and (b) any policy written for a term longer than one
18 year or any policy with no fixed expiration date, shall, for the
19 purpose of RCW 48.18.290 and 48.18.293 through 48.18.295, be
20 considered as if written for successive policy periods or terms of
21 one year.

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

25 **Sec. 3.** RCW 48.18.292 and 2008 c 217 s 17 are each amended to
26 read as follows:

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

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

35 (b) At least twenty days prior to its expiration date, the
36 insurer has communicated its willingness to renew in writing to the
37 named insured, and has included therein a statement of the amount of
38 the premium or portion thereof required to be paid by the insured to
39 renew the policy, including the amount by which the premium or

1 deductibles have changed from the previous policy period, (~~and~~) the
2 date by which such payment must be made, and, if applicable, the
3 written disclosure required by section 1 of this act, and the insured
4 fails to discharge when due his or her obligation in connection with
5 the payment of such premium or portion thereof; or

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

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

12 (3) "Renewal" or "to renew" means the issuance and delivery by an
13 insurer of a contract of insurance replacing at the end of the
14 contract period a contract of insurance previously issued and
15 delivered by the same insurer, or the issuance and delivery of a
16 certificate or notice extending the term of a contract beyond its
17 policy period or term: PROVIDED, HOWEVER, That any contract of
18 insurance with a policy period or term of six months or less whether
19 or not made continuous for successive terms upon the payment of
20 additional premiums shall for the purpose of RCW 48.18.291 through
21 48.18.297 be considered as if written for a policy period or term of
22 six months: PROVIDED, FURTHER, That any policy written for a term
23 longer than one year or any policy with no fixed expiration date,
24 shall, for the purpose of RCW 48.18.291 through 48.18.297, be
25 considered as if written for successive policy periods or terms of
26 one year.

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

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

37 **Sec. 4.** RCW 48.18.545 and 2002 c 360 s 1 are each amended to
38 read as follows:

39 (1) For the purposes of this section:

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

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

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

9 (A) Application of a rating rule;

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

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

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

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

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

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

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

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

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

36 (f) "Insurance score" means a number or rating that is derived
37 from an algorithm, computer application, model, or other process that
38 is based in whole (~~or in part~~) on credit history.

39 (g) "Personal insurance" means:

40 (i) Private passenger automobile coverage;

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

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

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

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

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

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

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

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

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

35 (a) The absence of credit history or the inability to determine
36 the consumer's credit history, if the insurer has received accurate
37 and complete information from the consumer;

38 (b) The number of credit inquiries;

39 (c) Credit history or an insurance score based on collection
40 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 (6)(a) If disputed credit history is used to determine
11 eligibility for coverage and a consumer is placed with an affiliate
12 that charges higher premiums or offers less favorable policy terms:

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

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

18 (b) This subsection only applies if the consumer resolves the
19 dispute under the process set forth in the fair credit reporting act
20 and notifies the insurer in writing that the dispute has been
21 resolved.

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

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

25 **Sec. 5.** RCW 48.19.035 and 2004 c 86 s 1 are each amended to read
26 as follows:

27 (1) For the purposes of this section:

28 (a) "Affiliate" has the same meaning as defined in RCW
29 48.31B.005(1).

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

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

1 (d) "Insurance score" means a number or rating that is derived
2 from an algorithm, computer application, model, or other process that
3 is based in whole (~~or in part~~) on credit history.

4 (e) "Personal insurance" means:

5 (i) Private passenger automobile coverage;

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

8 (iii) Dwelling property coverage;

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

10 (v) Personal liability and theft coverage;

11 (vi) Personal inland marine coverage; and

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

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

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

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

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

- 1 (b) The number of credit inquiries;
- 2 (c) Credit history or an insurance score based on collection
3 accounts identified with a medical industry code;
- 4 (d) The initial purchase or finance of a vehicle or house that
5 adds a new loan to the consumer's existing credit history, if evident
6 from the consumer report; however, an insurer may consider the bill
7 payment history of any loan, the total number of loans, or both;
- 8 (e) The consumer's use of a particular type of credit card,
9 charge card, or debit card; or
- 10 (f) The consumer's total available line of credit; however, an
11 insurer may consider the total amount of outstanding debt in relation
12 to the total available line of credit.
- 13 (4) If a consumer is charged higher premiums due to disputed
14 credit history, the insurer shall rerate the policy retroactive to
15 the effective date of the current policy term. As rerated, the
16 consumer shall be charged the same premiums they would have been
17 charged if accurate credit history was used to calculate an insurance
18 score. This subsection applies only if the consumer resolves the
19 dispute under the process set forth in the fair credit reporting act
20 and notifies the insurer in writing that the dispute has been
21 resolved.
- 22 (5) The commissioner may adopt rules to implement this section.
- 23 (6) This section applies to all personal insurance policies
24 issued or renewed on or after June 30, 2003.

25 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act take
26 effect January 1, 2018.

27 NEW SECTION. **Sec. 7.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

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