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SENATE BILL 5193

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State of Washington

58th Legislature

2003 Regular Session

By Senators Benton, Prentice, Winsley, Horn, Franklin, Kohl-Welles, Oke and Kline; by request of Insurance Commissioner

Read first time 01/17/2003. Referred to Committee on Financial Services, Insurance & Housing.

1 AN ACT Relating to property insurance for victims of malicious  
2 harassment; amending RCW 49.60.030; and adding a new section to chapter  
3 48.30 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.30 RCW  
6 to read as follows:

7 (1) For the purposes of this section:

8 (a) "Insured" means a current policyholder or a person or entity  
9 that applies for insurance.

10 (b) "Malicious harassment" has the same meaning as RCW 9A.36.080.  
11 Under this section, the perpetrator does not have to be identified for  
12 an act of malicious harassment to have occurred.

13 (c) "Underwriting action" means an insurer:

14 (i) Cancels or refuses to renew an insurance policy;

15 (ii) Refuses to issue an insurance policy to a new customer; or

16 (iii) Changes the terms or benefits in an insurance policy.

17 (2) This section applies to property insurance policies if the  
18 insured is:

19 (a) An individual;

- 1 (b) A religious organization;  
2 (c) An educational organization; or  
3 (d) Any other nonprofit organization that is organized and operated  
4 for religious, charitable, or educational purposes.

5 (3) An insurer may not take an underwriting action on a policy  
6 described in subsection (2) of this section because an insured has made  
7 one or more insurance claims during the preceding sixty months for a  
8 loss that is the result of malicious harassment. An insurer may take  
9 an underwriting action due to other factors that are not prohibited by  
10 this subsection.

11 (4) If an insured sustains a loss that is the result of malicious  
12 harassment, the insured must file a report with the police or other law  
13 enforcement authority. The report must contain sufficient information  
14 to provide an insurer with reasonable notice that the loss was the  
15 result of malicious harassment.

16 (5) Annually, each insurer that has taken an underwriting action  
17 against any insured who has filed a claim during the preceding sixty  
18 months that was the result of malicious harassment must report these  
19 actions to the commissioner. The report must include the policy  
20 number, if applicable, name of the insured, location of the property,  
21 and the reason for the underwriting action.

22 (6) A violation of this section is an unfair practice under RCW  
23 49.60.030.

24 **Sec. 2.** RCW 49.60.030 and 1997 c 271 s 2 are each amended to read  
25 as follows:

26 (1) The right to be free from discrimination because of race,  
27 creed, color, national origin, sex, or the presence of any sensory,  
28 mental, or physical disability or the use of a trained dog guide or  
29 service animal by a disabled person is recognized as and declared to be  
30 a civil right. This right shall include, but not be limited to:

31 (a) The right to obtain and hold employment without discrimination;

32 (b) The right to the full enjoyment of any of the accommodations,  
33 advantages, facilities, or privileges of any place of public resort,  
34 accommodation, assemblage, or amusement;

35 (c) The right to engage in real estate transactions without  
36 discrimination, including discrimination against families with  
37 children;

1 (d) The right to engage in credit transactions without  
2 discrimination;

3 (e) The right to engage in insurance transactions or transactions  
4 with health maintenance organizations without discrimination:  
5 PROVIDED, That a practice which is not unlawful under RCW 48.30.300,  
6 48.44.220, (~~(or)~~) 48.46.370, or section 1 of this act does not  
7 constitute an unfair practice for the purposes of this (~~subparagraph~~)  
8 subsection; and

9 (f) The right to engage in commerce free from any discriminatory  
10 boycotts or blacklists. Discriminatory boycotts or blacklists for  
11 purposes of this section shall be defined as the formation or execution  
12 of any express or implied agreement, understanding, policy or  
13 contractual arrangement for economic benefit between any persons which  
14 is not specifically authorized by the laws of the United States and  
15 which is required or imposed, either directly or indirectly, overtly or  
16 covertly, by a foreign government or foreign person in order to  
17 restrict, condition, prohibit, or interfere with or in order to exclude  
18 any person or persons from any business relationship on the basis of  
19 race, color, creed, religion, sex, the presence of any sensory, mental,  
20 or physical disability, or the use of a trained dog guide or service  
21 animal by a disabled person, or national origin or lawful business  
22 relationship: PROVIDED HOWEVER, That nothing herein contained shall  
23 prohibit the use of boycotts as authorized by law pertaining to labor  
24 disputes and unfair labor practices.

25 (2) Any person deeming himself or herself injured by any act in  
26 violation of this chapter shall have a civil action in a court of  
27 competent jurisdiction to enjoin further violations, or to recover the  
28 actual damages sustained by the person, or both, together with the cost  
29 of suit including reasonable attorneys' fees or any other appropriate  
30 remedy authorized by this chapter or the United States Civil Rights Act  
31 of 1964 as amended, or the Federal Fair Housing Amendments Act of 1988  
32 (42 U.S.C. Sec. 3601 et seq.).

33 (3) Except for any unfair practice committed by an employer against  
34 an employee or a prospective employee, or any unfair practice in a real  
35 estate transaction which is the basis for relief specified in the  
36 amendments to RCW 49.60.225 contained in chapter 69, Laws of 1993, any  
37 unfair practice prohibited by this chapter which is committed in the  
38 course of trade or commerce as defined in the Consumer Protection Act,

1 chapter 19.86 RCW, is, for the purpose of applying that chapter, a  
2 matter affecting the public interest, is not reasonable in relation to  
3 the development and preservation of business, and is an unfair or  
4 deceptive act in trade or commerce.

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