

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

April 19, 2002

3:20 p.m.

MEMBERS PRESENT

Representative Lisa Murkowski, Chair
Representative Andrew Halcro, Vice Chair
Representative Kevin Meyer
Representative Pete Kott
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 220(L&C)

"An Act relating to the scope of practice authorized under a license to practice hairdressing."

- MOVED CSSB 220(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 395

"An Act prohibiting discrimination by credit rating or credit scoring in insurance rates; and providing for an effective date."

- HEARD AND HELD

PREVIOUS ACTION

BILL: SB 220

SHORT TITLE:SCOPE OF PRACTICE OF HAIRDRESSING

SPONSOR(S): SENATOR(S) GREEN

Jrn-Date	Jrn-Page		Action
05/02/01	1435	(S)	READ THE FIRST TIME - REFERRALS
05/02/01	1435	(S)	L&C
03/14/02		(S)	L&C AT 1:30 PM BELTZ 211
03/14/02		(S)	Heard & Held
03/14/02		(S)	MINUTE(L&C)

03/26/02		(S)	L&C AT 1:30 PM BELTZ 211
03/26/02		(S)	Moved CSSB 220(L&C) Out of Committee
03/26/02		(S)	MINUTE(L&C)
03/27/02	2534	(S)	L&C RPT CS 4DP SAME TITLE
03/27/02	2534	(S)	DP: STEVENS, AUSTERMAN, DAVIS,
03/27/02	2534	(S)	TORGERSON
03/27/02	2534	(S)	FN1: ZERO(CED)
04/03/02	2609	(S)	RULES TO CALENDAR 4/3/02
04/03/02	2610	(S)	READ THE SECOND TIME
04/03/02	2611	(S)	L&C CS ADOPTED UNAN CONSENT
04/03/02	2611	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/03/02	2611	(S)	READ THE THIRD TIME CSSB 220(L&C)
04/03/02	2611	(S)	PASSED Y19 N- E1
04/03/02	2619	(S)	TRANSMITTED TO (H)
04/03/02	2619	(S)	VERSION: CSSB 220(L&C)
04/03/02		(S)	RLS AT 10:30 AM FAHRENKAMP 203
04/03/02		(S)	MINUTE(RLS)
04/04/02	2793	(H)	READ THE FIRST TIME - REFERRALS
04/04/02	2793	(H)	L&C
04/19/02		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 395

SHORT TITLE: INSURANCE DISCRIMINATION BY CREDIT RATING

SPONSOR(S): REPRESENTATIVE(S) CRAWFORD

Jrn-Date	Jrn-Page		Action
02/08/02	2183	(H)	READ THE FIRST TIME - REFERRALS
02/08/02	2183	(H)	L&C
02/08/02	2183	(H)	REFERRED TO LABOR & COMMERCE
03/06/02		(H)	L&C AT 3:15 PM CAPITOL 17
03/06/02		(H)	Heard & Held
03/06/02		(H)	MINUTE(L&C)
04/19/02		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

GERALDINE McINTOSH, Staff
to Senator Lyda Green
Alaska State Legislature
Capitol Building, Room 125

Juneau, Alaska 99801

POSITION STATEMENT: Testified on behalf of the sponsor of SB 220, Senator Lyda Green.

CATHERINE REARDON, Director
Division of Occupational Licensing
Department of Community & Economic Development
PO Box 110806
Juneau, Alaska 99811-0806

POSITION STATEMENT:

VANNA PETERSON, Owner
The Hair Loft
236 Lincoln Street, Number 105
Sitka, Alaska 99835

POSITION STATEMENT: Testified in support of [CSSB 220(L&C)].

DEBRA RIGDON
3201 Halibut Point Road, Number 5
Sitka, Alaska 99835

POSITION STATEMENT: Testified in support of [CSSB 220(L&C)].

SANDY GUGGENBICKLER
815 Lake Street
Sitka, Alaska 99835

POSITION STATEMENT: Testified in support of [CSSB 220(L&C)].

STASHEA STRELAW
P.O. Box 6013
Sitka, Alaska 99835

POSITION STATEMENT: Testified in support of [CSSB 220(L&C)].

CECILIA RIDGE
P.O. Box 6228
Sitka, Alaska 99835

POSITION STATEMENT: Testified in support of [CSSB 220(L&C)].

DAVE D'AMATO, Staff
to Representative Harry Crawford
Alaska State Legislature
Capitol Building, Room 426
Juneau, Alaska 99801

POSITION STATEMENT: Answered questions related to Version L of HB 395.

DAVID McCARTER
857 Faultline Drive

North Pole, Alaska 99705

POSITION STATEMENT: Related his preference for the Senate Bill that specified that no credit profiling would be done.

DAVID VALDEZ

658 Fairbanks Street
Fairbanks, Alaska 99709

POSITION STATEMENT: Testified that [Version L] is better than [the gutted Senate Bill].

TARA DRENNON

PO Box 81294
Fairbanks, Alaska 99708

POSITION STATEMENT: Expressed concern with regard to the lack of provisions in HB 395 for the victims of identity theft.

LIZ OFELT

PO Box 750148
Fairbanks, Alaska 99708

POSITION STATEMENT: Provided comments from her perspective as a insurance agent.

STEVE CONN, Executive Director
Alaska Public Interest Research Group
PO Box 101093

Anchorage, Alaska 99503

POSITION STATEMENT: Characterized CSHB 395 [Version L] as a compromise.

MARK NEIHAUS

Progressive Insurance
(No address provided)

POSITION STATEMENT: Discussed how Progressive Insurance uses credit scoring, and suggested changes to CSHB 395 [Version L].

MIKE HAROLD, Northwest Regional Manager
National Association of Independent Insurers
(No address provided)

POSITION STATEMENT: Related his belief that CSHB 395, Version L, has a number of problems.

ELIZABETH MOCERI, Regional Counsel
Allstate Insurance Company
(No address provided)

POSITION STATEMENT: Expressed concerns with CSHB 395, Version L.

DEE HUBBARD

(No address provided)

POSITION STATEMENT: Testified in support of CSHB 395, Version L.

ACTION NARRATIVE

TAPE 02-60, SIDE A
Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Representatives Murkowski, Halcro, Meyer, and Crawford were present at the call to order. Representatives Kott, Rokeberg, and Hayes arrived as the meeting was in progress.

SB 220-SCOPE OF PRACTICE OF HAIRDRESSING

CHAIR MURKOWSKI announced that the first order of business would be CS FOR SENATE BILL NO. 220(L&C) "An Act relating to the scope of practice authorized under a license to practice hairdressing"

Number 0075

GERALDINE McINTOSH, Staff to Senator Lyda Green, Alaska State Legislature, testified on behalf of the sponsor of SB 220, Senator Lyda Green. Ms. McIntosh read the sponsor statement as follows:

Committee Substitute for Senate Bill 220(L&C) amends Alaska Statute 08.13[.170(f)], authorizing the Board of Barbers and Hairdressers to issue a hairdressing license that includes the temporary removal of superfluous hair on the face and neck and the application of basic make-up. These services are typically assumed to be available from a hairdresser.

The removal of unwanted hair by means of hair waxing and the application of basic make-up are services that hairdressers should be allowed to practice. Hairdressers are trained and tested in these areas and have always performed these services. Both waxing and basic make-up are a part of the curriculum required to graduate; by statute, current training required for a hairdressing license is 1,650 hours. Included in the 1,650 hours are 15 practical operations of eyebrow arching and hair removal by means of waxing, [tweezing

and the use of depilatories] and 15 basic make-up applications, including [skin analysis, complete and corrective make-up and] the application of false eyelashes (12 ACC 09.160). Although the curriculum requires that they perform these operations during the instructional phase, once they are licensed, Alaska state law prohibits them from performing these services for their clients.

I respectfully request your support of CSSB 220(L&C), allowing trained professionals to continue a practice that they are fully qualified to do.

CHAIR MURKOWSKI surmised that the intention was to include the practice of the removal of excessive hair and waxing [under the hairdresser's license] since it's included in the training. She inquired as to why the removal of excess hair and waxing wasn't included [under the hairdresser's license].

MS. McINTOSH related her belief that the board wanted hairdressers to be prepared if they moved out of state and wanted to become licensed. She said that she was a little unsure as to why it wasn't included in the license for hairdressing. In further response to Chair Murkowski, Ms. McIntosh informed the committee that this issue came to light after Senator Green's office received a petition with 500 signatures from hairdressers and others. It was brought to the hairdressers' attention that they weren't licensed to perform these services and thus the hairdressers had to discontinue providing these services. She clarified that hairdressers that aren't also a licensed aesthetician can't do waxing.

REPRESENTATIVE CRAWFORD asked if this legislation would harm the licensed aesthetician's industry.

MS. McINTOSH deferred to the Division of Occupational Licensing's representative.

Number 0377

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community & Economic Development (DCED), answered that she didn't believe this legislation would hurt the aestheticians. She didn't recall any aestheticians testifying against this minimal sharing of [services], which she suspected was because most aestheticians seem to center their businesses around facials and other such skin care services. Furthermore,

there probably hasn't been opposition to this because hairdressers have always believed that they could perform waxing services. Ms. Reardon indicated that this came to light when the division sent out a general advisory to a profession in which the profession is reminded of the types of things that the profession can't do, such as that hairdressers can't perform waxing and hair removal. She didn't envision this as a change in the distribution of work but rather a legalization of current practices. She noted that the Board of Barbers and Hairdressers supports this legislation.

CHAIR MURKOWSKI turned to Section 1 of the legislation and related her understanding that a licensed barber wouldn't be able to perform any waxing.

MS. REARDON agreed. In further response to Chair Murkowski, Ms. Reardon explained that "limited esthetics" refers to "(A) temporary removal of superfluous hair on the face or neck, including eyebrow arching by use of wax". She said that the aforementioned language would probably include tweezing. She specified that the method of hair removal [allowed would be based] on whether it was temporary removal. She related her belief that electrolysis is marketed as permanent hair removal. In regard to the new developments in skin care, Ms. Reardon suggested that it might be worth revisiting the aesthetician statutes.

Number 0818

VANNA PETERSON, Owner, The Hair Loft, testified via teleconference. Ms. Peterson informed the committee that she holds a cosmetology license from the State of Kansas and hairdressing license from the State of Alaska. She pointed out that for both of those licenses, she was required to study facial procedures, including waxing, skin care, and anatomy. Ms. Peterson related that she should have the right to perform what she was trained to perform during her education. Ms. Peterson noted her support of [CSSB 220(L&C)].

Number 0944

DEBRA RIGDON testified via teleconference. She noted that she has a [hairdressing] license from another state and is currently working on her license in Alaska. She said she didn't appreciate having the ability to wax being taken away from hairdressers and now having to work to get it back. She expressed the need to pass [CSSB 220(L&C)].

Number 1004

SANDY GUGGENBICKLER testified via teleconference and informed the committee that she holds a hairdressing license from Alaska and another state. Ms. Guggenbickler announced her support of SB 220.

STASHEA STRELAW testified via teleconference in support of [CSSB 220(L&C)].

CECILIA RIDGE testified via teleconference. She echoed earlier testimony with regard to her education including waxing and make-up applications. Ms. Ridge stated her support of [CSSB 220(L&C)]. In response to Chair Murkowski, Ms. Ridge explained that the waxing had to be performed on other students in the class; the waxing training was extensive, she said.

Number 1160

REPRESENTATIVE HALCRO moved to report CSSB 220(L&C) out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSSB 220(L&C) was reported out of the House Labor and Commerce Standing Committee.

HB 395-INSURANCE DISCRIMINATION BY CREDIT RATING

CHAIR MURKOWSKI announced that the next item before the committee would be HOUSE BILL NO. 395, "An Act prohibiting discrimination by credit rating or credit scoring in insurance rates; and providing for an effective date."

Number 1208

REPRESENTATIVE HALCRO moved to adopt CSHB 395, Version 22-LS1425\L, Ford, 4/8/02, as the working document. There being no objection, Version L was before the committee.

REPRESENTATIVE CRAWFORD, testifying as the sponsor of HB 395, reminded the committee that this legislation [grew from the complaints] of constituents that credit scoring had been used to unfairly raise their [insurance] rates. The first draft was patterned after Hawaii's law that banned credit scoring. After the last hearing, he said he worked with the director of the Division of Insurance, which led to the decision that the Washington State model was better. He explained that the Washington State model allows the insurance industry to continue

to use credit scoring in ways that are valuable to the company while providing the ability to protect Alaskan consumers. Furthermore, the division doesn't have the information with regard to how credit scoring impacts the consumer and [Version L] would allow further study to determine the real impacts. Representative Crawford related his belief that credit scoring impacts seniors, seasonal workers, people who have gone through a divorce, first-time vehicle or homeowners, people with serious medical emergencies, employees who have been laid off, members of certain religions that don't use credit, some minority groups, and users of Bush credit. Representative Crawford concluded with his belief that [Version L] is a fair compromise.

Number 1388

DAVE D'AMATO, Staff to Representative Harry Crawford, Alaska State Legislature, informed the committee that the compromise [Version L] encompasses is the one used in Washington State. Specifically, the underwriting and rate-saving methods of insurance are allowed to use credit scoring with the exception of certain particular facts. He directed the committee to page 2, line 13, paragraphs (1)-(6) listed under subsection (d). There are many theories behind the exceptions listed in paragraphs (1)-(6), he said. For example, Alaska has "Bush credit" for those people in the Bush who don't use conventional credit and thus those people wouldn't be impacted by an insurance credit score. Furthermore, many of Alaska's seniors don't use credit scores and some religious groups don't use credit and many minority groups are denied credit or don't use credit. The exclusion related to the number of credit inquiries is a reasonable exclusion because many people don't have control over companies making credit inquiries. Additionally, when one shops for a car, a home, or insurance, inquiries for the individual's credit report are generated. The third exclusion addresses medical industry codes and that the instance of a medical condition shouldn't be held against the individual who had good credit prior to the medical condition. The fourth exclusion is for the initial purchase of a vehicle or house. If a credit history is used to deny obtaining homeowner's insurance, it will hurt Alaska's economy and the attempts to help those with bruised credit in entering into first time homebuyer's situations. The fifth exclusion is a compromise that goes to the heart of some of the proprietary information. The final exclusion is related to the total line of credit. Mr. D'Amato explained that the sixth exclusion is based on the theory that those who can borrow more will likely have more

money and thus the poor will be disproportionately impacted. The remainder of the CS is as it was [originally] presented.

MR. D'AMATO directed the committee's attention to page 6 [Section 3] regarding the report the director of the Division of Insurance will provide to the legislature. He explained that the importance of the January 1, 2004, date of the report is that in July 2004 the Fair Credit Reporting Act is up for review. The State of Alaska can then determine whether it wants to limit credit scoring in underwriting. Therefore, it would be helpful for the information requested in the report to be available at that time as it would provide information with regard to the impact of credit scoring on Alaskans. Mr. D'Amato related his understanding from Mr. Lohr that there shouldn't be a fiscal note if a report is required, although there would be a fiscal note if a study is required.

MR. D'AMATO, in response to Representative Kott, explained that the director of the State of Washington's Division of Insurance initiated the investigation. Upon the investigation and receiving testimony, the director met with consumer groups and insurance companies. There was a relatively protracted negotiation process whereby this legislation was fleshed out. Although the compromise wasn't between Alaska's director of the Division of Insurance, Mr. Lohr is in favor of this legislation. In that regard, this legislation is a compromise between what the division would probably like to see and what the insurance companies agreed to in the State of Washington.

Number 1838

DAVID McCARTER testified via teleconference. Although Mr. McCarter said that he preferred the Senate Bill that specified that no credit profiling would be done. However, since that's not going to happen, Mr. McCarter said that he would put his support behind [CSHB 395, Version L]. Mr. McCarter related the following personal experience with credit scoring. He explained that his insurance company is leaving the state, and therefore he has to find another insurance company. To his horror, he discovered that his insurance rates were going to increase quite significantly because of credit profiling. Mr. McCarter informed the committee that his credit scores are all in the 600s, which is considered "A credit." However, the insurance companies are placing him in the "D" class and penalizing him for a tail light ticket. There doesn't seem to be any protection for the consumer. Furthermore, no one specifies how his credit score is determined. In conclusion, Mr. McCarter

said that [Version L] is a bit better, although it doesn't really solve anything for him. The insurance companies are hindering the economy, he remarked.

Number 2039

DAVID VALDEZ testified via teleconference. He said that [Version L] is better than [the Senate Bill], which was gutted. The [Senate Bill, once gutted] appeared to create a preferred class of drivers at the expense of the working poor, those with low credit scores, and people from the Bush and minority groups. He related his belief that the aforementioned is wrong. Since this can be done arbitrarily and capriciously without a place to direct a grievance, it's unfair to the consumer.

Number 2105

TARA DRENNON testified via teleconference. Ms. Drennon expressed concern that this legislation has no protections for consumers like herself who have been a victim of identity theft.

REPRESENTATIVE CRAWFORD directed attention to page 2, line 28, which indicates that those who dispute their rate and prove that the rate was unfair can have their insurance reissued retroactively. Representative Crawford related his understanding that if someone's stolen identity resulted in the individual having the thief's bad credit, the individual could get that [their credit report] corrected and the insurance would be reissued retroactively.

MR. DRENNON clarified that in her case her social security number and birthday were stolen. Therefore, she has alerted the credit bureau of this and tried to fight it. She stressed that she didn't believe she should have to take in paperwork every time there is the need for insurance in her family. Furthermore, those people who may not be aware that someone has stolen their identity won't be alerted by the underwriter either.

Number 2262

LIZ OFELT testified via teleconference. She noted that she is an insurance agent. With regard to [identity theft], Ms. Ofelt informed the committee that even if an individual can get their credit report corrected, credit reports are [only] updated on a quarterly basis. She pointed out that often when people purchase a new vehicle, the individual's current insurance

company will run a new motor vehicle report, a new credit score, and a new claims report. If adverse credit appears, the company will re-rate the individual's premium. Although there can be corrections and credits, the problem isn't solved. Ms. Ofelt informed the committee that she turns away clients weekly because of their credit and [claim] loss scores. She said when she recently became involved with insurance she couldn't believe this was how people were rated.

CHAIR MURKOWSKI related her understanding that Ms. Ofelt would pull up an individual's credit history, which specifies their score.

TAPE 02-60, SIDE B

MS. OFELT clarified that based on an individual's driver's license number, birth date, and name a letter score is provided through [a credit reporting bureau system]. All the major insurance companies place individuals with a credit score of A, B, and C in the preferred rate bracket and the others are placed in a high risk bracket. At her particular company, she can't write a homeowner's insurance policy for those with a credit score below a C. However, on auto insurance she can write insurance for those with credit scores as low as an F. In further response to Chair Murkowski, Ms. Ofelt said that the letter credit score provides no indication with regard to why the letter was assigned. The letter specifies an 800 number that can be given to the client to obtain a free copy of their credit report. However, that doesn't help the individual whose insurance company drops the individual or re-rates the individual's policy, or won't write insurance for the individual. Furthermore, the individual won't be reimbursed and the [coverage] won't be retroactive for the insurance, although it may be retroactive on the individual's credit score.

Number 2249

STEVE CONN, Executive Director, Alaska Public Interest Research Group (AkPIRG), testified via teleconference. Mr. Conn related his belief that [Version L] could address some of the procedural problems that have been mentioned. This legislation does represent a compromise in that the original legislation in both the House and the Senate sought to ban the use of credit scoring. As a compromise, this legislation allows the use of credit scoring and confidentiality of the proprietary device, except being provided to the [director] of the Division of Insurance who evaluates the device in the context of rate

increases or decreases. In the latter compromise over the proprietary device, consumers can't examine the device. However, the legislation does provide basic information to a consumer who has been turned down for insurance. The denial of insurance can't be based solely on the credit score, rather there have to be other substantive factors as well which are communicated to the consumer. Under this legislation and the Fair Credit Reporting Act the consumer is in a better position, in regard to addressing the underlying cause, than before. He noted that the absence of credit and medical emergencies are subjects that are not to be used in determining the insurability of an individual. Although it's unfortunate that this legislation doesn't speak to identity theft and domestic relations, the legislation is a compromise that satisfied the insurance industry and the consumers in the State of Washington. Mr. Conn indicated that this legislation is better than nothing. He mentioned the hope that the insurance industry will approach the Congress and make the ability to repair a credit record, under the Fair Credit Reporting Act, in a timely and efficient manner more readily available to consumers. Such would function as a device to improve credit scores.

Number 2040

MARK NEIHAUS, Progressive Insurance, testified via teleconference. He informed the committee that Progressive Insurance is the fourth largest automobile insurer in the country and the fifth largest in Alaska. Progressive Insurance uses credit [scoring] as part of its rating process in 45 of the 48 states in which it does business. Credit [scoring] has been used in Alaska for the past four years. Detailed data justifying the [use of credit scoring] was filed with the Alaska Division of Insurance. After a rigorous review, the division determined that [Progressive Insurance's credit scoring] was predictive of loss and proper to be used. He pointed out that the Fair Credit Reporting Act allows the use of credit [scoring] in the underwriting of insurance and it's becoming the norm. "Credit is an independent and powerful predictor of loss," he said. Mr. Neihaus referred to a bar chart in the committee packet entitled, "Credit is a Powerful Predictor". He explained that the chart shows that grouping credits illustrates that those folks with below average credit have a much higher tendency for loss. Also individuals with no credit record at all have an extremely poor loss history. However, he pointed out that those with no credit history, "no hits," amount to less than 5 percent of Progressive Insurance's total policies.

MR. NEIHAUS explained that as a result of offering credit [scoring] in Alaska, Progressive Insurance has about 10,000 policies in force. In about two-thirds of those policies, the consumer received a lower rate as a result of the use of credit [scoring]. Mr. Neihaus explained that credit [scoring] is an electronic process that pulls raw data from credit providers. Progressive Insurance uses its own algorithm to calculate the rate. Before [performing a credit check], the consumer's permission to do so is obtained. The agents don't see the credit data or score. In the event a policy holder receives an adverse action notice, the notice contains an 800 phone number and the customer can obtain a free copy of the credit report. Upon request, the customer is given an 800 phone number that can be called to obtain a report specifying the reasons for [the credit score]. Mr. Neihaus specified that Progressive Insurance doesn't consider any items in dispute with a credit vendor, which he believes to be the case with the majority of insurance companies using credit [scoring]. If an item is in dispute, Progressive Insurance will change the premium retroactively. Mr. Neihaus informed the committee that Progressive Insurance confirms the premium at the point of sale, there are no up-rates after the fact, no one is canceled or denied based on credit [scoring]. He noted that the credit report includes bankruptcies, judgments, tax liens, information on loans, and credit limits, balances, and inquiries. The credit report doesn't include the individual's gender, race, income, wealth, and savings. Mr. Neihaus reiterated the belief that credit is a powerful predictor of loss and allows the insurance company the ability to offer lower rates to those who are less likely to have claims. The majority of consumers are benefiting from the use of credit [scoring].

Number 1887

MR. NEIHAUS turned to [Version L] and directed attention to page 1, lines 9-10, which says, "The notice must state the significant factors of the credit history or insurance score that resulted in the adverse action." He reiterated that the aforementioned data is already provided to consumers. However, the significant factors of the credit history report is only provided upon request because of the expense in producing it, and furthermore only a minority of people want that detailed information. Therefore, Mr. Neihaus suggested that the aforementioned sentence on page 1, lines 9-10, be amended to read as follows: "The notice must state that consumers may obtain, on request, a free report containing the significant

factors of the credit history or insurance score that resulted in the adverse action."

MR. NEIHAUS moved on to page 5, lines 14-25. He emphasized that not allowing insurance companies to use the number of credit inquiries to calculate a personal insurance score would significantly undermine the power of credit. That language would effectively [result] in an increase in base rates in order to offset that. Therefore, two-thirds of Progressive Insurance's customers will experience higher rates due to the inability to use the more predictive model. Mr. Neihaus clarified that Progressive Insurance doesn't use insurance inquiries, consumer inquiries, promotional inquiries, or account review inquiries and those are typically not used by insurers. Furthermore, the credit score providers will typically aggregate any inquiries for the same item within a 30-day period. Mr. Neihaus turned to paragraph (4) on page 5 and said that he wasn't sure why the initial purchase or finance of a vehicle or house wouldn't be included [during a credit check]. Frankly, he said he wasn't sure how one would determine that it was the initial finance or purchase of a vehicle. Mr. Neihaus said that paragraphs (5) and (6) are predictive and if those can't be used, then the rates will increase for the majority of consumers.

MR. NEIHAUS addressed the effective date of the legislation. From the process described in this legislation, it's clear that the filing of data and approval of the data required will take some time. There is no problem with filing the data, including the detailed credit algorithm. However, he related his belief that this will require a significant amount of time for implementation. He estimated that the filing and review process alone would take six to nine months and then the implementation process could begin. A reasonable effective date would be well into 2003, he said.

Number 1544

CHAIR MURKOWSKI turned to the group of people without a credit history. She highlighted Alaska's unique situation in which many residents in this state don't operate on the same cash economy basis as would those in the [Lower 48]. Chair Murkowski said that she didn't want Alaska's rural residents to be penalized because they aren't part of the credit society that customers in other states might be.

MR. NEIHAUS related his assumption that the division would review that data specific to Alaska during a filing. He also assumed that the division wouldn't approve a rate for those with no credit history that isn't justified by the data. Therefore, the process should cover Chair Murkowski's concern.

CHAIR MURKOWSKI recalled that Mr. Neihaus had identified specific credit inquiries that Progressive Insurance doesn't take into account. She asked if Mr. Neihaus had any suggestion as to how to narrow credit inquiries.

MR. NEIHAUS reiterated that Progressive Insurance doesn't count consumer credit inquiries against the individual. Furthermore, he didn't believe any company he knew of that did either. He said that it would be acceptable to specify that consumer credit inquiries can't be considered in a [credit score]. An exclusion for insurance inquiries, promotional inquiries, and account review inquiries would also be acceptable, he said.

Number 1346

REPRESENTATIVE CRAWFORD asked if Progressive Insurance writes insurance in the State of Washington under this credit scoring law.

MR. NEIHAUS answered that Progressive Insurance does write insurance in the State of Washington. However, he clarified that the credit scoring law hasn't yet taken effect in the State of Washington.

REPRESENTATIVE CRAWFORD turned to Mr. Neihaus' comment suggesting the deletion of the exclusion for the number of credit inquiries. He informed the committee that he has a number of rental properties for which he has a number of mortgages. After shopping around quite a bit, he refinanced a number of those properties. However, during that process his credit scores were lowered significantly and at the end of the process he wasn't able to obtain the same low interest rate due to the numerous credit inquiries. He pointed out that the only change in his credit from the beginning of this process to the end was the number of credit inquiries. Representative Crawford said he didn't see how the number of credit inquiries could be a good predictor for loss. In his case, all his home insurance policies increased by 25 percent, although he has never had a claim on his automobile or home insurance. Representative Crawford related his belief that this legislation is a good compromise.

MR. NEIHAUS pointed out that an individual's credit score changes over time. Furthermore, the credit score is utilized for new business and upon renewal after two years. He reiterated his earlier testimony that data supports the notion that those with more credit inquiries experience more losses.

Number 1127

MIKE HAROLD, Northwest Regional Manager, National Association of Independent Insurers (NAII), testified via teleconference. The National Association of Independent Insurers is a property casualty trade association of which its members write well over 50 percent of the marketplace in Alaska. Mr. Harold echoed Mr. Neihaus' testimony with regard to the correlation between credit information and loss ratios. The more the use of credit information is diminished, the more people without losses will pay for those who do. Therefore, there is an issue of fairness. He related that a policy holder should pay a premium that is commensurate with the risk the policy holder represents. The companies report that by using credit information they are able to write more business, renew more policies, and accept more new business due to the confidence that the rate being offered is appropriate. Furthermore, the insurance companies are more able to more aggressively and competently write in all markets. Furthermore, the majority of the policy holders do receive lower rates.

MR. HAROLD informed the committee that he was very involved in the compromise on this in the State of Washington. At the time of the credit scoring legislation in the State of Washington, the state had a democratic legislature, governor, and democratically elected insurance commissioner and attorney general. The commissioner introduced the legislation after discussing the issue with the National Association of Insurance Commissioners (NAIC) in December. The governor as well as the attorney general supported the legislation. And with a "friendly" legislature, it was apparent that something would pass in the State of Washington, he said. The bill before the committee today [Version L] appeared in the Washington legislature three to five days before a vote had to be taken. By specifying the types of factors that can't be considered in [credit scoring], it was virtually impossible for insurers and vendors to be able to price the impact on consumers and [know how well] the model would predict [risk]. He emphasized that this committee should understand that the legislators and

insurance commissioner in the State of Washington supported legislation without knowing its impact.

Number 0893

MR. HAROLD related his belief that [Version L] has a number of problems. This legislation will have the unintended result of making insurance less available and will dilute the effectiveness of using insurance scores to determine risk, which will ultimately reduce competition, he said. Furthermore, this legislation will deny the policy holders the discounts they deserve. As an example of the unintended consequences Mr. Harold turned to the exclusion of "credit history or an insurance score based on collection accounts identified with a medical industry code". He pointed out that people respond to medical and financial crisis in different manners. For instance, one individual may do as much as possible to shuffle their finances so that they can pay a medical bill while another individual may simply not pay the bill. Therefore, under the aforementioned language, the individual attempting to pay the medical bill would actually be punished while the individual simply not paying the bill would have [the lack of payment] stricken from their record and would actually benefit. Furthermore, this has a negative impact on smaller companies. He explained that Progressive Insurance has a very sophisticated rating structure with tiers and various member companies. However, a smaller company might rely on credit information at the underwriting stage and might not want to use it at the rating stage or renewal stage. The more restrictions there are with regard to the company being able to judge the risks that enter the company, the more the company will be negatively impacted. Without a proper assessment when the insurance is first written, the smaller company doesn't have the option to move the client into different tiers. Ultimately, the result of this would be to dilute the competitiveness in the insurance marketplace.

Number 0688

ELIZABETH MOCERI, Regional Counsel, Allstate Insurance Company, testified via teleconference. Ms. Mocerri noted her support of the comments and concerns of Mr. Neihaus and Mr. Harold. She informed the committee that she did quite a bit of work on the State of Washington's legislation. Therefore, she felt the need to dispel the notion that the legislation was compromised with a lot of work from the insurance industry. Ms. Mocerri informed the committee that Allstate was given less than 24 hours to

provide comments on the impact of the State of Washington's compromise legislation. She related that Allstate has great concern with regard to the impact of Washington's legislation on the Washington policy holders. Credit scores are predictable and when the predictability of credit is diluted, the ability to provide a competitive rate to policy holders is lost. Currently, Allstate uses credit [scoring] in Alaska for underwriting. The company has the goal of using credit scoring in rating as well. However, the company doesn't want to share what it considers to be proprietary information, such as the company's algorithm, with competitors [via the requirement to file it with the division]. With regard to the [exclusions] in Version L, Ms. Mocerri echoed Mr. Neihaus' comments that [with the exclusions] the insurance company loses the ability to be competitive. Losing the ability to be competitive results in the reduction of the availability of an insurance product and the inability to provide a competitive rate. Ms. Mocerri mentioned that Allstate is one of the largest insurers in Alaska. Allstate accounts for 28 percent of the automobile market and 20 percent of the homeowner's market.

REPRESENTATIVE CRAWFORD asked if Ms. Mocerri heard Ms. Ofelt's testimony regarding the fact that as an insurance agent she can't [write a homeowner's policy for people with a score below C].

MS. MOCERRI said it's important to note that mortgage companies use credit information differently. Insurance companies use credit information to develop an insurance score and elements that are predictive of insurance losses are reviewed. Ms. Mocerri said she wasn't familiar with the letter scores, Allstate places policy holders into tiers. A rate is calculated based on the tiering and other factors. She said that many companies, like Allstate, use credit in underwriting because of the difficulties related to guaranteeing the confidentiality of the company's algorithm. If the confidentiality of the algorithm was guaranteed, then consumers could be taken in with an accurate rate. In further response to Representative Crawford, Ms. Mocerri acknowledged that [Version L] does make any information to the director confidential, which [Allstate] supports. She explained that Allstate performed its own study based on its own policy holders from which its own scoring model was developed. This scoring model allows Allstate to provide lower rates to more people, she said. Due to the money spent on the model, Allstate hasn't wanted to make its model available to its competitors. "If a carrier can not use credit in rating,

they use it in underwriting and that's when ... you see people being turned away," she explained.

Number 0211

REPRESENTATIVE CRAWFORD recalled Mr. Lohr's testimony that there has never been a filing for a lower rate due to credit scoring. Yet, all those testifying for the insurance industry today have discussed lower rates for those with good credit scores. However, he said he has [heard] no evidence of people having lower rates.

MS. MOCERI surmised that this is an allocation of premium. Some of the filings are revenue neutral because of the pricing with the appropriate risk. She expressed the need to be mindful that at the same time this discussion is occurring, there is a hardening of the insurance market. In response to Representative Kott, Ms. Mocereri said that the State of Washington's legislation was passed and signed by the governor on April 4th. Washington's legislation has two effective dates. The effective date related to underwriting is in January and the effective date related to rating is at the end of June 2003. With regard to compliance, Ms. Mocereri noted that it takes tremendous resources to create a new algorithm, which would be necessary in order to comply with the statute.

TAPE 02-61, SIDE A

MS. MOCERI commented that many companies are probably determining whether they have the money and resources to create a new algorithm. Furthermore, it's challenging to meet the market. She explained that on average it takes six to nine months for the department's review once the department receives a company's filing. Allstate is concerned that by the time the filing is filed with the state, there will be an effective date without any action by the state. She emphasized that every company is going to have to submit a new filing, which will have to be reviewed.

Number 0097

REPRESENTATIVE KOTT asked if Ms. Mocereri anticipates that the risk will be passed along to all the insurees and subsequently rates will increase for a certain percentage of the insurees.

MS. MOCERI informed the committee that [Allstate] showed that rates would increase, on average, 30 percent under the State of

Washington's original legislation. Under the current Washington legislation, a new rate filing will be required and because of the lack of predictive value the folks currently receiving discounts will, under the legislation, subsidize those causing the most losses.

REPRESENTATIVE KOTT asked Ms. Mocerri if she could comment on what happened with the rates of any other state with a measure similar to that in the State of Washington.

MS. MOCERI said she wasn't aware of any other state that has implemented legislation similar to that in the State of Washington. In Hawaii there is essentially a ban on [the use of credit scoring] and Hawaii has the 13th highest rates in the U.S. Because Hawaii is very limited in regard to the factors that can be used, there are some subsidies built into the rate plan. Unfortunately, that means that the majority of the policy holders who don't cause most of the insurance losses pay for the policy holders who do cause insurance losses.

Number 0303

REPRESENTATIVE CRAWFORD asked if Ms. Mocerri was aware that this bill doesn't preclude the use of credit rating, it only restricts its use.

MS. MOCERI reiterated that when all the predictive elements [of credit scoring] are eliminated, then the ability to use credit in rating is eliminated. She echoed Mr. Neihaus' comments on this matter. In the State of Washington the exclusions were added without no ability to review the total impact.

Number 0474

DEE HUBBARD testified via teleconference. Ms. Hubbard informed the committee that she found out about credit scoring two-and-a-half years ago and decided to approach her representative, Representative Crawford. Ms. Hubbard said that she liked Version L and has helped work on it. Ms. Hubbard related that due to deaths in her family and the need to fly outside of Alaska on emergencies, her credit [history] has large spikes. She didn't think it was appropriate to be penalized for those things when she attempted to obtain insurance. Ms. Hubbard said that she would like to see the House bill move forward and that she didn't like the Senate's version.

CHAIR MURKOWSKI determined that Mr. Michael Lessmeier, Lobbyist for State Farm Insurance, and Mr. Bob Lohr, Director, Division of Insurance, would be able to testify at a later time.

[HB 395 was held.]

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:10 p.m.