

# Senate Bill 486

Sponsored by Senator BONAMICI (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires insurer using credit information in issuance of personal insurance policies to re-rate any personal insurance policy held by consumer with insurer if requested by consumer even if credit information was not used by insurer in initial rating of policy.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to personal insurance policies; amending ORS 746.661; and declaring an emergency.

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

4 **SECTION 1.** ORS 746.661 is amended to read:

5 746.661. (1) An insurer that issues personal insurance policies in this state:

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

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

11 (c) May not use the following types of credit history to decline coverage of personal insurance,  
12 calculate an insurance score or determine personal insurance premiums or rates:

13 (A) The absence of credit history or the inability to determine the consumer's credit history, if  
14 the insurer has received accurate and complete information from the consumer, unless the insurer  
15 does one of the following:

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

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

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

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

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

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

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

30 (F) The consumer's total available line of credit. However, an insurer may consider the total

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 amount of outstanding debt in relation to the total available line of credit.

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

5 (2)(a) If an insurer **currently** uses [*the consumer's*] credit history or insurance [*score at any time*  
6 *in the rating of a personal insurance policy*] **scores in the initial rating of personal insurance**  
7 **policies**, [*the*] **a** consumer may request, no more than once per insurer per policy line annually, that  
8 the insurer rerate [*the consumer*] **every policy held by the consumer with the insurer, whether**  
9 **or not the policy has ever had a credit history or insurance score applied to it**, according to  
10 the standards that the insurer would apply if the consumer were initially applying for the same in-  
11 surance policy.

12 (b) The insurer shall rerate the consumer within 30 days after receiving a request from the  
13 consumer. After rerating the consumer based upon the request, the insurer may not use credit in-  
14 formation from rerating to increase the premium on any personal insurance policy the consumer  
15 holds. If the consumer qualifies for a more favorable rating category, the insurer shall reduce the  
16 premiums on all the personal insurance policies the consumer holds in the related policy line for  
17 which the consumer's credit history and insurance score would entitle the consumer to lower pre-  
18 miums if the consumer were applying for a new policy. The effective date of any rate change is the  
19 date of the consumer's request.

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

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

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

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

33 (4) If an insurer charges higher premiums due to disputed credit history, the insurer shall rerate  
34 the policy retroactive to the effective date of the current policy term. As rerated, the insurer shall  
35 charge the consumer the same premiums the consumer would have been charged if accurate credit  
36 history had been used to calculate an insurance score.

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

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

42 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**  
43 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
44 **on its passage.**