

**HB**

**195**

<TARGET><BILL>HB 195</BILL><SUBJECT>HB  
195</SUBJECT><COMM>HL&C30</COMM></TARGET>



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Department of Commerce, Community,  
and Economic Development**

OFFICE OF THE COMMISSIONER

P.O. Box 110800  
Juneau, AK 99811-0800  
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**MEMORANDUM**

TO: Sam Kito  
Chair, House Labor & Commerce

DATE: Tuesday, March 28, 2017

FROM: Chris Hladick, Commissioner

RE: Hearing request for HB 195

Please accept this request to schedule HB 195 – Insurer’s Use of Credit History/Scores – for consideration by the House Labor & Commerce Committee.

This legislation makes changes to Alaska Insurance Code to allow an insurer to use a consumer’s credit history or insurance core for policy renewals, provides requirements for written notification to consumers of negative impacts due to their credit scores, and allows for exemptions due to extraordinary life circumstances. It also provides for an appeals process for those who feel they have been wrongly denied an exemption.

If you have any questions regarding this hearing request, please feel free to contact me directly or Micaela Fowler at 465-2503.

Enclosures

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**Governor Bill Walker**  
**STATE OF ALASKA**

March 22, 2017

The Honorable Bryce Edgmon  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Edgmon:

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to an insurer's use of a consumer's credit history or insurance score upon renewal of an insurance policy.

This bill makes changes to the Alaska Insurance Code to allow an insurer to use a consumer's credit history or insurance score for policy renewals. Under the current law, an insurer cannot use a consumer's credit history or insurance score when renewing a policy, unless the consumer affirmatively waives the prohibition on the use of credit history at renewal.

Last year a similar bill came to my desk which I vetoed, due to the lack of adequate protections for Alaskan consumers. While this bill is similar in concept, it adds the protections I found lacking in last year's legislation. If passed, this legislation would give an insurer the ability to take into consideration a consumer's credit history or insurance score at the time of renewal. However, there are many consumer protections that have been added.

This bill requires insurers to provide written notification to consumers if their insurance rate will be negatively affected due to their credit score. In the notification to the consumer, the insurer must provide information regarding extraordinary life circumstance exceptions and instruct the consumer regarding how to request an exception. In addition to the specific circumstances listed, this legislation adds language allowing consumers who feel their life circumstances warrant an exception, to request one in writing, even if it is not specifically listed on the insurer's list of exceptions.

This legislation further protects consumers by establishing an appeal process for consumers who believe their requests for an extraordinary life circumstance exception have been wrongfully denied by an insurer. The appeal process designates the State's Division Director of Insurance as the final decision maker on consumer appeals under the extraordinary life circumstances and requires a decision be made within 30 days after receipt of the appeal. The appeal process included in this

The Honorable Bryce Edgmon  
Transmittal Insurance Policy Renewals  
March 22, 2017  
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legislation implements safeguards for consumers by ensuring the final decision does not rest with the insurer and requires timely action so as not to adversely affect the consumer.

Additionally, this bill adds provisions stating that an insurer may not fail to renew a policy based on a consumer's lack of credit history and prohibits the use of a credit score that is more than 90 days old. Furthermore, this bill would require insurers that use a consumer's credit history to underwrite or rate a policy to re-underwrite or re-rate a policy no later than every 24 months, allowing consumers to reap the benefits of an improved credit score.

This bill clarifies that the definition of an "adverse action" is limited to the definition under the Fair Credit Reporting Act.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in blue ink that reads "Bill Walker". The signature is written in a cursive, flowing style.

Bill Walker  
Governor

Enclosure



House Bill 195: Insurer's Use of Credit History/  
Scores Sectional Analysis

**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.

**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 re-rate 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).

## **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(j)**

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.

**AS 21.36.461(k)**

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

**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).

# Fiscal Note

State of Alaska  
2017 Legislative Session

Bill Version:	HB 195
Fiscal Note Number:	1
(H) Publish Date:	3/24/2017

Identifier: DCCED-DOI-2-14-2017  
 Title: INSURER'S USE OF CREDIT HISTORY/SCORES  
 Sponsor: RLS BY REQUEST OF THE GOVERNOR  
 Requester: Governor

Department: Department of Commerce, Community and  
 Economic Development  
 Appropriation: Insurance Operations  
 Allocation: Insurance Operations  
 OMB Component Number: 354

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

**Change in Revenues**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2017) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2018) cost:** 0.0 *(separate capital appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No  
 If yes, by what date are the regulations to be adopted, amended or repealed? N/A

**Why this fiscal note differs from previous version:**

Not applicable, initial version.

Prepared By:	Lori Wing-Heier, Director	Phone:	(907)269-7896
Division:	Division of Insurance	Date:	02/14/2017 04:45 PM
Approved By:	Catherine Reardon, Director	Date:	02/15/17
Agency:	Division of Administrative Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2017 LEGISLATIVE SESSION

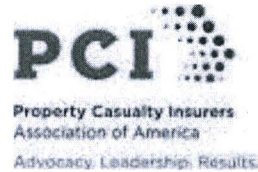
**Analysis**

This bill allows an insurer to use a consumer's credit history or insurance score to underwrite or rate the consumer's policy at renewal. It also provides for exemptions from using credit history.

This bill modifies existing statute and is not anticipated to have a fiscal impact on the Division of Insurance.

**Significant Differences Between  
HB 195 (30<sup>th</sup> Legislature) and SB 127 (29<sup>th</sup> Legislature)**

<b>HB 195</b>	<b>SB 127</b>
If insurer uses credit information at time of renewal, the insurer must disclose to consumer that the insurer will obtain credit information in connection with the renewal	Did not require disclosure to consumer at time of renewal
At the time an insurer takes an adverse action against a consumer based in whole or in part on credit history or insurance score, the insurer must inform consumer of the consumer's right to request an exception due to extraordinary life circumstances	Required insurer to notify consumers of availability of reasonable exceptions and how to apply but did not say when such notification had to be made
Insurer may not nonrenew coverage based in whole or in part on the absence of credit history or the inability to determine credit history	Did not address
Prohibits insurer from using old credit histories or insurance scores when underwriting or rating a policy	Did not address
Includes as an extraordinary life circumstance a situation where a prudent person would consider an exception to be reasonable	Included as an extraordinary life circumstance other events as determined by the insurer
Eliminates language giving the insurer sole discretion to grant an exception	Insurer had sole discretion to grant exception
If a request for an exception is denied, insurer must inform consumer of the reasons for denying the request	Insurer required to inform consumer of the outcome of the request
If a request for an exception is denied, insurer must inform consumer of consumer's right to appeal to the director	Consumer did not have the right to appeal denial of a request for an exception
Director's decision on appeal must be based on what a prudent person would consider to be fair and reasonable given the consumer's circumstances	Did not address
Maintains current definition of the term "adverse action" which considers anything other than the 'best treatment' to be adverse	Amended current definition of the term "adverse action" to effectively consider treatment to be adverse only if the treatment is worse than 'average'
Maintains current description of when a reduction or adverse or unfavorable change in terms of coverage occurs	Eliminated the description of when a reduction or adverse or unfavorable change in terms of coverage occurs



March 28, 2017

Representative Sam Kito III, Chair  
House Labor & Commerce Committee  
State Capitol Room 403  
Juneau AK, 99801

**Re: House Bill 195- SUPPORT USE OF CREDIT SCORE**

Dear Representative Kito III:

On behalf of Alaska USA Federal Credit Union, American Insurance Association (AIA), National Association of Mutual Insurance Companies (NAMIC), and the Property Casualty Insurers of America (PCI) we support HB 195, which would address issues with Alaska's existing credit scoring statute. We commend Governor Walker and the Division of Insurance's efforts in crafting this proposal. In our collective view, this proposal is a reasonable middle ground that would allow consumers to see the full benefits of credit scoring, and put in place an equitable process to resolve credit disputes.

**ALLOWS CONSUMERS THE FULL BENEFIT OF CREDIT SCORING AND ADDRESSES UNNECESSARY MARKET DISRUPTION FOR CONSUMERS**

Alaska's existing law allows for insurers to combine a consumer's credit based insurance score with other rating factors to provide the consumer with an insurance rate that accurately reflects the consumer's risk. Alaska is the only state in the nation that requires insurers to strip out the credit based insurance score from the rating process upon renewal. Every time credit information is removed from a consumer's policy it has led to a consumer losing the benefit of credit based insurance such as premium discounts. Another consequence of Alaska's existing credit based insurance score is best summed up in an Auto Insurance Report published by Risk Information on October 19, 2015, via a quote from the Alaska Division of Insurance "*fixing the law is a priority because it results in many consumer complaints and unnecessary churning of policies...*" as consumers continually move from one insurer to another to maintain their insurance rate discount previously obtained. This bill address these issues by removing the statutory requirement to strip out the credit based insurance score upon renewal.

**PROVIDES FOR A BROADER EXTRAORDINARY LIFE CIRCUMSTANCES EXCEPTIONS AND AUTHORIZES THE DIVISION OF INSURANCE TO RESOLVE CREDIT DISPUTES BETWEEN A CONSUMER AND AN INSURER**

One of the main concerns raised by Governor Walker in last year's credit scoring bill is that the extraordinary life circumstances (ELC) exceptions were "limited." This bill allows consumers to apply for ELC exceptions such as catastrophe, serious illness, death, divorce, identify theft, loss of employment, military deployment, and others, but granting of those ELC exceptions would no longer be at the insurer's sole discretion. Under HB 195, "a consumer, aggrieved by an adverse action resulting from the denial of the consumer's request for an exception..." will have the opportunity to appeal to the Director of the Division of Insurance. This provision adds another layer of protection for consumers should credit dispute arise.

HB 195 is a common-sense approach in fixing Alaska's existing rules for credit scoring by allowing consumers to receive the full benefits of credit scoring and balancing consumer protection. We, therefore, respectfully request an "aye" vote on HB 195. If you have questions or comments, feel free to contact anyone of us: Armand Feliciano, ACIC Vice President (PCI / 916-205-2519/ [armand.feliciano@pciaa.net](mailto:armand.feliciano@pciaa.net)), Christian Rataj, Senior Director (NAMIC/ 303-907-0587/ [crataj@namic.org](mailto:crataj@namic.org)), Katherine Pettibone, Vice President, (AIA/ 916-402-1678/ [kpettibone@aiaadc.org](mailto:kpettibone@aiaadc.org)), or Dan McCue, Senior Vice President, (Alaska USA Federal Credit Union / 907-786-2807/D.McCue@alaskausa.org). We appreciate your consideration of these issues and look forward to working with you.

cc Governor's Office, Darwin Peterson, Legislative Director  
Alaska Division of Insurance, Director Lori Wing-Heier

**SENT VIA EMAIL:** [Representative.Sam.Kito.III@akleg.gov](mailto:Representative.Sam.Kito.III@akleg.gov)  
[Representative.Adam.Wool@akleg.gov](mailto:Representative.Adam.Wool@akleg.gov)

Corporate Law West  
1201 K Street, Suite 920  
Sacramento, CA 95814

April 5, 2017

Robert R. Nash  
Counsel

Honorable Sam Kito, Chair  
Honorable Adam, Vice Chair  
Honorable Members of the House Labor and Commerce Committee  
Alaska Legislature

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[robert.r.nash.gtcd@statefarm.com](mailto:robert.r.nash.gtcd@statefarm.com)

**RE: HB 195A—*Insurer's Use of Credit/History Scores***

Dear Chair Kito, Vice Chair Wool, and Members of the Committee:

I am writing on behalf of State Farm Mutual Automobile Insurance Company (State Farm) in support of HB 195A relating to an Insurer's Use of Credit/History Scores at renewal.

Existing law allows insurers to consider certain credit factors when a new policy is issued. Alaska, however, is the only state that requires insurers to strip the credit information at renewal unless the consumer signs a written waiver requesting their credit be used. HB 195A permits insurers to use credit factors at renewal, thereby allowing Alaska consumers, our customers, to continue to receive the rates they deserve and not face unexpected, and often significant, rate changes when their policy renews. As SB 127, this bill passed overwhelming last year, but was vetoed by Governor Walker because of concerns that are addressed to his satisfaction in HB 195A.

- HB 195A benefits Alaskans because they will no longer be required to provide written consent at each policy renewal.
- HB 195A adds new consumer protections. It requires insurers to make reasonable exceptions for Alaskans whose credit factors are impacted by *extraordinary life circumstances* (ELC) such as a catastrophe; a serious illness or injury; death of a spouse, child or parent; divorce; identity theft; employment loss; or overseas military deployment.
- In addition, and new to the bill this year, HB 195A adds an important new protection that allows consumers to appeal an ELC determination to the Director of Insurance. This means that a consumer will be able to have the State's insurance regulator review any denials of an ELC exception. The bill also requires insurers to give consumers notice of this right.
- Under HB 195A, the insurance market will be more stable and efficient because consumers will not be compelled to leave their preferred insurer and policy solely because their rates increased due to the removal of credit information at renewal. They will be able to stay with their insurer and take advantage of benefits such as long-term customer discounts.
- HB 195A will eliminate the unique and unnecessary problems currently confronting Alaskans, which are compounded by the state's geographic size and diverse rural areas.

Thank you for considering these comments. Please let me know if I can help with any questions.

Sincerely,



Robert R. Nash, Counsel

cc: Members of the House Committee on Labor and Commerce  
Sheldon Winters, Esq. (via email)