

Enrolled
Senate Bill 377

Sponsored by Senator BONAMICI; Senators MONNES ANDERSON, MORSE, ROSENBAUM, Representatives HARKER, HOLVEY, KENNEMER, TOMEI

CHAPTER

AN ACT

Relating to insurance trade practices; creating new provisions; and amending ORS 746.661.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 746.661 is amended to read:

746.661. (1) An insurer that issues personal insurance policies in this state:

(a) May not cancel or nonrenew personal insurance that has been in effect for more than 60 days based in whole or in part on a consumer's credit history or insurance score.

(b) May use a consumer's credit history to decline coverage of personal insurance in the initial underwriting decision only in combination with other substantive underwriting factors. An offer of placement with an affiliate insurer does not constitute a declination of insurance coverage.

(c) May not use the following types of credit history to decline coverage of personal insurance, calculate an 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, if the insurer has received accurate and complete information from the consumer, unless the insurer does one of the following:

(i) If the insurer presents information that the absence of credit history or the inability to determine the consumer's credit history relates to the risk for the insurer, uses the absence of a credit history or inability to determine a consumer's credit history as allowed by rules adopted by the Director of the Department of Consumer and Business Services;

(ii) Treats the consumer as if the applicant or insured has neutral credit history, as defined by the insurer; or

(iii) Excludes the use of credit information as a factor and uses only other underwriting criteria.

(B) Credit inquiries not initiated by the consumer or inquiries requested by the consumer for the consumer's own credit information.

(C) Inquiries identified on a consumer's credit report relating to insurance coverage.

(D) Multiple lender inquiries identified as being from the home mortgage industry and made within 30 days of one another, unless only one inquiry is considered.

(E) Multiple lender inquiries identified as being from the automobile lending industry and made within 30 days of one another, unless only one inquiry is considered.

(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.

(d) May not rerate an existing policy or rerate a customer based on a customer's credit history or the credit history component of a customer's insurance score when the marital status of the customer changes due to death or divorce.

[(2) If an insurer assigns a consumer to a less favorable rating category for a policy of personal insurance based in whole or in part on the consumer's credit history or insurance score, the consumer may request, no more than once annually, that the insurer rerate the consumer according to the standards that the insurer would apply to the consumer if the consumer were initially applying for the same personal insurance.]

(2)(a) If an insurer uses the consumer's credit history or insurance score at any time in the rating of a personal insurance policy, the consumer may request, no more than once per insurer per policy line annually, that the insurer rerate the consumer 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 the consumer within 30 days after receiving a request from the consumer. After rerating the consumer based upon the request, the insurer may not use credit information from rerating to increase the premium on any personal insurance policy the consumer holds. If the consumer qualifies for a more favorable rating category, the insurer shall reduce the premiums on all the personal insurance policies the consumer holds in the related policy line for which the consumer's credit history and insurance score would entitle the consumer to lower premiums if the consumer were applying for a new policy. The effective date of any rate change is the date of the consumer's request.

(c) If a request to rerate a policy is received within 60 days prior to a renewal date, or if the difference between the current rate and the improved rate is less than \$10, the insurer may provide the consumer with the difference between the current rate and the improved rate over the remainder of the current period as a credit upon renewal. If the policy is canceled or not renewed, the insurer shall refund the unearned premium. Any existing claim-related discounts or surcharges shall carry forward for each rerated policy.

(3) If an insurer uses disputed credit history to determine eligibility for coverage of personal insurance and places a consumer with an affiliate that charges higher premiums or offers less favorable policy terms:

(a) The insurer shall rerate the policy retroactive to the effective date of the current policy term; and

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

(4) If an insurer charges 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 insurer shall charge the consumer the same premiums the consumer would have been charged if accurate credit history had been used to calculate an insurance score.

(5) Subsections (3) and (4) of this section apply only if the consumer resolves the credit dispute under the process set forth in the federal Fair Credit Reporting Act (15 U.S.C. 1681) and notifies the insurer in writing that the dispute has been resolved.

(6) Except as provided in subsections (2), (3) and (4) of this section, an insurer may only use rating factors other than credit history or insurance score to rerate the policy at renewal.

SECTION 2. The amendments to ORS 746.661 by section 1 of this 2009 Act apply to personal insurance policies issued or renewed on or after the effective date of this 2009 Act.

Passed by Senate April 27, 2009

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Secretary of Senate

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President of Senate

Passed by House May 29, 2009

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Speaker of House

Received by Governor:

.....M,....., 2009

Approved:

.....M,....., 2009

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Governor

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.....M,....., 2009

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Secretary of State