FINANCIALLY ACCEPTABLE INSURANCE RATES
President Gerald Steel
7303 Young Rd. NW
Olympia WA 98502

11/22/2021

Office of the Insurance Commissioner   Emailed this date to rulescoordinator@oic.wa.gov
c/o David Forte
P.O. Box 40260
Olympia, WA 98504-0260

Re: Comment on R2021-07 Temporary prohibition on use of credit history on some personal lines

Commissioner Kreidler:

I submit these comments on behalf of myself and Financially Acceptable Insurance Rates ("FAIR"). Proposed WAC 284-24A-050(4) and WAC 284-24A-090 are in conflict with Chapter 48.19 RCW. The Office of the Insurance Commissioner ("OIC") has no authority to adopt WACs that are in conflict with RCWs. Members of FAIR, including myself, will be aggrieved by adoption of the proposed rule language because it would increase the cost of our home and auto insurance.

In RCW 48.19.035, the Legislature allows insurance scores "based in whole or in part on credit history"[1] to be used to determine rates when scoring models are filed.[2] RCW 48.19.035(3)(d) explicitly states that "an insurer may consider the bill payment history of any loan, the total number of loans, or both." RCW 48.19.035(3)(f) explicitly states "an insurer may consider the total amount of outstanding debt in relation to the total available line of credit." When a scoring model is filed, the Legislature in RCW 48.19.060(1) provides for review by the Commissioner. The standard of review is "whether it meets the requirements of [Ch. 49.19 RCW]."[3] There is no authority granted to the OIC by the Legislature to disapprove a filing that meets the requirements of Ch. 49.19 RCW. Therefore the proposed rule may not completely prohibit use of credit history in insurance scores when such use is allowed by Chapter 48.19 RCW.

Respectfully submitted,

Gerald Steel, former administrative law attorney

Att. 1 – Does Your Credit Score Impact Your Car Insurance Rates?
Att. 2 – Using credit scores to set insurance premiums has been temporarily banned in WA
Att. 3 – RCW 48.19.035, RCW 48.19.060

[1] RCW 48.19.035(1)(d).
[2] RCW 48.19.035(2)(a).
[3] RCW 48.19.060(1).

ATTACHMENT 1

Does Your Credit Score Impact Your Car Insurance Rates?

In short, yes. But the process is not quite the same as with a loan.

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By Sigrid Forberg

Feb. 12, 2021

When you're shopping around for a new auto insurance policy, you may not be considering your credit score.

But should you?

You know a low credit score counts against you when applying for a mortgage, auto loan or credit card, but insurance, too? Say it ain't so.

Yes, across most of the country, that three-digit number will play an important role in the rates you'll pay, not just your car insurance but also for your home insurance. Certain details from your credit report will even influence your life insurance rate.

Read on to find out how auto insurers use your credit to assess your risk of filing a claim and what you can do to put your best (driving) foot forward.

In what states do insurers use credit information?

About the Author

Sigrid Forberg

Reporter

Sigrid is a reporter with MoneyWise. Before joining the team, she worked for a

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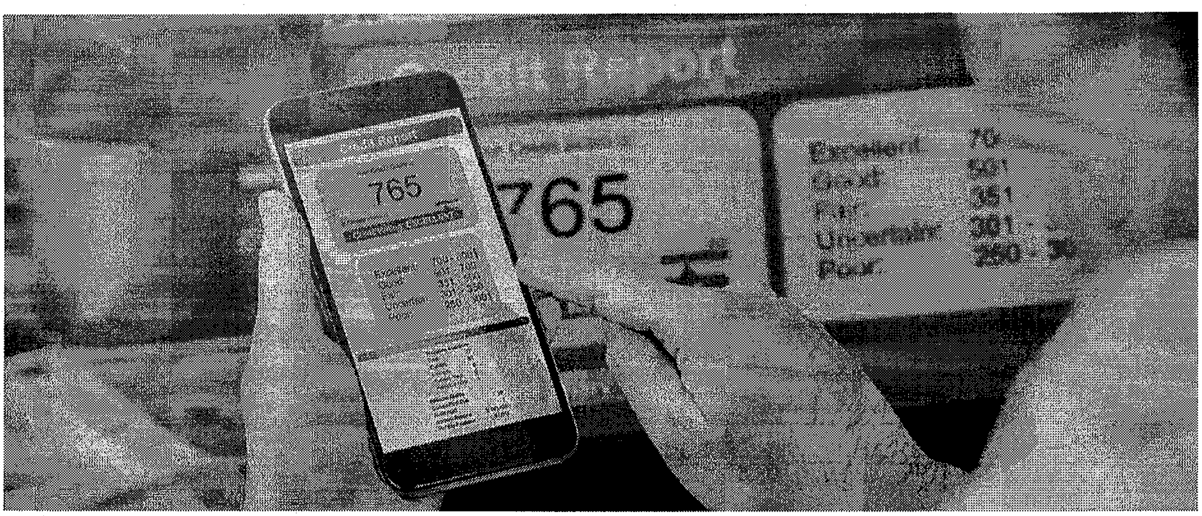
In what states do insurers use credit information?



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In all but three states, insurance companies use a credit-based insurance score to calculate your premiums. So unless you live in California, Massachusetts or Hawaii, your credit score will be factored in.

(And sometimes Michigan: Last year, Michigan passed a law that banned the use of credit *scores* in auto insurance, but not credit *information*.)

Insurance companies don't use a traditional FICO score, however. Instead, they have their own system called credit-based insurance scores.

About **the Author**

Sigrid Forberg

Reporter

Sigrid is a reporter with MoneyWise. Before joining the team, she worked for a B2B publication in the hardware and home improvement industry and ran an internal employee magazine for the federal government. As a graduate of

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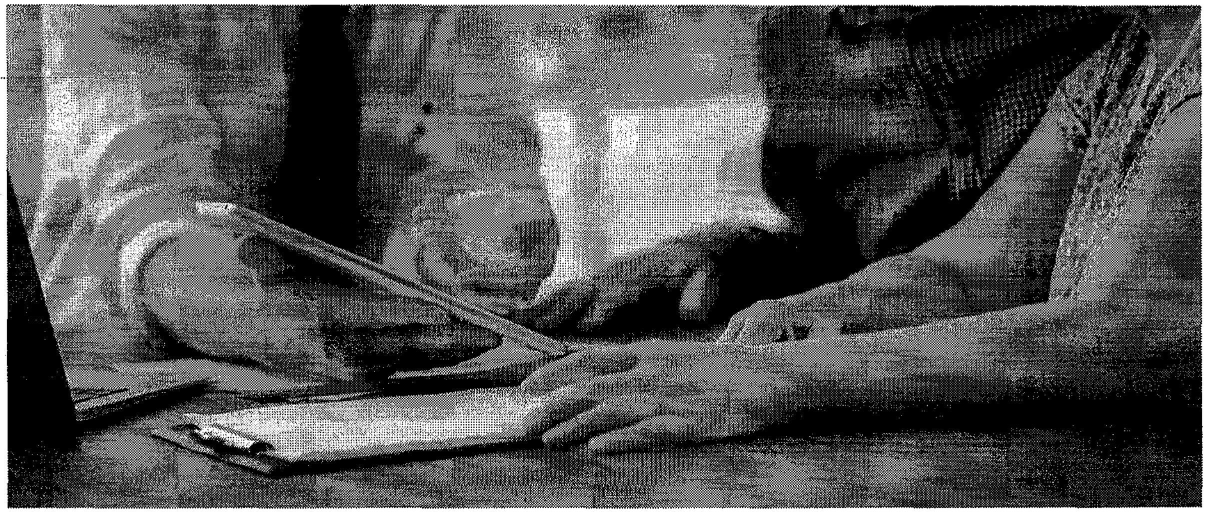
Why do insurance companies use your credit score?

the Carleton University Journalism program, she takes pride in telling informative, engaging and compelling stories.



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Every state has laws that prevent insurers from setting rates that unfairly discriminate against individual drivers. So, in a bid to be objective, insurers use credit data — on the theory that the factors which lower your credit (outstanding debt, late payments, collections and bankruptcies) also increase your risk of filing an insurance claim.

And there's research to back this up.

Actuarial studies have suggested that how a person manages their personal financial affairs is a good predictor of insurance claims, according to the Insurance Information Institute.

And the U.S. Federal Trade Commission (FTC) released a report to Congress in 2007 that found insurance scores correlate with both the number of filed claims and the total cost of those claims. This led the FTC to conclude that insurance scores allow for more accurate underwriting and risk pricing.

Your credit information therefore allows underwriters to make an informed assessment of your risk category without having to fall back on personal judgment, hunches and prejudice.

The difference between FICO and credit-based insurance scores

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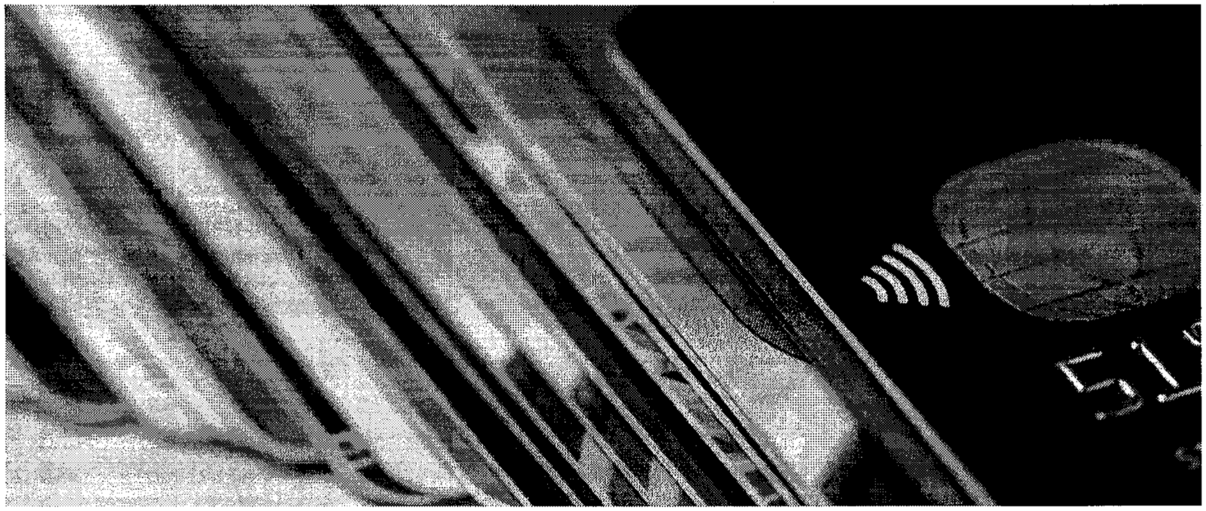

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FICO is one of the most well-known types of credit scoring. You're assigned a number between 300 to 850 — and the higher your score, the better.

There are five factors that influence your FICO score:

- Payment history.
- Amounts owed.
- Length of credit history.
- Credit mix.
- New credit.

With credit-based insurance scores, risk levels are assessed differently. You're also assigned a three-digit number, but the range here is between 200 and 999.

Your regular credit score is factored in, along with past at-fault accidents and other claims, lapses in insurance coverage, and late or missed payments.

Every insurer will use a slightly different formula to calculate your score, so while it's possible to predict your range, it can be hard to say for sure exactly which number an insurer is seeing when you apply for coverage.

What you can do to get the best rates

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So what does this all mean for you?

No matter what your credit score, you should always remember to shop around, regularly and rigorously, for the car insurance policy that meets your specifc needs *at this moment*. Research has shown that those who don't compare quotes every six months could be overpaying by as much as $1,000 a year.

A tool like Pretected can search quotes from nearly 1 million possibly policies provided by the top carriers within minutes and find you the lowest prices available in your area.

Nevetheless, It's important to regularly check your credit score. One error or misreporting can wreak havoc on your credit — and cause you to needlessly pay extra on your insurance premiums.

If your score is accurate, but still not great, you have some options. Credit monitoring, for example, can show results in as short a time period as a month.

Some other steps you can take include:

- Make all your debt payments in full and on time.
- Avo using all the credit available to you.
- Keep accounts open to build your history.
- Mix up your accounts: Have a few different credit cards and secured loans.
- Avoid applying for new credit cards often.

And, finally, avoid making claims whenever you can. Sometimes there's nothing you can do to prevent them, but be sure to follow the rules of the road and take care of your car to prevent being in an at-fault accident as much as possible.

With your credit score in check and your claims capped, insurance companies will soon be rolling out the red carpet for you — or at least the stain- and water-resistant automotive carpet. 1-5

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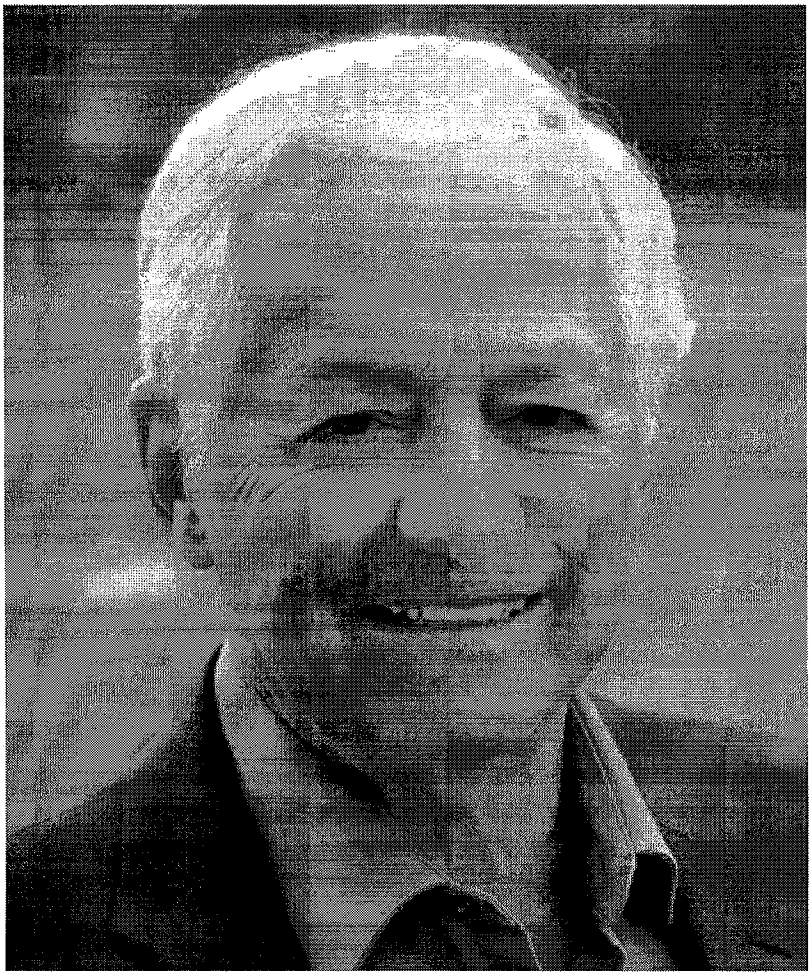
ATTACHMENT 2

Using credit scores to set insurance premiums has been temporarily banned in Washington

UPDATED: Tue., March 23, 2021



Insurance Commissioner Mike Kreidler (Courtesy of Secretary of State Voter Guide)

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By Laurel Demkovich

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OLYMPIA – Insurance Commissioner Mike Kreidler issued a temporary emergency rule Tuesday prohibiting insurers from using credit scoring to determine insurance rates, after an effort to ban the practice in state law failed in the Legislature.

The rule goes into effect immediately and will last for 120 days, according to a news release. Kreidler will attempt to set a permanent rule to go into effect up to three years after the COVID-19 pandemic state of emergency.

The decision is in anticipation of the end of the federal Coronavirus Aid, Relief and Economic Security Act, which placed a temporary hold on the reporting of certain negative credit information.

As a result, bureaus are collecting a credit history that is inaccurate and unreliable, and could lead to discriminatory pricing that more greatly affects people with lower incomes and people of color, Kreidler said.

“The insurance industry’s dependency on the discriminatory practice of credit scoring has always been unfair,” Kreidler said in the release. “But given that the federal protections from plummeting credit scores could end soon, we need to take action now to protect the public.”

Legislation requested by Gov. Jay Inslee made its way through the state Senate earlier this session but failed to make it to the floor for a vote. It would have prohibited the use of credit history to determine insurance rates or premiums until June 30, 2024.

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"It is discriminatory to use credit scores to set insurance rates because this practice results in low-income people and people of color paying more for insurance," Inslee said in a news release.

When asked about the emergency rule, state Republicans told reporters it was too new to comment on but that they were concerned with the use of emergency powers by state officials. Senate Minority Leader John Braun, R-Centralia, said issuing an emergency rule on a bill the Legislature failed to pass is "actively concerning."

Republicans have called for limits on the use of emergency powers by Inslee throughout the COVID-19 pandemic, but legislation to do so never made it to the floor.

"I have a lot of concerns about the fact that the barrier seems to be down on emergency rules of all kinds," House Minority Leader J.T. Wilcox, R-Yelm, said.

Laurel Demkovich's reporting for The Spokesman-Review is funded in part by Report for America and by members of the Spokane community. This story can be republished by other organizations for free under a Creative Commons license. For more information on this, please contact our newspaper's managing editor.

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ATTACHMENT 3

RCW 48.19.035

Making of rates—Definitions—Personal insurance—Use of credit history or insurance scores—Rules.

(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.

(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.

(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.

[2004 c 86 § 1; 2002 c 360 § 2.]

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NOTES:

Captions not law—2002 c 360: See note following RCW **48.18.545**.

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RCW 48.19.060

Filings—Review, waiting period, disapproval.

(1) The commissioner shall review a filing as soon as reasonably possible after made, to determine whether it meets the requirements of this chapter.

(2) Except as provided in RCW **48.19.070** and **48.19.043**:

(a) No such filing shall become effective within thirty days after the date of filing with the commissioner, which period may be extended by the commissioner for an additional period not to exceed fifteen days if he or she gives notice within such waiting period to the insurer or rating organization which made the filing that he or she needs such additional time for the consideration of the filing. The commissioner may, upon application and for cause shown, waive such waiting period or part thereof as to a filing that he or she has not disapproved.

(b) A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

(3) Medical malpractice insurance rate filings are subject to the provisions of this section.

[**2006 c 8 § 217**; **1997 c 428 § 4**; **1989 c 25 § 5**; 1947 c 79 § .19.06; Rem. Supp. 1947 § 45.19.06.]

NOTES:

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW **5.64.010**.

Effective date—1989 c 25: See note following RCW **48.18.100**.

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