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**SENATE BILL 5623**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Mullet, Conway, Dozier, and Gildon

AN ACT Relating to protecting consumers by limiting the ability of insurers to use credit histories to increase personal insurance premiums at renewal, but not prohibiting the use of credit history by insurers; 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 provide insurance consumers the best possible outcome from the use of credit history in the underwriting of their insurance and the determination of their premium at renewal. The use of credit history shall neither make insurance coverage more unaffordable for insureds whose credit scores decrease, nor increase it for insureds on fixed incomes who have benefited from low rates because of the use of credit-based insurance scores. By providing this consumer protection, the legislature intends to offer insurers an option to continue to predict risk effectively while limiting the negative outcomes a lower credit score may have on an insured's premium.

**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.

(c) Beginning July 1, 2023, credit history may only be used by insurers as a factor or attribute in determining an insurance score for personal insurance policies for new applicants, or for improving an insured's score at renewal by rerating a policy that results in a lower premium as established in subsection (6) of this section.

(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 policyholder beginning July 1, 2023, as established in subsection (6) of this section.

(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~~)) Beginning July 1, 2023:

(a) A policyholder may request, no more than once per insurer per policy line annually, that the insurer rerate the policyholder's insurance scores according to the standards that the insurer would apply if the consumer were initially applying for the same insurance policy.

(b) The insurer shall rerate a policyholder at renewal after receiving a request from the policyholder or their agent. The insurer shall rerate the policy based upon a current credit history report or insurance score. The policyholder's current credit history report or insurance score shall only be used if the result of the rerate reduces the consumer's premium. If a policyholder's credit history is reordered, or if the existing credit history is used, it shall not result in an increase in premium. The effective date of any rate change is the next date of renewal.

(c) Except as provided in (a) and (b) of this subsection, an insurer may only use rating factors other than credit history or insurance score to rerate the policy at renewal.

(7) Insurers may resume the use of credit history via a note to reviewer or a new filing. If an insured's premium was previously determined using credit history, the prior credit history may be used at the first renewal after enactment of this act.

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

(9) Nothing in this section requires an insurer to:

(a) Use credit history or an insurance score in determining personal insurance premiums or eligibility for coverage; or

(b) Update insurance scores more frequently than upon the consumer's request.

(10) Rules adopted to implement RCW 48.18.480 and 48.19.020 must comply with the provisions of this section. To the extent the commissioner adopts rules in conflict with this section, this section controls.

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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