

# Senate Bill 487

Sponsored by Senator GELSER; Senators MANNING JR, RILEY (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**.

Prohibits insurers from using credit history or insurance score to decline coverage of, re-rate or otherwise determine eligibility for motor vehicle insurance.

Becomes operative January 1, 2020.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to using a consumer's credit history to determine eligibility for motor vehicle insurance;  
3 creating new provisions; amending ORS 746.661; and prescribing an effective date.

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

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

6 746.661. (1) An insurer that issues personal insurance policies in this state:

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

9 (b) May use a consumer's credit history to decline coverage of personal insurance, **other than**  
10 **motor vehicle insurance**, in the initial underwriting decision only in combination with other sub-  
11 stantive underwriting factors. **An insurer may not use a credit history or insurance score in**  
12 **whole or in part to decline coverage of, re-rate or otherwise determine eligibility for motor**  
13 **vehicle insurance.** An offer of placement with an affiliate insurer does not constitute a declination  
14 of insurance coverage.

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

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

20 (i) *[If the insurer presents information that the absence of credit history or the inability to deter-*  
21 *mine the consumer's credit history relates to the risk for the insurer,]* Uses *[the]* **an** absence of a credit  
22 history or inability to determine a consumer's credit history *[as allowed by]* **in accordance with**  
23 rules *[adopted by]* the Director of the Department of Consumer and Business Services **adopts, if the**  
24 **insurer presents information that shows that the absence of credit history or an inability to**  
25 **determine the consumer's credit history relates to the insurer's risk;**

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

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

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

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

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

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

6 (F) The consumer's total available line of credit[. *However,*], **except that** an insurer may con-  
7 sider the total amount of outstanding debt in relation to the total available line of credit.

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

11 (2)(a) If an insurer uses the consumer's credit history or insurance score at any time in [*the*]  
12 rating [*of*] a personal insurance policy, the consumer may request, no more than once per insurer  
13 per policy line annually, that the insurer rerate the consumer according to the standards that the  
14 insurer would apply if the consumer were initially applying for the same insurance policy.

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

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

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

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

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

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

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

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

1        **SECTION 2.** The amendments to ORS 746.661 by section 1 of this 2019 Act apply to in-  
2        surance policies that an insurer or insurance producer issues or renews on and after the  
3        operative date specified in section 3 of this 2019 Act.

4        **SECTION 3.** (1) The amendments to ORS 746.661 by section 1 of this 2019 Act become  
5        operative January 1, 2020.

6        (2) The Director of the Department of Consumer and Business Services may adopt rules  
7        and take any other action before the operative date specified in subsection (1) of this section  
8        that is necessary to enable the director, on and after the operative date specified in sub-  
9        section (1) of this section, to exercise all of the duties, functions and powers conferred on  
10       the director by the amendments to ORS 746.661 by section 1 of this 2019 Act.

11       **SECTION 4.** This 2019 Act takes effect on the 91st day after the date on which the 2019  
12       regular session of the Eightieth Legislative Assembly adjourns sine die.

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