

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

May 1, 2002

3:55 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Pete Kott

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 270(L&C)

"An Act extending the termination date of the Board of Dispensing Opticians; relating to the regulation of dispensing opticians; and providing for an effective date."

- HEARD AND HELD

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

CONFIRMATION HEARINGS

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: SB 270

SHORT TITLE:DISPENSING OPTICIANS:EXTEND BD/REGULATION

SPONSOR(S): RLS BY REQUEST OF LEG BUDGET & AUDIT

Jrn-Date	Jrn-Page		Action
02/01/02	2089	(S)	READ THE FIRST TIME - REFERRALS
02/01/02	2089	(S)	L&C, FIN

02/14/02		(S)	L&C AT 1:30 PM BELTZ 211
02/14/02		(S)	Moved CS(L&C) Out of Committee
02/14/02		(S)	MINUTE(L&C)
02/19/02	2222	(S)	L&C RPT CS 3DP 1NR SAME TITLE
02/19/02	2222	(S)	DP: STEVENS, DAVIS, TORGERSON;
02/19/02	2222	(S)	NR: AUSTERMAN
02/19/02	2222	(S)	FN1: (CED)
03/25/02	2517	(S)	FIN RPT CS(L&C) 5DP 3NR
03/25/02	2518	(S)	DP: KELLY, AUSTERMAN, OLSON, WILKEN,
03/25/02	2518	(S)	LEMAN; NR: DONLEY, GREEN, WARD
03/25/02	2518	(S)	FN1: (CED)
03/25/02		(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/25/02		(S)	Moved Out of Committee
03/25/02		(S)	MINUTE(FIN)
03/28/02		(S)	RLS AT 8:30 AM FAHRENKAMP 203
03/28/02		(S)	-- Time Change --
03/28/02		(S)	MINUTE(RLS)
04/02/02	2586	(S)	RULES TO CALENDAR 4/2/02
04/02/02	2588	(S)	READ THE SECOND TIME
04/02/02	2588	(S)	L&C CS ADOPTED UNAN CONSENT
04/02/02	2589	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/02/02	2589	(S)	READ THE THIRD TIME CSSB 270(L&C)
04/02/02	2589	(S)	PASSED Y18 N- E2
04/02/02	2589	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
04/02/02	2593	(S)	TRANSMITTED TO (H)
04/02/02	2593	(S)	VERSION: CSSB 270(L&C)
04/03/02	2770	(H)	READ THE FIRST TIME - REFERRALS
04/03/02	2770	(H)	L&C, FIN
04/12/02		(H)	L&C AT 3:15 PM CAPITOL 17
04/12/02		(H)	Heard & Held
04/12/02		(H)	MINUTE(L&C)
04/17/02		(H)	L&C AT 3:15 PM CAPITOL 17
04/17/02		(H)	<Bill Postponed>
05/01/02		(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
04/19/02		(H)	Heard & Held MINUTE(L&C)
05/01/02		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

Heather Brakes, Staff
 Senator Gene Therriault
 Alaska State Legislature
 Juneau, Alaska 99801
 POSITION STATEMENT: Testified in support of SB 270.

Catherine Reardon, Director
 Division of Occupational Licensing
 Department of Community & Economic Development
 PO Box 110806
 Juneau, Alaska 99811-0806
 POSITION STATEMENT: Responded to questions on behalf of the
 department of Commerce.

DAVID D'AMATO, Staff
 to Representative Harry Crawford
 Alaska State Legislature
 Juneau, Alaska 99801
 POSITION STATEMENT: Testified in support of HB 395.

MICHAEL LESSMEIER, Attorney
 Lessmeier & Winters;
 Lobbyist for State Farm Insurance Company
 3000 Vintage Boulevard, Suite 100
 Juneau, Alaska 99801
 POSITION STATEMENT: Characterized [credit scoring] as a
 powerful tool for predicting future loss.

JIM FURUNESS
 AARP Capital City Task Force;
 National Association of Retired Federal Employees

1285 Fritz Cove Road
Juneau, Alaska 99801

POSITION STATEMENT: Announced support of [CSHB 395].

CARRIE TOLLEFSON, Legislative Director
Washington State Office of the Insurance Commissioner
(No address provided)

POSITION STATEMENT: Discussed Washington State's legislation,
after which HB 395 was modeled.

BOB LOHR, Director
Division of Insurance
Department of Community & Economic Development
3601 C Street, Suite 1324
Anchorage, Alaska 99503-5948

POSITION STATEMENT: Testified in support of HB 395.

ACTION NARRATIVE

TAPE 02-70, SIDE A
Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:55 p.m. Representatives Murkowski, Meyer, Rokeberg, and Crawford were present at the call to order. Representatives Halcro and Hayes arrived as the meeting was in progress.

SB 270-DISPENSING OPTICIANS:EXTEND BD/REGULATION

Number 0078

CHAIR MURKOWSKI announced that the first order of business would be CS FOR SENATE BILL NO. 270(L&C), "An Act extending the termination date of the Board of Dispensing Opticians; relating to the regulation of dispensing opticians; and providing for an effective date."

Number 0110

REPRESENTATIVE ROKEBERG move to adopt HCS CSSB 270, labeled 22-LS1382\S, Lauterbach, 5/1/02, as the working document. There being no objection, it was so ordered.

Number 0153

HEATHER BRAKES, Staff to Senator Gene Therriault, Joint Committee on Legislative Budget and Audit, Alaska State Legislature, testified on behalf of the sponsor of SB 270. She noted that she had just obtained a copy of the proposed HCS, which repeals the board and makes licensure an optional system. An applicant who wishes to be licensed as a dispensing optician would fulfill the requirements under Section 3 of the bill. The department could require a home-study course, she mentioned. She reminded the committee that SB 270 was drafted based on the audit report which made a case for eventually going to a voluntary registration system for dispensing opticians.

REPRESENTATIVE ROKEBERG directed attention to Section 11, AS 09.55.560, which deletes "a dispensing optician licensed under AS 08.71" from the definition of health care provider. Does this affect whether they could still be reimbursed as a health care provider, he asked.

Number 0397

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community & Economic Development (DCED), reviewed the references in Sections 11 and 12 and stated that they do not affect health insurance reimbursements. Section 11 relates to arbitration agreements, and Section 12 relates to medical records and the peer review process.

CHAIR MURKOWSKI asked how the transitional provisions of Section 14 would play out if this bill were adopted.

MS. REARDON explained that people with existing licenses could renew their licenses, although it's not necessary to require them to apply on time, as stated in this bill. Licensing requirements are getting easier in this bill, so there's no need to make it more restrictive. She suggested working on the language of line 21. There's no need to eliminate any people from the renewal option, she remarked.

Number 0609

CHAIR MURKOWSKI inquired as to the impact this legislation would have on fees and the registration processes.

MS. REARDON said there would be a savings of \$3,000-\$5,000 a year in travel because the board wouldn't exist and division staff costs would go down. However, license renewals by fewer people could become more expensive because there would be fewer

members. She clarified that the division is not expressing support for the bill.

CHAIR MURKOWSKI asked if the division has received any feedback from board members about the repeal of the board.

MS. REARDON related that the one board member she has spoken with is opposed to closing the board.

CHAIR MURKOWSKI announced that the public testimony on Version S would be postponed because committee members just received a copy of the HCS, which is quite different from the Senate's version. She invited the public who couldn't return for the hearing on Friday to fax comments to the committee.

Number 0871

REPRESENTATIVE ROKEBERG asked Ms. Reardon to clarify whether the board would discontinue or sunset this year or next.

MS. REARDON, in response to Representative Rokeberg, explained that if the legislature doesn't act, next year would be the wind down year and the board would disappear a year from now.

[CSSB 270(L&C) was held over.]

HB 395-INSURANCE DISCRIMINATION BY CREDIT RATING

Number 0901

CHAIR MURKOWSKI announced that the final order of business 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."

REPRESENTATIVE ROKEBERG moved to adopt CS HB 395, 22-LS1425\0, Ford, 5/01/02, as the work draft. There being no objection, it was so ordered.

DAVID D'AMATO, Staff to Representative Crawford, described the minor changes to the earlier version. He noted that the industry has had the opportunity to review the addition on page 1, lines 6-8, which says an insurer must obtain the applicant's oral or written permission in order to use credit scoring for insurance purposes. He pointed out the language that was inserted in paragraph (4) located on both page 2, line 23 and

[on page] 5, line 15. The proposed CS also changes the effective date to January 1, 2003. These provisions were deleted because the insurance industry objected and the Washington Division of Insurance found the provisions unwieldy.

REPRESENTATIVE ROKEBERG asked how these provisions were unwieldy.

MR. D'AMATO explained that the regulators and insurance industry found the lack of definition for "initial purchase" unwieldy and questioned whether it referred to a new house and car or new financing for a used car or old house. The language was too ambiguous. Originally this bill was the same as Washington and Connecticut's regulations. When those states determined these provisions were not workable, "we" followed their example.

Number 1199

MR. D'AMATO further explained how paragraph (4) in [in Version L] worked on page 5, line 15. It was the failure of those provisions to be adequately defined that was problematic, he said.

Number 1242

CHAIR MURKOWSKI turned to subsection (b) on page 1, line 9. She recalled from [testimony provided by] Progressive Insurance that if a citizen who receives a notice of adverse action can request get a statement detailing the reasoning behind it. However, subsection (b) has been changed to provide that the insurer shall provide written notice when there is an adverse action. Therefore, any adverse action taken requires the full detailed notice and the statement of the factors that led to the adverse action.

Number 1304

MR. D'AMATO said this section has not been changed from the previous version before the committee. He explained the reasoning for providing the notice. The credit score formulated by the insurance company was part of a formula to which people didn't generally have access versus the credit rating that people can access. Credit documents provide an explanation and a table whereby one can see there's a negative score. However, an insurance score is part of a larger algorithm and if there's a problem with it, one wouldn't know what the problem is unless [the insurance industry] actually tells them. For example, the

consumer should be aware that the use of a particular credit card is viewed as a problem by the insurance industry. If insurers distinguish themselves from the normal credit model, they should explain how their model works to consumers, he remarked.

CHAIR MURKOWSKI acknowledged that subsections (b) wasn't different rather the subsections were relettered.

Number 1466

MICHAEL LESSMEIER, Attorney, Lessmeier & Winters, Lobbyist for State Farm Insurance Company, began by relating that there are certain number of things that aren't in reasonable dispute about the issue of credit. For instance, there is general agreement that different companies use [credit scoring] differently, which illustrates that the free market system in this area of insurance is working well in Alaska. He also noted that different companies use [credit scoring] differently at different times. For example, at the time of the last hearing State Farm was using credit scoring with homeowner's insurance and although that is no longer the case, it may change in the future. "The ability to be able to use [credit scoring] is important," he said. He then pointed out that another point beyond dispute is the fact that the Fair Credit Reporting Act will allow the direct writers to use credit scoring to prescreen applicants. Therefore, what is done today will only impact insurance written by Alaskan insurance brokers.

MR. LESSMEIER turned to an item he said was beyond reasonable dispute, which is the [notion] that there is a high correlation between the underwriting score that uses credit and the predictability of future loss. He recalled that the representative from the Division of Insurance testified to this correlation. Mr. Lessmeier informed the committee that State Farm began as a skeptic of the use of credit scoring. Therefore, State Farm took 1.3 million records and divided those records into two groups. One group was made up of 800,000 records and the other was a control group of 500,000 records. With the 800,000 records, the company reviewed various factors that were viewed as predictable of future loss. Of those factors, those thought to be most predictive were used to create a model that was subsequently applied to the control group of 500,000 records. That control group was followed for two years. The result was the finding that the correlation between the underwriting score that uses credit and the predictability of future loss was very high. That model was applied to 1 million

live cases and again the correlation was found to be remarkably high. For example, those in the 10 percent highest category have more than twice the loss than those in the lowest category. Mr. Lessmeier characterized [credit scoring] as a powerful tool predicting future loss. Therefore, if the goal is for insurers to be able to charge a fair premium, one that correlates with the predictability of loss, then [credit scoring] is a useful tool in helping achieve that goal.

MR. LESSMEIER remarked that the use of credit in Alaska hasn't been a problem. Therefore, he suggested that the division has tools in place to address the event that the use of credit is being misused. For example, the division must already have the ability to access credit scoring information when evaluating rates. However, the law is problematic in that the model itself isn't confidential. With regard to underwriting, Mr. Lessmeier pointed out that there is also a statutory provision that if different classes of risk are treated differently, without an adequate justification, then those can be found to be an unfair trade practice. Mr. Lessmeier reiterated that there isn't a problem with credit scoring in Alaska because the director of the division already has the tools to address this issue if it were misused. He noted that he has had extensive discussions with the sponsor in the Senate and with Representative Crawford in an attempt to create additional tools for the director while allowing [credit scoring] to be used on behalf of the industry. To that end, "I think we've come a long way," he said. He expressed hope that there will be legislation that will be agreeable to both Senator Cowdery and Representative Crawford.

Number 1787

REPRESENTATIVE MEYER related his understanding that Mr. Lessmeier and the industry he represents do not support [Version O].

MR. LESSMEIER answered in the affirmative.

REPRESENTATIVE MEYER asked if Mr. Lessmeier supported the similar legislation in the Senate.

MR. LESSMEIER said, "I think we are getting very, very close to having a bill that ... would be acceptable to my client." However, he indicated that the industry may not have had an opportunity to review the [current proposal]. In further response to Representative Meyer, Mr. Lessmeier specified that the division director's job is to monitor complaints. He said

he believes there have been very few complaints about credit [scoring]. Furthermore, it's difficult to respond to the misuse of credit [scoring] without knowing the information. He said that the real test is whether there has been a complaint to the division and whether it has been investigated and found to be valid. Mr. Lessmeier acknowledged that [credit scoring], a tool like any other tool, could be misused. Therefore, the question is whether the division director has the adequate ability to stop any misuse. "We have worked very hard to try to create a balance that allows the tool to be used, but also does give the director additional power. We don't think he needs it, but there are some that do," he remarked.

Number 1890

REPRESENTATIVE MEYER recalled that in earlier discussions there was some question as to the direct correlation between an individual's credit score and driving record. He interpreted Mr. Lessmeier to be relating that as far as State Farm is concerned there is a direct correlation.

MR. LESSMEIER answered that [credit scoring offers] the predictability of loss. He informed the committee that State Farm's model is based on credit and loss history. State Farm believes the correlation is very high, he related, and thus [credit scoring] helps State Farm determine who to write or who not to write. Therefore, State Farm doesn't want to be deprived of that tool. In further response to Representative Meyer, Mr. Lessmeier explained that State Farm's auto insurance model considers loss history and citations, which are combined with credit factors. Each factor is given a weight in order to develop a score. That score is only utilized when someone is making an application initially. Mr. Lessmeier clarified that State Farm doesn't use [credit scoring] to rate. For homeowner's insurance, the only reason State Farm used [credit scoring] was to write someone that it wouldn't have otherwise written whereas for automobile insurance [credit scoring] may have been used to not write someone.

Number 1990

REPRESENTATIVE CRAWFORD related his understanding that this legislation isn't precluding the use of credit scoring.

MR. LESSMEIER replied no and acknowledged that Representative Crawford has worked hard to craft a compromise.

REPRESENTATIVE CRAWFORD recalled Mr. Lessmeier's statement that credit scoring is a good predictor [of risk] and pointed out that redlining of zip codes a few years ago was said to be a good predictor [of risk].

MR. LESSMEIER acknowledged that credit scoring could be used to [do what was done with red-lining of zip codes] a few years ago. He noted that the only [research] he was aware of was a Virginia study which found that [red-lining on the basis of zip codes] was not occurring. Mr. Lessmeier remarked that he didn't know of any evidence that any company in Alaska has used credit scoring to [do red-lining].

REPRESENTATIVE CRAWFORD specified that the insinuation isn't that State Farm is redlining certain areas. However, [credit scoring] has the same effect when certain groups of people are redlined, such as seniors. Representative Crawford emphasized that people have financial setbacks which have no correlation to whether those folks are a good or bad credit risk. This as a policy call with regard to the proper use of credit scoring, he said.

MR. LESSMEIER remarked that he didn't know of any evidence that credit scoring penalizes seniors in any way. In fact, if the use of this tool was studied with the assumption that everyone used credit scoring in the same way, he said he would be surprised that it would penalize seniors or young people. He suggested that the findings would reveal that the use of credit scoring with oversight would have a high predictability. Then, the policy decision would be one regarding whether those identified as being in categories of higher groups of loss should be priced accordingly. Without pricing the aforementioned accordingly, the responsible people pay more for those creating the loss, which State Farm views as unfair, he said. He echoed earlier comments that there is no evidence of the misuse of credit scoring in Alaska. Furthermore, the division, even without this legislation, has the tools to prevent misuse. With this legislation, the division has more tools.

REPRESENTATIVE CRAWFORD turned to the standardization of laws and noted his observation that the country as a whole is moving toward regulation and limiting the use of credit scoring. This legislation is modeled after legislation in Connecticut and the State of Washington. "Wouldn't it be good to have basically the same set of laws to work with in each state," he asked.

MR. LESSMEIER related his understanding that the State of Washington's law is so restrictive that the model cannot be used. Mr. Lessmeier pointed out that every state has a different regulatory system and thus he didn't believe it's possible to achieve a uniform model. Mr. Lessmeier noted that although the National Association of Insurance Commissioners (NAIC) attempts to gain uniformity with the passage of insurance laws, he didn't believe the NAIC has accepted model legislation [in this area]. Ad hoc laws are being created by individual states, he said. "Just because they have a bad bill in Washington, doesn't mean we ought to use that as a model and create a bad bill in Alaska," he remarked.

Number 2272

JIM FURUNESS, AARP Capital City Task Force; National Association of Retired Federal Employees, began by saying that credit scoring of insurance rates discriminates against older people. Mr. Furuness announced support of [CSHB 395] because of the belief that it will eliminate some of the discrimination. For example, a individual who doesn't use credit regularly may face a negative and discriminatory score under the credit scoring method. Older individuals who don't use credit shouldn't be forced to pay higher insurance premiums simply because of their reluctance to build debt. Furthermore, credit scoring shouldn't be used in determining automobile insurance rates.

TAPE 02-70, SIDE B

Number 2323

CARRIE TOLLEFSON, Legislative Director, Washington State Office of the Insurance Commissioner, testified via teleconference. She noted that Representative Crawford had requested that she provide testimony regarding Washington State's credit scoring legislation, in particular the process and the stakeholder involvement. Ms. Tollefson remarked that the credit scoring process in Washington State was very dynamic and began when the current commissioner was running for office. The commissioner heard about credit scoring from insurance agents during his campaign. Insurance agents expressed concern with the use of credit scoring because long-term clients were being turned down for insurance. Furthermore, there was trouble predicting with which company the clients could be placed because the credit scoring formulas were proprietary. The Washington State Office of the Commissioner has received several hundred letters, phone calls, and e-mails from consumers commenting on credit scoring.

Therefore, the commissioner felt he had no choice but to review the issue and thus the commissioner met with those in the industry individually and as a group as well as with those companies that create credit scoring models. Additionally, the commissioner held public meetings throughout the state in order to hear what consumers were experiencing. The commissioner was surprised by the turn out at the public meetings.

MS. TOLLEFSON informed the committee that in Washington State it was found that credit scoring was being used across the board by nearly all insurance companies. However, companies used credit scoring differently. Therefore, legislation specifying that credit scoring couldn't be used in underwriting at all was developed. Initially, there wasn't much substantive feedback, which she guessed was because of the thought that the legislation was too radical and would easily die. There was really no discussion until it became evident that there was clear bipartisan support for the legislation. Ms. Tollefson pointed out that throughout the process there was concern over the 20 percent rate cap. Companies were concerned that the 20 percent rate cap would result in rates and premiums increasing for those with good credit scores. Therefore, comments were solicited and other states were reviewed in order to develop an alternative approach. That was when [Connecticut's law] was found. [Connecticut's law] seemed to address some of the most egregious factors. For example, small business owners who keep lines of credit open, although those lines of credit aren't in use. Those business owners shouldn't be penalized for having high lines of credit. The Connecticut approach seemed to be moderate and have a lot of logic. Therefore, the [Washington State] legislation was changed to reflect the Connecticut approach, which led to some significant discussions and dialogue. This is the point at which the process became very dynamic in Washington State, she said. She noted that there was industry involvement throughout the process.

MS. TOLLEFSON concluded by saying that the final bill passed in Washington State represented a lot of compromise. The insurance industry worked hard with the interested parties. In fact, one of the major companies in Washington supported the bill as did the independent insurance brokers and agents in Washington. She noted that several companies didn't like the bill and agreed to walk away. At the end of the process, the only entity that actively opposed the bill was the National Association of Independent Insurers (NAII). Although the legislation wasn't a consensus bill, it did represent much compromise.

MS. TOLLEFSON, in response to Chair Murkowski, clarified that the effective date on Washington State's bill is two part. The underwriting portion of the bill will be effective January 2003 and the rate portion will be effective June 2003.

Number 1996

BOB LOHR, Director, Division of Insurance, Department of Community & Economic Development, announced that the division supports HB 395 because the division believes there is a need for additional regulation of the use of credit history and credit scoring in insurance underwriting and rating. This legislation addressed issues that are of concern to consumers, such as not being renewed because of a credit score. Furthermore, this legislation provides appropriate restrictions on some types of credit information that may not be considered in calculating a credit score, such as medical credit history, purchase of a home or vehicle, and type of credit card used by the consumer. Mr. Lohr noted that previous testimony has indicated that limitations on the use of credit information will make insurance less available and less competitive. However, these claims haven't been supported by documentation.

MR. LOHR stated that the division believes there are three important provisions in HB 395 that should be retained. He indicated that those provisions are in the following locations: page 2, lines 1-4; page 2, lines 15-25; and page 5, lines 6-19. Those specific regulatory tools are highly desirable for the division. Mr. Lohr pointed out that the debate surrounding the authority the division needs could quickly devolve into a philosophical discussion. Mr. Lohr hoped that the division has shown that it's not a rogue regulator. Therefore, he suggested that if the authority in HB 395 is assigned to the division, the division would use the tool responsibly. Mr. Lohr related the division's belief that credit scoring is a valid tool. Furthermore, there is a sufficiently valid correlation between credit scoring and the loss experienced for auto and home insurance to justify its use when properly regulated.

Number 1831

CHAIR MURKOWSKI highlighted Mr. Lessmeier's testimony that there was no NAIC model available that relates to credit scoring for insurance.

MR. LOHR said he believes that is the case, although there is work being done in that area. He highlighted that NAIC models

are often the result of a state's idea. Therefore, he wasn't sure that the lack of an NAIC model is an argument against legislation such as HB 395.

MR. LOHR, in further response to Chair Murkowski, said that there have been a number of complaints. The typical consumer complaint has been that a renewal quote was astronomically larger than what the consumer has been paying, although the consumer hasn't had tickets or accidents. In those cases, credit scoring seems to have been the factor, he remarked. Such complaints [are often] moot because the consumer moves to an insurance carrier that doesn't use credit scoring. However, as the number of companies using credit scoring increases, finding companies not using credit scoring may become difficult.

Number 1736

REPRESENTATIVE CRAWFORD asked if the tools and the report provided under the legislation are appropriate.

MR. LOHR answered that the current version of HB 395 provides the division with the necessary tools to appropriately restrict the use of credit scoring while preserving its purpose as a rating and underwriting tool for insurers. He related his belief that the legislation does achieve the proper balance of providing restrictions to ensure that unfair discrimination is not the result of the use of this tool and that the uses of it for purposes of underwriting and rating are proper.

CHAIR MURKOWSKI drew attention to Section 1 of [Version 0] where the language specifies that credit scoring can't be used unless oral or written permission is obtained from the applicant. It seems that allowing oral permission would provide the insurer an easy out when there are complaints.

MR. LOHR said that Chair Murkowski has a good point, although requiring written permission requires paperwork. Therefore, he viewed this as a judgment call with regard to the appropriate balance. Mr. Lohr highlighted that Section 1 [could also be problematic] when a customer denies permission to use credit scoring; what are the consequences in such a situation, he asked. Therefore, Section 1 could perhaps have some clarity in regard to the consequences of the denial of permission and the degree of documentation required.

CHAIR MURKOWSKI agreed that [Section 1] is a loose area.

MR. LOHR mentioned that he agrees there may be proprietary value to [credit scoring] models and confidentiality of the model as a trade secret is probably appropriate. However, the public deserves to know that the division has the tools and is regulating credit scoring properly before the models "go behind the black curtain." Therefore, adequate legislation and implementation of that legislation are required.

[HB 395 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:05 p.m.