

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

May 18, 2003

11:05 a.m.

**MEMBERS PRESENT**

Representative Tom Anderson, Chair  
Representative Bob Lynn, Vice Chair  
Representative Nancy Dahlstrom  
Representative Norman Rokeberg  
Representative Harry Crawford  
Representative David Guttenberg

**MEMBERS ABSENT**

Representative Carl Gatto

**COMMITTEE CALENDAR**

CS FOR SENATE BILL NO. 13(JUD)

"An Act relating to using credit history or insurance scoring for insurance purposes; and providing for an effective date."

- MOVED HCS CSSB 13(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 227

"An Act increasing the jurisdictional limit for small claims and for magistrates from \$7,500 to \$10,000; increasing the jurisdictional limit of district courts in certain civil cases from \$50,000 to \$75,000; and amending Rule 11(a)(4), Alaska District Court Rules of Civil Procedure, relating to service of process for small claims."

- SCHEDULED BUT NOT HEARD

**PREVIOUS ACTION**

BILL: SB 13

SHORT TITLE: INSURANCE DISCRIMINATION BY CREDIT RATING

SPONSOR(S): SENATOR(S) ELTON, COWDERY

Jrn-Date	Jrn-Page		Action
01/21/03	0017	(S)	PREFILE RELEASED 1/10/03
01/21/03	0017	(S)	READ THE FIRST TIME - REFERRALS
01/21/03	0017	(S)	L&C, JUD

01/29/03	0077	(S)	COSPONSOR(S): FRENCH
03/03/03	0323	(S)	COSPONSOR(S): LINCOLN
04/08/03		(S)	L&C AT 2:00 PM BELTZ 211
04/08/03		(S)	Heard & Held -- Time Change -
04/08/03		(S)	MINUTE(L&C)
04/22/03		(S)	L&C AT 1:30 PM BELTZ 211
04/22/03		(S)	Heard & Held
04/22/03		(S)	MINUTE(L&C)
05/01/03		(S)	L&C AT 2:15 PM BELTZ 211
05/01/03		(S)	Moved Out of Committee --
			Time Change --
05/01/03		(S)	MINUTE(L&C)
05/02/03	1100	(S)	L&C RPT 2DP 1NR 1AM
05/02/03	1100	(S)	AM: BUNDE; DP: FRENCH,
			SEEKINS;
05/02/03	1100	(S)	NR: STEVENS G
05/02/03	1100	(S)	FN1: ZERO(CED)
05/06/03		(S)	JUD AT 8:00 AM BELTZ 211
05/12/03		(S)	JUD AT 1:00 PM BELTZ 211
05/12/03		(S)	Moved CSSB 13(JUD) Out of
			Committee
			MINUTE(JUD)
05/13/03	1358	(S)	JUD RPT CS 5DP NEW TITLE
05/13/03	1358	(S)	DP: SEEKINS, ELLIS, FRENCH,
05/13/03	1358	(S)	OGAN, THERRIAULT
05/13/03	1358	(S)	FN1: ZERO(CED)
05/14/03	1390	(S)	RULES TO CALENDAR 5/14/2003
05/14/03	1390	(S)	READ THE SECOND TIME
05/14/03	1390	(S)	JUD CS ADOPTED UNAN CONSENT
05/14/03	1391	(S)	ADVANCED TO THIRD READING
			UNAN CONSENT
05/14/03	1391	(S)	READ THE THIRD TIME CSSB
			13(JUD)
05/14/03	1391	(S)	PASSED Y19 N- A1
05/14/03	1391	(S)	EFFECTIVE DATE(S) SAME AS
			PASSAGE
05/14/03	1408	(S)	TRANSMITTED TO (H)
05/14/03	1408	(S)	VERSION: CSSB 13(JUD)
05/15/03	1675	(H)	READ THE FIRST TIME -
			REFERRALS
05/15/03	1675	(H)	L&C
05/16/03		(H)	L&C AT 3:15 PM CAPITOL 17
05/16/03		(H)	-- Meeting Canceled --
05/17/03		(H)	L&C AT 12:00 PM CAPITOL 17
05/17/03		(H)	-- Meeting Postponed to Sun.
			5/18/03 --
05/18/03		(H)	L&C AT 11:00 AM CAPITOL 17

**WITNESS REGISTER**

ANNETTE SKIBINSKI, Staff  
to Representative John Cowdery  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: As staff to one of the sponsors of SB 13,  
explained the changes encompassed in HCS CSSB 13, Version X.

SENATOR JOHN COWDERY  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Spoke as one of the sponsors of SB 13.

JESSE KIEHL, Staff  
to Senator Kim Elton  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Spoke on behalf of Senator Elton, one of  
the sponsors of SB 13.

RUSSINA SGOUREVA, Product Manager  
Progressive Insurance - Alaska

POSITION STATEMENT: Expressed Progressive Insurance's support  
for Version X.

MICHAEL LESSMEIER, Attorney at Law  
Lessmeier & Winters  
Lobbyist for State Farm Insurance Company  
Juneau, Alaska

POSITION STATEMENT: Expressed the need for SB 13 to allow the  
[insurance industry] to use [credit scoring] for re-underwriting  
and re-rating.

JOHN GEORGE  
National Association of Independent Insurers  
Juneau, Alaska

POSITION STATEMENT: Testified on Version X of SB 13.

LINDA HALL, Director  
Division of Insurance  
Department of Administration  
Anchorage, Alaska

POSITION STATEMENT: Testified on Version X of SB 13.

**ACTION NARRATIVE**

**TAPE 03-54, SIDE A**

Number 0001

**CHAIR TOM ANDERSON** called the House Labor and Commerce Standing Committee meeting to order at 11:05 a.m. Representatives Anderson, Lynn, Dahlstrom, Crawford, and Guttenberg were present at the call to order. Representative Rokeberg arrived as the meeting was in progress.

SB 13-INSURANCE DISCRIMINATION BY CREDIT RATING

CHAIR ANDERSON announced that the only order of business would be CS FOR SENATE BILL NO. 13(JUD), "An Act relating to using credit history or insurance scoring for insurance purposes; and providing for an effective date."

REPRESENTATIVE DAHLSTROM moved to adopt HCS CSSB 13, Version 23-LS0207\X, Ford, 5/17/03, as the working document. There being no objection, Version X was before the committee.

Number 0161

ANNETTE SKIBINSKI, Staff to Representative John Cowdery, Alaska State Legislature, noted that the committee [packet] should include a list of the changes encompassed in Version X. She informed the committee that the sponsors, the insurance industry, and the Division of Insurance have all worked endless hours to develop a strong piece of legislation that everyone can work with while providing consumer protection. She clarified that this legislation only addresses personal insurance, not commercial insurance. Although credit scoring would be allowed to write new business, there would be a list of factors that can't be considered, such as medical claims, the absence of credit, and the age at which credit is established. Furthermore, credit [scoring] can't be used when a person is renewing a policy, unless the consumer requests that [the credit scoring] be used at the time of renewal.

Number 0336

CHAIR ANDERSON related his understanding that the sponsor's intent is to not allow the review of a policyholder's credit when going through a renewal process.

MS. SKIBINSKI explained that Version X specifies that when an individual has his/her policy renewed, the insurance company has

to review the individual's driving record, payment history, and the number of filed claims rather than the individual's credit score. However, if an individual wants to have his/her credit [score] used in the renewal process, the individual can request it.

Number 0433

SENATOR JOHN COWDERY, Alaska State Legislature, spoke as one of the sponsors of SB 13. Senator Cowdery indicated that [he has been working on this legislation] for two years and he has negotiated down as far as he is willing. He urged the committee to pass the legislation.

MS. SKIBINSKI continued by pointing out that Version X outlines [the process] when an insurer takes an adverse action due to the insured's credit, the insured has to be notified. Version X provides for a dispute resolution process in which the individual signs an affidavit and that information can't be included in determining the credit score. The legislation also includes an indemnity clause to protect the agents. Furthermore, Version X changed the effective date so that as of June 1st insurance companies are able to file their scoring models and that information is kept confidential. In January the restrictions on the use of credit information will actually go into effect.

Number 0597

REPRESENTATIVE CRAWFORD turned to the absence of credit history and the fact that it can be used if it's neutral.

MS. SKIBINSKI deferred to Senator Elton's staff who worked on that matter.

Number 0617

JESSE KIEHL, Staff to Senator Kim Elton, Alaska State Legislature, spoke on behalf of Senator Elton, one of the sponsors of SB 13. Mr. Kiehl explained that the industry requested the neutral factor due to some of the technical detailing of the models used by the companies. He related the explanation from the Division of Insurance's property/casualty actuary and one of the vendors who creates these credit scores as follows. In essence, the absence of credit is believed to be one of the most predictive factors within the insurance scoring models. Therefore, the industry felt that it was extremely

important to put [the absence of credit] into the mix of factors, in part to isolate it such that it doesn't serve as "noise or feedback" in some of the other factors. Therefore, the neutral factor language allows the tiniest use of [the absence of credit]. He explained that if someone has no credit history, a neutral score is assigned to that element. In further response to Representative Crawford, Mr. Kiehl said that the definition of "neutral" will have to be worked out with the companies that file the models. However, in some cases "neutral" has been interpreted to mean the average credit score while in others it has been interpreted to mean that its pulled out of the model for mathematical reasons. Mr. Kiehl suggested that it's possible that through the administrative process, the interpretation will be such that an individual with no credit history can't qualify for the absolute best rate possible. However, this individual can't be downgraded due to the lack of credit history.

Number 0839

REPRESENTATIVE CRAWFORD remarked that the above didn't seem to answer his question at all. If the [absence of credit] is included then it isn't neutral, specifically because it could keep someone from obtaining the best rate they could. Representative Crawford related his belief that the reason the industry wants to keep this absence of credit information is because it would usually point to young, inexperienced drivers. He opined that the aforementioned really drives this credit-scoring model.

MS. SKIBINSKI said Representative Crawford is correct with regard to the lack of credit, which has been a concern [with the sponsors]. She noted that a considerable amount of compromises have been made with this legislation and treating the absence of credit as neutral is one such compromise. Although [the sponsors] aren't completely satisfied with it, the question becomes does legislation that brings things closer to the [original legislation] pass or does no legislation at all pass this session.

Number 0941

MR. KIEHL pointed out that those, who for religious reasons, don't use credit are also hurt by the absence of credit factor. Furthermore, those who have had credit problems in the past and have ceased to use credit because they can't effectively manage it are also hurt by this factor. In the aforementioned case,

the sponsor wanted to remove this disincentive to do the responsible thing [and cease to use credit]. Under the current situation, the absence of credit is one of the most heavily weighted factors in these models. Mr. Kiehl highlighted that this legislation started as a ban, which the sponsors weren't able to accomplish. However, [Version X] is believed to provide very strong consumer protection even if it isn't exactly what was sought.

SENATOR COWDERY echoed earlier comments regarding the compromise that has occurred with SB 13, and his and the insurance industry's desire to pass legislation this year.

Number 1064

REPRESENTATIVE LYNN questioned why [the absence of credit, which generates a neutral score] wouldn't merely be taken out of the [equation].

MR. KIEHL said that was the original intention and was in the earlier language of the legislation. However, the insurance industry felt extremely strong about this matter. Therefore, the sponsor intended to minimize or neutralize this [absence of credit] factor entirely.

Number 1147

RUSSINA SGOUREVA, Product Manager, Progressive Insurance - Alaska, expressed Progressive Insurance's support for Version X, which it believes to be legislation with which the industry can work. However, she noted that it will require a fair bit of effort of the industry to make the systems compliant with the requirements in this legislation, but the industry is prepared to do so. Ms. Sgoureva characterized [Version X] as fair; it provides protections for consumers and insurance agents in Alaska and allows the insurance industry to do business successfully in Alaska.

Number 1224

MICHAEL LESSMEIER, Attorney at Law, Lessmeier & Winters, Lobbyist for State Farm Insurance Company, urged the committee to review the merits of this legislation, which has undergone a lot of work and compromise. Unfortunately, most of the work has occurred over the last 10 days when [the insurance industry] was able to negotiate a compromise. From State Farm Insurance Company's point of view, every issue was worked out save one.

The one issue that remains is important. Mr. Lessmeier related that credit scoring is the most predictive tool that the [insurance industry] has to predict the risk of loss. Therefore, in order to use this tool, [the insurance industry] attempted to develop protections for the consumer to address concerns by various members. Now, this legislation probably embodies the most extensive set of consumer protections anywhere in the country. In exchange, the [insurance industry] wanted to be able to use [credit scoring] to write new business, to which Senator Cowdery agreed. Furthermore, the [insurance industry] also wanted to use [credit scoring] for re-underwriting and re-rating, the industry agreed with Senator Cowdery that it wouldn't be used to not renew any customer. Therefore, the only matter for which no agreement has been reached is regarding whether [credit scoring] can be used to re-underwrite and re-rate.

MR. LESSMEIER specified that there are three pieces to this [legislation]. First, there is the consumer disclosure. Second, there are the restrictions upon the ability to use [credit scoring] and the process if there is inaccurate information. For example, if the consumer believes there is inaccurate information, the consumer certifies that to the company. For purposes of denial or cancellation within the 60-day window, the industry can't use [credit scoring] but rather has to re-underwrite that consumer based on traditional data. Mr. Lessmeier related his belief that the aforementioned provides considerable consumer protection. If there is inaccurate information used for purposes of rating, again the consumer has the ability to challenge that information and receive a retroactive correction to their rate. Mr. Lessmeier emphasized, "The thing that is very important for everybody to understand is that this tool right now, the way it is right here, is being used under the approval, under the supervision, under the guidance of the Division of Insurance." He opined that every professional person involved in the industry or from the regulatory side believes it would be prudent to allow the insurance industry to use [credit scoring] for re-rating and re-underwriting as well. He recalled the compromise reached last year, which allowed the insurance industry to use [credit scoring] for re-rating and re-underwriting. Mr. Lessmeier pointed out that one small correction would allow the insurance industry to use this for re-rating and re-underwriting, which he said is a matter of fairness to the policyholders. If an insurance company has the ability to identify an individual who presents a higher risk of loss and that individual's premium is subsidized artificially, someone else is paying more. The

aforementioned is an issue of fairness, he said. Therefore, he urged the committee to reconsider that. He recalled that there were discussions regarding allowing the use of [credit scoring for re-rating and re-underwriting] for a limited period of time; a period of three years would be a good start.

MR. LESSMEIER highlighted that [the industry] has negotiated and compromised on various provisions of this legislation because if this isn't done right at this level, there could be years of problems and litigation. This solution [encompassed in Version X] works for the consumer who decides he/she wants to be re-rated, but it doesn't allow a broader form of re-rating and re-underwriting. In conclusion, Mr. Lessmeier acknowledged that everyone has worked in good faith to reach a compromise and although this legislation isn't quite there, it could easily be achieved.

Number 1603

CHAIR ANDERSON turned to the renewal process and inquired as to what someone's credit would matter regarding driving.

MR. LESSMEIER said it is a mistake to say that the scoring models this legislation addresses deals solely with the issue of credit because that's not the case. The legislation is required to be used with credit as well as other substantive underwriting factors.

CHAIR ANDERSON surmised that Mr. Lessmeier is saying that [these models] are a science and that an individual wouldn't be renewed merely because he/she didn't pay a bill.

MR. LESSMEIER agreed that it's a definite equation and specified that the language is on page 2, lines 28-30. Under this legislation, these models will have to be reviewed by the director of the Division of Insurance. Therefore, to the extent that the models don't achieve what they are supposed to achieve or they achieve a discriminatory result, these models won't be allowed. So, it isn't a fair statement to say that the only thing that will be reviewed is credit. For example, State Farm Insurance Company's model looks at a combination of factors and the company has found [credit scoring] to be the most predictive tool it has. Therefore, State Farm Insurance Company believes it should be used in rating. He noted that State Farm Insurance Company doesn't currently use [credit scoring] to re-underwrite and re-rate, rather it's used only for new business. [State

Farm Insurance Company] doesn't believe that the use of [credit scoring] should be restricted.

Number 1708

REPRESENTATIVE CRAWFORD acknowledged that in the legislation he introduced on this last year, it did include [the use of credit scoring for re-rating and re-underwriting] as well as the consumer's ability to opt out [of credit scoring being used]. However, the latter has been taken out of this legislation and he opined that [Version X] is a compromise with which he can live. Although he expressed his continued dislike with the use of the absence of credit as part of any factor, he said he would rather have legislation than not.

Number 1782

REPRESENTATIVE GUTTENBERG turned to the impact of a neutral rating and pointed out that if rating is based on obtaining a [score] of 100 and something is rated neutral or zero, it suppresses [the rating]. Representative Guttenberg mentioned that he doesn't have to be happy with this legislation because it's just another step.

Number 1862

JOHN GEORGE, National Association of Independent Insurers (NAII), noted that he has the interesting job of representing a trade association with hundreds of members. He noted that virtually every company uses credit scoring differently, and therefore the problems with [legislation such as SB 13] vary. Mr. George said that Mr. Lessmeier has testified to [the insurance industry's] position. With regard to earlier comments, Mr. George clarified that "we" requested that the additional language regarding the ability of credit to be used at the request of the consumer. He explained that if an insurance company is unable to use credit to re-underwrite and re-rate a current consumer, a consumer whose credit has improved greatly would have to change companies in order to receive the benefit of their improved credit.

CHAIR ANDERSON agreed that it's a good provision.

MR. GEORGE related that the industry would prefer to re-underwrite and re-rate anyone, and therefore that provision wouldn't be necessary.

MR. GEORGE turned to the fact that Alaska is unique, which might not necessarily be a benefit when trying to write insurance in the state. For instance, there isn't much [the insurance industry] can do regarding the high cost of doing business and low volume in Alaska. Furthermore, nothing can be done about Alaska's remoteness or extreme conditions. Because of the aforementioned, it's important that Alaska doesn't make itself more unique with things such as Civil Rule 82, the highest uninsured/underinsured motorist limits in the U.S., and a unique credit model. He noted that early on [the insurance industry] had proposed the National Conference of Insurance Legislators (NCOIL) model and although it was a compromise, it is going to be the national standard. This legislation should only impact about seven insurance companies because that many are actually writing auto and homeowner's business in Alaska. Because of Alaska's unique conditions, Alaska isn't a good place to write insurance and "we" aren't making it any friendlier. Therefore, for the future he urged legislators to think about what is being done to the market. He related that it isn't healthy for two major companies to have the vast preponderance of the market. He mentioned the possibility of [encouraging new insurance companies] by treating them as other states do.

Number 2170

REPRESENTATIVE DAHLSTROM announced that she would be voting for the legislation because she believes it to be a good compromise. However, she said she believes that any company not making money in Alaska will leave. She said she further believes that all insurance companies are making money.

MR. GEORGE stated that over the last few years insurance companies have lost substantial amounts of money, particularly with auto insurance. Furthermore, even when insurance companies in Alaska make money, they don't stand to make as much money as they would under the same profit margin in virtually any other state. He pointed out that there are companies that are direct writers that don't use agency forces and their rates are competitive with the rates of companies that use agents.

REPRESENTATIVE DAHLSTROM, upon Chair Anderson's question, clarified that she believes if it's not in the insurance company's best interest to do business in Alaska, the company will leave Alaska.

CHAIR ANDERSON posed a situation in which the insurance companies in Alaska have to insure people of a higher risk and

that causes rates to increase, those companies would also have to leave Alaska.

Number 2229

MR. GEORGE remarked that the insurance industry is a competitive and highly regulated industry. All rates have to be filed and approved by the Division of Insurance, which doesn't allow great margins for profit. Furthermore, it's prospective. If a competitor cuts its rates in half, writes all of the business, and goes broke, the insurance companies that remain would pay for that. He explained that insurance companies pay into the Guaranty Association to cover such things so that the policyholder doesn't suffer. For those individuals that no one wants to write, the state mandates that these individuals have insurance. These individuals go into a pool and all of the companies doing business [in the state] write them based on the portion of business the company does. Therefore, State Farm Insurance and Allstate Insurance write most of the assigned risk plan. Mr. George related that it would be healthy if there could be several companies writing about 20 percent of the business in Alaska rather than the current situation.

SENATOR COWDERY explained that when someone buys a policy, the [premiums] are invested to try to get a return. The insurance company is no different [than any other investor] in that it has lost money. He highlighted that the states of California and Hawaii have banned credit scoring as well as Maryland for home purchases.

Number 2371

LINDA HALL, Director, Division of Insurance, Department of Administration, echoed earlier comments regarding the large amount of work that went into this legislation.

**TAPE 03-54, SIDE B**

MS. HALL related that the Division of Insurance has two fairly difficult roles to play. One role is to protect and educate the consumer and the other is to enhance the insurance business environment. This legislation goes a long way toward the aforementioned. She informed the committee that in a Senate hearing she requested five things in [this] legislation; most of those dealt with regulatory tools, such as the ability to have the scoring models filed with the division so that it could review them. With regard to consumer protections, she pointed

out that there is a lengthy list that she would categorize as being among the most stringent in the country. She noted that the mechanism for dispute resolution is very important and is addressed in this legislation. Furthermore, [this legislation] makes it clear that credit can't be the sole factor in any rating or underwriting mechanism but may be used in combination with other substantive factors. Ms. Hall informed the committee that she also requested for the ability for insurance companies to be able to use a very valid predictive tool. This legislation doesn't go as far as she or the industry would've liked. However, it does allow credit scoring and at this point, the legislation seems to be a good compromise.

REPRESENTATIVE GUTTENBERG asked if there is a factor when a consumer says he/she doesn't want his/her credit history built into the ratings.

MS. HALL pointed out that nothing in this legislation requires consent from new business. Credit can be used [in scoring] new business and going forward the consumer can request credit be used at the renewal stage.

The committee took an at-ease from 11:58 a.m. to 11:59 a.m.

CHAIR ANDERSON said that he agrees with Mr. Lessmeier that the renewal language should be included, however he said he wasn't going to offer it at this time.

Number 2160

REPRESENTATIVE DAHLSTROM moved to report HCS CSSB 13, Version 23-LS0207\X, Ford, 5/17/03, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HCS CSSB 13(L&C) was reported from the House Labor and Commerce Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 12:00 p.m.