

ALASKA STATE LEGISLATURE  
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 28, 2017

8:59 a.m.

**MEMBERS PRESENT**

Senator Mia Costello, Chair  
Senator Shelley Hughes, Vice Chair  
Senator Kevin Meyer  
Senator Gary Stevens  
Senator Berta Gardner

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CONFIRMATION HEARINGS

State Board of Registration for Architects, Engineers and Land Surveyors

John Kerr - Anchorage  
Jeffrey Koonce - Anchorage

CONFIRMATIONS HEARD AND HELD

Alcoholic Beverage Control Board

Robert Klein - Anchorage

CONFIRMATION HEARD AND HELD

Marijuana Control Board

Nicholas Miller - Anchorage  
Pete Mlynarik - Soldotna  
Mark Springer - Bethel

CONFIRMATIONS HEARD AND HELD

SENATE BILL NO. 98

"An Act relating to insurer actions based on credit history and insurance scores at insurance policy renewal; and providing for insurer consideration of consumer requests for exceptions of credit history or insurance scores."

- HEARD & HELD

SENATE BILL NO. 51

"An Act extending the termination date of the Board of Veterinary Examiners; and providing for an effective date."

- BILL HEARING POSTPONED TO 1:30 P.M. 3/28/2017

SENATE BILL NO. 93

"An Act extending the termination date of the Board of Veterinary Examiners; and providing for an effective date."

- BILL HEARING POSTPONED TO 1:30 P.M. 3/28/2017

**PREVIOUS COMMITTEE ACTION**

BILL: SB 98

SHORT TITLE: INSURER'S USE OF CREDIT HISTORY/SCORES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/23/17	(S)	READ THE FIRST TIME - REFERRALS
03/23/17	(S)	L&C, FIN
03/28/17	(S)	L&C AT 9:00 AM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

JOHN KERR, Appointee

State Board of Registration for Architects, Engineers and Land Surveyors

Anchorage, Alaska

**POSITION STATEMENT:** Testified as appointee to the State Board of Registration for Architects, Engineers and Land Surveyors.

JEFF KOONCE, Appointee

State Board of Registration for Architects, Engineers and Land Surveyors

Anchorage, Alaska

**POSITION STATEMENT:** Testified as appointee to the State Board of Registration for Architects, Engineers and Land Surveyors.

ROBERT KLEIN, Appointee

Alcoholic Beverage Control Board

Anchorage, Alaska

**POSITION STATEMENT:** Testified as appointee to the Alcoholic Beverage Control Board.

NICHOLAS MILLER, Appointee  
Marijuana Control Board  
Anchorage, Alaska

**POSITION STATEMENT:** Testified as appointee to the Marijuana Control Board.

PETE MLYNARIK, Appointee  
Marijuana Control Board  
Soldotna, Alaska

**POSITION STATEMENT:** Testified as appointee to the Marijuana Control Board.

MARK SPRINGER, Appointee  
Marijuana Control Board  
Bethel, Alaska

**POSITION STATEMENT:** Testified as appointee to the Marijuana Control Board.

LAURIE WING-HEIER, Director  
Division of Insurance  
Department of Commerce, Community and Economic Development  
Anchorage, Alaska

**POSITION STATEMENT:** Introduced SB 98 on behalf of the administration.

CINDA SMITH  
GEICO  
Chevy Chase, Maryland

**POSITION STATEMENT:** Testified in support of SB 98.

KRISTIE BABCOCK, Independent Agent  
State Farm Insurance  
Kenai, Alaska

**POSITION STATEMENT:** Testified in support of SB 98.

ARMAND FELICIANO, Vice President  
Property Casualty Insurers Association of America  
Sacramento, California

**POSITION STATEMENT:** Testified in support of SB 98.

BRIAN DUFFY, Director  
Division of Administrative Services  
Department of Military and Veterans Affairs  
JBER, Alaska

**POSITION STATEMENT:** Offered supporting testimony for SB 98.

#### **ACTION NARRATIVE**

[8:59:32 AM](#)

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 8:59 a.m. Present at the call to order were Senators Stevens, Hughes, and Chair Coghill.

**CONFIRMATION HEARINGS**

Board of Registration for Architects, Engineers and Land  
Surveyors  
Alcoholic Beverage Control Board  
Marijuana Control Board

[9:00:21 AM](#)

CHAIR COSTELLO announced the first order of business would be confirmation hearings for governor appointees to boards and commissions. She thanked the nominees for their service and stated that the process will be to hear from the nominees, take members' questions, take public testimony, and then set the names aside for action in the future.

Senator Gardner and Senator Meyer joined the committee.

[9:01:14 AM](#)

At ease

[9:03:28 AM](#)

CHAIR COSTELLO reconvened the meeting and asked John Kerr of Anchorage to express his interest in serving on the State Board of Registration for Architects, Engineers and Land Surveyors in the land surveyor seat.

[9:04:18 AM](#)

JOHN KERR, Appointee, State Board of Registration for Architects, Engineers and Land Surveyors, Anchorage, Alaska, said he has been a land surveyor in Alaska since the late 1970s. This will be his second term and he has enjoyed bringing his private and public-sector experience to this board in support of the state.

CHAIR COSTELLO asked if the board faces any challenges going forward.

MR. KERR replied the board is considering the licensure of software engineering. Because software is incorporated in every aspect of engineering, there are life, health and safety

considerations. This will be a large and interesting topic for the board to undertake.

SENATOR HUGHES asked if land surveyors in Alaska use drones and if the board has discussed this topic.

MR. KERR confirmed that surveyors are using drones for specific types of surveying. The board has been actively discussing the topic because their use has garnered a lot of attention. He opined that they are a good tool for certain applications, but they are not suitable for large projects.

SENATOR HUGHES noted the legislative task force on drones and welcomed his input at any time.

CHAIR COSTELLO found no further questions or public testimony and thanked Mr. Kerr for being willing to serve.

CHAIR COSTELLO asked Jeffrey Koonce of Anchorage to express his interest in serving on the State Board of Registration for Architects, Engineers and Land Surveyors in the architect seat.

[9:08:59 AM](#)

JEFFREY KOONCE, Appointee, State Board of Registration for Architects, Engineers and Land Surveyors, Anchorage, Alaska, said he has been an architect in Alaska for 35 years and has followed the regulations for licensure closely. He explained that he wanted to give back to the community and decided to submit his name after a friend retired from the board and suggested he apply. He was first appointed by former Governor Parnell and eagerly volunteered to renew.

SENATOR MEYER noted that he designed several large commercial buildings and asked if one was more challenging.

MR. KOONCE said they are all challenging in one way or another and he's usually most proud of the current project. He described the patient housing project located behind the Alaska Native Medical Center that has a Ronald McDonald House on the top floor. It took six years to take that project to completion and it opened two months ago.

SENATOR MEYER recalled that the state issued a bond on that project that will be matched by Medicaid. He commented that he attended the groundbreaking but hasn't visited it since.

MR. KOONCE said it was a win-win for the state budget and the Native community for delivery of excellent health care.

SENATOR MEYER thanked Mr. Koonce for offering to serve again.

CHAIR COSTELLO found no further questions or public testimony and thanked Mr. Koonce for being willing to continue to serve.

[9:13:14 AM](#)

CHAIR COSTELLO asked Robert Kline of Anchorage to express his interest in serving on the Alcoholic Beverage Control Board in the industry seat.

[9:13:45 AM](#)

ROBERT KLEIN, Appointee, Alcoholic Beverage Control Board, Anchorage, Alaska, said he has been on the board for several years and it would be an honor to continue to serve. He said the board has spent the last six years working on rewriting Title 4 and diverse interests have come together during the process.

CHAIR COSTELLO found no questions or public testimony and thanked Mr. Klein for being willing to serve.

CHAIR COSTELLO asked Nicholas Miller of Anchorage to express his interest in serving on the Marijuana Control Board in the industry seat.

[9:16:11 AM](#)

NICHOLAS MILLER, Appointee, Marijuana Control Board, Anchorage, Alaska, said he is interested in serving on the board because he wants to join the industry. He has 20 years of experience working with assemblies and community councils and has worked to develop regulations for another industry. He opined that he has a lot to offer in terms of regulation writing and public safety.

SENATOR STEVENS asked his thoughts about onsite marijuana consumption, particularly regarding the issues of second hand smoke and impaired driving.

MR. MILLER said the largest current concern is onsite smoking. Smaller communities in Southeast are particularly concerned about how to accommodate cruise ship tourists. He opined that there is a need for consumption areas as well as a need for strict rules. He shared his preference to allow local communities to have a say about whether onsite consumption will take place.

SENATOR STEVENS asked him to comment on driving under the influence of marijuana if there are onsite consumption venues.

MR. MILLER said he would like to think people will be as conscientious about driving after consuming marijuana as they are about driving after consuming alcohol. He pointed out that making marijuana legal has not increased the number of arrests for driving under the influence of marijuana.

SENATOR STEVENS asked if he supports Alaska being the first state to allow onsite consumption of marijuana.

MR. MILLER said he does support it primarily because tourists will consume the marijuana they purchase even if there isn't a designated area for consumption.

[9:21:26 AM](#)

SENATOR GARDNER asked if it is possible to determine that someone is under the influence of marijuana, has used it recently, or has used it in the past.

MR. MILLER replied there is no test that is like the blood alcohol tests, but people are arrested based on motor skill testing. This has been going on for 25 years and it continues today.

CHAIR COSTELLO found no further questions or public testimony and thanked Mr. Miller for being willing to serve.

CHAIR COSTELLO asked Peter Mlynarik of Soldotna to express his interest in continuing to serve on the Marijuana Control Board in the public safety seat. She noted that he is currently the chief of police in Soldotna.

[9:23:18 AM](#)

PETER MLYNARIK, Appointee, Marijuana Control Board, Soldotna, Alaska, said he has been on the board since 2015 and is currently serving as chair. He is eager to continue to serve and believes that it is beneficial that he has been on the board since its inception and has 26 years in law enforcement.

CHAIR COSTELLO asked him to explain the work he did to gather signatures to put a commercial marijuana prohibition on the ballot in his [borough].

MR. MLYNARIK said he did that as a private citizen and resident of the Kenai Peninsula Borough, not as a member of the Marijuana

Control Board. The regulations provide that local boroughs and local governments can opt out and he was one person who gathered signatures for that ballot initiative. He opined that that does not affect his ability to serve on the board. "It's a right that's guaranteed by local governments and people and I don't believe I should be excluded from that right just because I'm on the board."

SENATOR STEVENS asked his position on Alaska becoming the first state to allow onsite marijuana consumption and the issues of second-hand smoke and impaired driving after leaving an establishment that offers onsite consumption.

MR. MLYNARIK said he believes the issue of second-hand smoke is a valid concern for customers and workers alike. The board had draft language to address the matter, but it was put aside for further discussion. He said driving under the influence of marijuana is more difficult to test for than alcohol, but there are roadside tests for balance, reciting the alphabet, and eye tests. The only way to accurately test the amount of THC in someone's blood is through a blood test that is sent off for analysis. There is some effort to design a roadside test, but the science is not as defined as for alcohol.

SENATOR STEVENS asked if he expects that onsite marijuana consumption will be approved by the board.

MR. MLYNARIK said he didn't know at this point.

[9:30:48 AM](#)

SENATOR HUGHES asked if he is seeing a growing problem with people who are driving while impaired by marijuana. She related her understanding that drivers impaired by marijuana may drive too slowly.

MR. MLYNARIK responded that motor skills are affected by the consumption of both alcohol and marijuana although it is more difficult to discern with marijuana. He said he could not confirm that there is a growing problem of people driving under the influence of marijuana.

CHAIR COSTELLO found no further questions or public testimony and thanked Mr. Mlynarik for being willing to continue to serve.

CHAIR COSTELLO asked Mark Springer of Bethel to express his interest in serving on the Marijuana Control Board in the rural seat.

[9:33:26 AM](#)

MARK SPRINGER, Appointee, Marijuana Control Board, Bethel, Alaska, said he has been privileged to serve for the past year and would like to continue to serve as this new industry continues to develop. He shared that he has lived in Alaska for 40 years and he has considerable interest in economic development. Serving on the board is a way to help diversify the state's economy.

SENATOR STEVENS asked his view of Alaska becoming the first state to allow onsite marijuana consumption and the issues of second-hand smoke and impaired driving after leaving an establishment that offers onsite consumption.

MR. SPRINGER said he shares the concerns about second hand smoke and he also respects the local authority to determine the type of ventilation that will be necessary to ensure workplace safety. Regarding impaired driving, he expressed hope that people will act responsibly. Regarding onsite consumption, he said the input has been that tourists will want to know where to purchase and consume marijuana onsite. The public has also argued in favor of having a place to consume marijuana outside their home. He said he has not made up his mind on the matter but is cognizant of the both sides of the argument.

CHAIR COSTELLO found no further questions or public testimony and thanked Mr. Springer for being willing to serve. She thanked all the nominees and stated that all the names would be forwarded in a group on a future date.

[9:42:27 AM](#)

At ease

### **SB 98-INSURER'S USE OF CREDIT HISTORY/SCORES**

[9:43:42 AM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 98. She said this is the first hearing and the intent is to hear the introduction, take questions, take public testimony, and hold the bill for further consideration.

[9:44:38 AM](#)

LAURIE WING-HEIER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), introduced SB 98 on behalf of the administration. She explained that credit scoring is a tool that insurance companies use for

personal lines of insurance for homeowner, auto, watercraft, RV, and motorcycle insurance. She clarified, "It is not used when one is purchasing health insurance."

A consumer's credit history is one factor insurance companies use to determine an insurance score. A consumer's insurance score is predictive of their risk of filing claims and the extent of those claims. If a consumer's credit score improves, he/she may be in a preferred program, but if it deteriorates he/she may be in a less tiered program that would have a higher rate.

SB 98 also adds a provision for extenuating life circumstances. That gives a consumer who has had a death in the family, loss of employment, military deployment, or other factors that a prudent person would recognize as extenuating, a right to appeal if they feel that their insurance score has placed them in a tiered program that is lower than previously or has impacted their premium.

[9:47:20 AM](#)

MS. WING-HEIER provided a sectional analysis for SB 98 speaking to the following prepared document:

**Section 1**

The subsection is amended to require an insurer writing personal insurance that uses credit information in underwriting or rating a consumer at the time of renewal to disclose to the consumer that the insurer will obtain credit information in connection with the renewal. It also replaces the word "applicant's" with "consumer's" because the requirement now applies to both new applicants and existing policyholders.

[9:49:09 AM](#)

SENATOR MEYER asked if consumers will still be required to sign the waiver to allow the insurance company to access their credit history to determine their insurance score each time their policy is up for renewal.

MS. WING-HEIER answered no; consumers will simply be notified of the fact. If the insurance company found an issue with the insurance score, they would notify the consumer of the options to dispute the insurance score.

SENATOR STEVENS asked why this does not apply to health insurance and whether the bill makes that clear.

MS. WING-HEIER clarified that health insurance has never used credit as an underwriting tool.

SENATOR STEVENS asked if the bill precludes insurance companies from using the tool for health insurance.

MS. WING-HEIER answered yes, in part due to do with the guarantee of health insurance under the Affordable Care Act.

CHAIR COSTELLO observed that people with a lower credit rating have more to gain from the bill as currently written. She asked Ms. Wing-Heier if she has information showing that most people have a good credit rating.

MS. WING-HEIER answered yes; most Alaskans have good credit, so they have an advantage to get a preferred program in personal insurance lines. She related there have been numerous instances of people calling the division to ask why their insurance went up 25 or 30 percent. Oftentimes it is because they failed to sign the waiver allowing the insurance company to order their credit history for the renewal. She said it is an oddity in the law that insurance companies can order credit history for new business but not on renewal unless the consumer signs the waiver. It's an inconvenience for consumers and insurance companies alike.

SENATOR HUGHES asked if Alaskans' generally good credit ratings cross socioeconomic lines.

MS. WING-HEIER replied the division has found no data to support the notion that income, gender, nationality, or race impacts credit.

SENATOR HUGHES observed that the bill would be beneficial to all income levels in the state.

SENATOR GARDNER asked if "no data" means that the studies that have been done do not show that different population groups are impacted differently, or if it means the study results are not conclusive.

MS. WING-HEIER clarified that a Federal Trade Commission study showed that low income consumers could have a good credit score. She explained that when the bill was drafted the division looked

at various demographics to see if it made a difference and the data did not support excluding rural Alaska, lower income Alaskans, or those under age 26.

[9:56:09 AM](#)

MS. WING-HEIER continued the sectional analysis for SB 98.

### **Section 2**

The subsection amends the notice required when an adverse action is taken and to provide notice informing the consumer of extraordinary life circumstance exemptions, the process for requesting such an exemption, and that they must request an exemption within 60 days. The amendment also clarifies that the notice of adverse action must be in writing.

### **Section 3**

The subsection is amended to clarify the statute by adding that an insurer may, in addition to credit history, use a consumer's insurance score to cancel, deny, nonrenew, underwrite, or rate personal insurance only in combination with other substantive underwriting factors.

The subsection is also amended to provide that if an insurer uses a consumer's credit history or insurance score, then not later than 24 months after the insurer most recently used the consumer's credit history or insurance score to underwrite or rate a policy, the insurer shall reunderwrite and rerate the policy based on the consumer's current (1) credit history or insurance score and current risk characteristics; or (2) risk characteristics but not including, in whole or in part, the consumer's credit history or insurance score.

### **Section 4**

This section eliminates the requirement that an insurer first obtain a written waiver at each renewal from a consumer to underwrite or rate a personal insurance policy based on the consumer's credit history or insurance score. The remaining paragraphs in the subsection are renumbered accordingly. This section is amended to provide that the prohibitions on the use of credit scores by insurers set forth in the paragraph also apply to nonrenewals. This section also establishes that an insurer may not use credit history

to cancel, deny, nonrenew, underwrite, or rate a personal insurance policy if the history is obtained more than 90 days before the policy is canceled, denied, nonrenewed, underwritten, or rated. It further clarifies that the paragraph does not require an insurer to reevaluate a consumer's credit history more frequently than is required under AS 21.36.460(c).

SENATOR HUGHES asked if the provisions in Sections 3 and 4 regarding credit history are in conflict.

MS. WING-HEIER explained that Section 3 amends the statute to allow an insurer to use both the credit history and the insurance score of a consumer that is not more than 24 months old.

SENATOR HUGHES pointed out that Section 3 says the insurer may use the credit history as one, but not the only, factor in determining whether to deny or nonrenew, but Section 4 says an insurer may not use credit history to cancel, deny, or nonrenew related to a timeframe. She continued to question whether those sections were in conflict.

[10:01:23 AM](#)

At ease

[10:02:44 AM](#)

CHAIR COSTELLO reconvened the meeting.

MS. WING-HEIER stated that the intent of Section 4 is to establish the timeline for using credit history to cancel, deny, nonrenew, underwrite, or rate a personal insurance policy. "You have to use it every 24 months but within that 24 months it has to be not more than 90 days old."

MS. WING-HEIER continued the sectional analysis for SB 98.

#### **Section 5**

Section 5 is a new section which requires (except as provided under AS 21.36.460(d)) an insurer that uses a consumer's credit history or insurance score to provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced, and whose credit history or insurance score has been affected by one or more of the following extraordinary life circumstances:

- a catastrophe, as declared by the director under AS 21.06.080;
- a serious illness or injury, or a serious illness of or injury to an immediate family member;
- the death of a spouse, child, or parent;
- divorce or the involuntary interruption of spousal support or maintenance payments;
- identity theft;
- loss of employment for three months or more as a result of involuntary termination;
- military overseas deployment; or
- other extraordinary life circumstances where a prudent person would consider an exception to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines to be reasonable.

**AS 21.36.461(b)**

This subsection allows an insurer to require a consumer requesting an exemption under 21.36.461(a) to provide reasonable written and independently verifiable documentation of the extraordinary life circumstances and demonstrate that the circumstances had a direct and meaningful effect on the consumer's credit information.

**AS 21.36.461(c)**

This subsection describes situations where an insurer may grant an exception when a consumer requests an exception under AS 21.36.460(b).

**AS 21.36.461(d)**

This subsection provides that an insurer may not be considered out of compliance with a law or rule relating to underwriting, rating, or rate filing as a result of granting an exception under this section. The subsection allows an insurer to grant an exception notwithstanding its approved filings and rates and does not require the insurer to have to submit filing or rate amendments to the division for approval in order to grant the exception.

**AS 21.36.461(e)**

This subsection requires the insurer to provide notice to the consumer in writing of its decision in granting or not granting the request for an exception not later

than 30 days after the insurer receives sufficient documentation of the information requested from the consumer under AS 21.36.461(b).

**AS 21.36.461(f)**

If an exception is denied and an adverse action will be maintained by the insurer, this subsection requires the insurer's notice under AS 21.36.461(e) to include the insurer's reason for denying the request for an exception and for maintaining the adverse action and notice of the consumer's right to appeal the denial to the director of the division of insurance.

**AS 21.36.461(g)**

This subsection provides that the consumer can appeal the adverse action to the director not later than 30 days after receiving the insurer's notice.

**AS 21.36.461(h)**

This subsection requires the director of the division of insurance to make a decision on the consumer's appeal not later than 30 days after receiving the appeal and requires the director to provide the decision to both the insurer and to the consumer and outlines requirements for the basis of the decision.

**AS 21.36.461(i)**

This subsection provides that the hearing and appeal procedures provided for in AS 21.06.180 - 21.06.230 do not apply to consumer appeals submitted to the director under AS 21.36.461(g).

**AS 21.36.461(j)**

This subsection makes clear that nothing in AS 21.36.461 may be construed to provide a consumer with a cause of action that does not exist in the absence of this AS 21.36.461.

**AS 21.36.461[(k)]**

This subsection provides that the term "adverse action" as used in AS 21.36.461 is limited to an adverse action defined under AS 21.36.460(i) that is based in whole or in part on the insured's credit history or insurance score as affected by one or more extraordinary life circumstances.

The subsection also provides that the term "consumer" has the meaning given in AS 21.36.460 and the term "director" has the meaning given in AS 21.97.900.

The subsection is amended to replace the term "insured" with the term "consumer" for consistency.

10:06:15 AM

CHAIR COSTELLO asked what a consumer would need to do to prove identity theft.

MS. WING-HEIER replied the first step would be to provide the insurance company with reasonable documentation to show that their identity was stolen. She listed LifeLock, the bank, the credit card company, or a police report as examples of what would suffice to meet the statutory requirement of proof.

CHAIR COSTELLO asked what the first step would be to dispute a decision made by the insurance company.

MS. WING-HEIER replied the first step would be to go to the insurance company to dispute the action under the extraordinary circumstance provision. If the insurance company and the consumer still do not agree the next step is for the consumer to go to the Division of Insurance for a ruling.

CHAIR COSTELLO asked what the bill says about the consumer's insurance rate during the period of dispute.

MS. WING-HEIER replied the consumer will be in the higher risk program during the time they dispute the adverse action. Once a favorable decision is made, the consumer would be placed back in the program for which he/she is eligible.

SENATOR STEVENS asked how long extenuating life circumstances might last.

MS. WING-HEIER said she did not believe the bill prevents more than one appeal of an adverse action. Responding to a further question, she confirmed that the insurance company would make an annual analysis of the extraordinary circumstances.

10:10:10 AM

SENATOR HUGHES asked if the insurance company would refund the difference between the rates if the appeal was validated.

MS. WING-HEIER said yes.

SENATOR HUGHES asked how often the appeal process is elevated to the division director for a decision. She noted the zero fiscal note and said she assumes that level of appeal would be rare.

MS. WING-HEIER said she believes that the insurance companies will try to resolve the disputes at their level, but a few appeals will rise to the level of the division director.

SENATOR GARDNER asked if consumers get a notice of adverse action that their rates are going up because of something in their credit history.

MS. WING-HEIER replied that is one thing the bill does. It provides that as of January 1, 2019 an insurance company will send an adverse action if it finds something in the consumer's credit history that will cause their score and policy premium to go up.

SENATOR GARDNER asked what happens if the problem is an inaccurate credit history that is taking time to clear up.

MS. WING-HEIER said she would take that as an extenuating life circumstance where a prudent person would consider an exception.

SENATOR GARDNER asked for clarification on the number of appeals a consumer can make and if rates can only be adjusted annually, even if the consumer pays monthly or quarterly.

MS. WING-HEIER said the insurance company may order the consumer's credit history when the policy renews. Most of the time that is annually.

CHAIR COSTELLO asked if rates for the general population would likely go up if the bill passes because insurance companies would need to plan for the different business model.

MS. WING-HEIER said she believes rates will stabilize or decrease a little if the bill were to pass, even with the appeal process.

CHAIR COSTELLO observed that accommodating extenuating life circumstances will keep rates from dropping as much as they might because insurance companies must take into account the likelihood of more appeals.

MS. WING-HEIER clarified that Alaska is not the only state to insert extenuating life circumstances in the insurance statutes. Also, insurance company processes already include an appeal provision. Accommodating extenuating life circumstances won't be a large factor for increasing rates in Alaska.

SENATOR MEYER expressed concern about the additional administrative burden the bill places on insurance companies. He asked if it is fair to say that Section 5 is important to the governor and that may be one of the reasons that he vetoed the bill the legislature passed last year.

[10:19:54 AM](#)

MS. WING-HEIER clarified that the bill last year contained the language in Section 5. The difference is that SB 98 includes the prudent person and that the final decision maker on the validity of the appeal is the director of the Division of Insurance.

SENATOR MEYER asked why the governor vetoed the bill last year.

MS. WING-HEIER replied it related to the adverse action. The governor was very concerned that the insurer would tell the consumer both that their insurance score had gone up due to an adverse action and the result of the appeal.

CHAIR COSTELLO asked if the division is the best place to send the final recourse action and if there was any discussion about sending it to an existing board.

MS. WING-HEIER said they did look at other means, but the division already has the established processes to handle the appeals. After looking at the options, they determined it would be more time and cost effective to handle it within the division.

CHAIR COSTELLO asked if Section 5 is identical to the model language from the National Conference of Insurance Legislators (NCOIL).

MS. WING-HEIER said a lot is word-for-word but the administration added the prudent person, the notice of adverse action, and that the director of the Division of Insurance shall be the final decision maker on an appeal.

CHAIR COSTELLO asked who the final decision maker is in other states.

MS. WING-HEIER said she believes it is the insurer.

[10:22:51 AM](#)

SENATOR HUGHES asked if part of the veto last year was based on concern that it might impact low income populations.

MS. WING-HEIER said they looked at that last year when Senator Huggin's bill was considered.

[10:23:49 AM](#)

MS. WING-HEIER continued the sectional review for SB 98.

**Section 6**

This section is amended to exclude the exception appeal process under AS 21.36.461 from the jurisdiction of Department of Administration Office of Administrative Hearings (OAH).

CHAIR COSTELLO found no questions and opened public testimony on SB 98.

[10:24:46 AM](#)

CINDA SMITH, GEICO, Chevy Chase, Maryland, stated that Director Wing-Heier has eloquently described SB 98 and Geico is fully in support of the measure. It provides good protections for consumers. She urged the committee to pass the bill.

[10:25:27 AM](#)

KRISTIE BABCOCK, Independent Contractor, State Farm Insurance, Kenai, Alaska, stated that the problem in current law that she testified to last year is still impacting her customers. She said her customers continue to ask if they must come in every year on every policy and sign the waiver. Sadly, when customers don't sign the waiver their insurance rate goes up, she said. One of her employees works exclusively on contacting customers about when their policy will renew and reminding them they need to sign the waiver, so they can get the best rate they deserve. She urged the committee to pass the bill. It will allow consumers to shop with confidence that there is stability in the rating factors initially and upon renewal.

SENATOR HUGHES asked if she supports the changes the bill makes this year.

MS. BABCOCK replied she does support the changes. She opined that it makes sense that the final decision rests with the director of insurance rather than the insurance company.

SENATOR GARDNER asked if is it too late to change a rate going forward if a consumer doesn't notice for two months that their rate has gone up.

MS. BABCOCK said current law prohibits the insurer from using the consumer's credit on renewal without a signed waiver. If the policy renews without the signed authorization, the insurer can't use their credit characteristics after the renewal. SB 98 would allow an insurance company to use all the credit characteristics of the customer at each renewal to correctly classify their risk. Also, the consumer has 30 days to appeal a rate increase based on an extenuating life circumstance.

SENATOR GARDNER asked why a consumer wouldn't just cancel their policy if their rate goes up and the insurance company can't do anything.

MS. BABCOCK said that does happen. The downside is that it is irritating for the customer to have to start a new relationship. The policy in her office, based on her interpretation of the law, is that they cannot write a new policy for an existing customer that covers the same thing. She deferred to Sheldon Winters for further explanation.

SENATOR GARDNER expressed interest in knowing whether it is state law or State Farm policy.

[10:35:01 AM](#)

ARMAND FELICIANO, Vice President, Property Casualty Insurers Association of America, Sacramento, California, stated that PCI is part of an insurance coalition supporting SB 98. The bill is a reasonable middle ground that would allow consumers to enjoy the benefits of credit scoring and put in place a fair process to resolve credit disputes. The bill addresses the unnecessary market disruption inherent in the existing statute and it authorizes the division of insurance to resolve disputes.

[10:35:53 AM](#)

CHAIR COSTELLO asked Mr. Duffy to comment on Section 5 relating to extraordinary life circumstances.

BRIAN DUFFY, Director, Division of Administrative Services, Department of Military and Veterans Affairs, said he has no testimony other than that including the military overseas deployment provision is a benefit for service members and the system in general.

10:36:51 AM

CHAIR COSTELLO found no questions and closed public testimony on SB 98.

SENATOR GARDNER asked Ms. Wing-Heier to speak to whether it is state law or company policy that prevents an insurer from using credit scores after a certain amount of time has passed.

10:37:21 AM

MS. WING-HEIER said the division feels that insurers or brokers have tried to circumvent the law by canceling a policy and rewriting it and the division has not looked kindly if the insurer did not get the signed waiver in the file. She said the division has tried to be respectful of consumers who are not happy with the existing statute while also respecting the waiver process that is written in statute. It does not necessarily allow an insurer to cancel a policy after it renews and then rewriting it as new business.

CHAIR COSTELLO summarized that state law is silent as to whether an insurance company can use the credit score once the deadline is passed and the interpretation is that it is prohibited.

MS. WING-HEIER agreed.

CHAIR COSTELLO found no further questions and held SB 98 in committee.

10:39:26 AM

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 10:39 a.m.