

# HOUSE BILL REPORT

## HB 1128

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### As Reported by House Committee On:

Financial Institutions & Insurance

**Title:** An act relating to property insurance for victims of malicious harassment.

**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 History:

#### Committee Activity:

Financial Institutions & Insurance: 1/28/03, 2/11/03 [DPS].

#### Brief Summary of Substitute 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 Office of the Insurance Commissioner regarding any underwriting action taken against an insured who has filed a malicious harassment loss claim during the preceding five years.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Schual-Berke, Chair; Simpson, Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Cairnes, Carrell, Cooper, Hatfield, Hunter, Roach and Santos.

**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 OIC 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.

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.

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### **Summary of Substitute 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;
- 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.

### **Substitute Bill Compared to Original Bill:**

The provisions in the original bill making a violation of the underwriting restrictions a violation of Washington's anti-discrimination laws is deleted from the substitute bill.

The substitute bill revises the requirements for reporting incidents to law enforcement. For losses resulting from incidents of malicious harassment occurring subsequent to the effective date of the act, an insured must report the incident to law enforcement within 30 days of the discovery of the incident. The report to law enforcement must be made within six months of discovery with respect to incidents occurring prior to the effective date of this act.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect ninety days after adjournment of session in which bill is passed.

**Testimony For:** Hate crimes are on the rise in Washington and throughout the United States and many have involved considerable property damage. Most notable was the firebombing of two Jewish synagogues in California. A temple in Tacoma has also suffered repeated acts of vandalism that constitute malicious harassment. Many victims do not make insurance claims for fear that they will have increased insurance rates. Victims of crime should not again be victimized by the threat of higher insurance costs. In California, insurers have refused to renew insurance policies due to claims made as the result of malicious harassment, though this has not yet happened in Washington. Both California and Illinois have passed laws similar to this bill. The bill is supported by the Jewish community.

The focus of the bill is on underwriting practices and is not intended to affect premium rates. The exposure faced by insurance companies as the result of this bill is minimal insofar as very few incidents would trigger the protections of the bill. Thus far, there have been no adverse underwriting actions in this state stemming from a malicious harassment incident.

**Testimony Against:** None.

**Testified:** (In support) Representative Schual-Berke, prime sponsor; Herman Kleiner and Leon Reisberg, Temple Beth-El; David Cohen and Diane Baer, Anti-Defamation League; Sherry Appleton, Coalition for a Jewish Voice; and Bill Daley, Office of the Insurance Commissioner.

(In support with concerns) Mike Kapphahn, Farmer's Insurance.