

HOUSE BILL REPORT

SHB 2481

As Passed Legislature

Title: An act relating to insuring victims of crimes.

Brief Description: Insuring victims of crimes.

Sponsors: By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Williams, Blake, Appleton, Moeller, Hasegawa, Chase, Rodne, Eickmeyer, Conway, Roberts, Hunt and Simpson).

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/19/06, 1/26/06 [DPS].

Floor Activity:

Passed House: 2/9/06, 71-27.

Senate Amended.

Passed Senate: 2/28/06, 45-3.

House Refused to Concur.

Senate Receded.

Passed Senate: 3/7/06, 45-4.

Passed Legislature.

Brief Summary of Substitute Bill

- Prohibits an insurer from taking an adverse underwriting action against specified insureds as the result of an insurance claim stemming from the crime of arson or malicious mischief.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; O'Brien, Santos, Serben, Simpson, Strow and Williams.

Minority Report: Do not pass. Signed by 1 member: Representative Newhouse.

Staff: Jon Hedegard (786-7127).

Background:

Regulation of Insurance Underwriting: The Office of the Insurance Commissioner (OIC) is responsible for the regulation of the insurance industry in Washington. The OIC is authorized to regulate both the underwriting and rate-setting practices of the companies doing business in this state. In addition, the OIC is given broad regulatory authority to prevent insurance practices that are either unfair, deceptive, or discriminatory. Under current law, there is no explicit regulation of the underwriting practices of insurers with respect to claims stemming from arson or malicious mischief.

Summary of Substitute Bill:

"Underwriting action" is defined to include when an insurer:

- cancels or non-renews an existing policy; or
- changes the terms or benefits of a policy.

The protections provided by the bill apply to insurance policies owned by:

- health care facilities;
- health care providers; and
- religious organizations.

Insurers are prohibited from taking an underwriting action against the specified insureds as the result of a property insurance claim stemming from the crime of arson or malicious mischief. The prohibition applies to insurance claims made within five years of the underwriting action. An insurer may take an underwriting action due to other factors. The insured is required to file a report with a law enforcement agency that contains facts sufficient to put the insurer on notice that the loss was the result of arson or malicious mischief. The law enforcement agency, in turn, must make a determination that an insured is the victim of a crime in order for the insured to be subject to the protections afforded by the bill. The amendment also requires that an insured cooperate with any investigation by law enforcement authorities and insurance investigators.

An insurer that takes an underwriting action against an insured who has filed a claim related to arson or malicious mischief during the preceding five-year period must report the action to the OIC.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill is motivated by an incident where a health clinic was burned down by an act of arson and afterward found it almost impossible to get insurance. The insurance underwriting ends up unintentionally abetting the aims of the criminals by denying insurance

to the victim. It has happened to clinics and churches, it could happen to victims of eco-terrorism. No matter who the victim is, the rule of law must be supported and criminal activity and aims should be thwarted. The bill speaks to those rare occurrences where crimes are perpetrated that intend to stop a certain activity. The health care clinic that was burned down in 2005 has been in operation since 1981. It provides all primary health services and provides Medicaid services. It also provides reproductive services. The clinic was a total loss. Due to hard work, the clinic was serving clients again in seven days. That hard work saved the insurer a considerable amount of business interruption expenses. Subsequently, the clinic's insurance was cancelled. The insurer stated that they didn't know that the clinic provided reproductive services. That was untrue and the cancellation was not allowed. Ultimately, the insurer managed to cancel the clinic's insurance. The clinic had to find another insurer. It took quite some time to find any insurer willing to insure the clinic. It was only after the clinic agreed not to provide reproductive services that insurance could be found at a rate the clinic could afford. Even so, the premium is many times the original rate despite the fact the clinic has significantly upgraded security.

(With concerns) The insurance industry is concerned. The industry is sensitive to the issue of victims of intentional crimes. Insurers have no interest in limiting or prohibiting clinic services, insurers only seek to evaluate and classify risk. It seems to industry that the types of risk faced by clinics and religious organizations are the same as the other organizations on the list. Almost all of the other entities are not only commercial in nature but often significantly larger. It is reasonable to expect those other entities to pursue different risk management strategies. Clinics and religious organizations may not be able to maintain 24-hour security. These other entities may be expected to do so. The purpose of underwriting is to classify risk. Not all insurers accept all types of risk. Nonrenewal is a business decision. If an insurer is not allowed to make that decision, there may be some cost impacts on other policyholders. The industry believes it can find common ground on the clinics and religious organizations but not the other organizations. The industry would like to stress that any insurer action is not intended to aid the goal of any intentional crime. Insurers are not generally required to insure policyholders that the insurer wants to cancel or nonrenew. Insurers are also victims of these crimes if the crime is covered by insurance. If there is fraud involved, Washington law allows for investigation and punishment of that crime. Insurance classifies and prices risk. If the classification and pricing decisions are restricted, it could allow for subsidization of risk. Criminal activity can't be predicted which makes it impossible to price. Industry is sensitive to the issue and is willing to work on this bill.

Testimony Against: None.

Persons Testifying: Nancy Armstrong and Shelly Pacheco, Eastside Women's Health Clinic.

(With concerns) Mel Sorensen, Allstate and Property and Casualty Insurers; and Jean Leonard, State Farm and Washington Insurers.

Persons Signed In To Testify But Not Testifying: None.