

# HOUSE BILL REPORT

## ESHB 1761

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**As Passed House:**  
March 10, 2015

**Title:** An act relating to insurance producers, insurers, and title insurance agents activities with customers and potential customers.

**Brief Description:** Addressing insurance producers, insurers, and title insurance agents activities with customers and potential customers.

**Sponsors:** House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Vick, Kirby, Parker, Ryu, G. Hunt, Blake, Santos and Hurst).

**Brief History:**

**Committee Activity:**

Business & Financial Services: 2/13/15, 2/18/15 [DPS].

**Floor Activity:**

Passed House: 3/10/15, 98-0.

**Brief Summary of Engrossed Substitute Bill**

- Increases the threshold limit of the value of noncontractual goods and wares that insurers may provide to insureds or prospective insureds from \$25 to \$100.
- Permits insurers to give goods or fees for referrals made to the insurers.
- Permits insurers to sponsor or make contributions to nonprofit corporations, provided there is no condition that the entity must apply for or purchase insurance.

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### HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Kirby, Chair; Ryu, Vice Chair; Vick, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Blake, G. Hunt, Kochmar, McCabe, Santos and Stanford.

**Staff:** Linda Merelle (786-7092).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

## **Background:**

Insurers, insurance producers, and title insurance agents (insurers) have limitations regarding noncontractual benefits that they may offer current or prospective insureds. They may, however, as part of an advertising campaign or promotional program offer prizes, goods, wares, or other merchandise not exceeding \$25 in value, per person, in any 12-month period. Any goods or wares must be given to all insureds or prospective insureds under similar qualifying circumstances.

An "insurer" means every person engaged in the business of making contracts of insurance, other than a fraternal benefit society, which is a nonprofit incorporated society conducted for the benefit of its members and their beneficiaries. An "insurance producer" is a person licensed to sell, solicit, or negotiate insurance. A "title insurance agent" is a licensed business entity appointed by an authorized title insurance company to sell, solicit, or negotiate insurance on behalf of the title insurance company.

Insurers are prohibited from providing or offering to provide inducements to insureds, or prospective insureds, any shares of stock or other securities or any kind of contract or agreement providing for or promising profits or special returns or dividends. These prohibitions do not apply to certain sales or purchases of securities, and do not prohibit health carriers or disability insurers from providing a wellness program as part of an individual or group benefit plan. Any wellness program must not discriminate based on any health factor.

## **Summary of Engrossed Substitute Bill:**

### *Noncontractual Goods and Fees.*

In addition to other goods, wares, or merchandise permitted under current law, insurers may offer gift cards and gift certificates. The threshold limit of the value on these items is increased from \$25 to \$100. The exception allowing these gifts does not apply to title insurers or title insurance agents.

### *Payments for Referrals.*

An insurance producer may give to an individual: goods, wares, gift cards and gift certificates, or merchandise not exceeding \$100 in value per referral to the insurance producer. The goods or wares must not be conditioned on the premise that the person referred applies for or obtains insurance through the insurance producer. The payment for a referral must not be in the form of cash, currency, bills, coins, check, or money order. If, however, the referral is made by a person who is not licensed to sell, solicit, or negotiate insurance, a gift may be conditioned upon an application submitted by the person referred and no limits are placed on the fee or the form of payment.

### *Sponsorship or Contributions.*

An insurance producer may sponsor events for or make contributions to nonprofit organizations if the sponsorship or contribution is not conditioned upon the organization

either applying for or obtaining insurance through the producer. A bona fide charitable or nonprofit organization includes:

- any nonprofit corporation existing under the Washington Nonprofit Corporation Act;
- any professional, commercial, industrial, or trade association;
- any organization duly existing under the provisions governing corporations sole, fraternal societies, and farmer's associations;
- agricultural fairs; and
- other entities as determined by the Commissioner to be organized and operated for similar purposes.

There are no limits placed on the value or kind of sponsorship or contribution, and they are exempt from the provisions regarding limitations on the offers of goods or benefits made to insureds or prospective insureds.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This is an appropriate time to take steps to modernize the law in a vast changing landscape. There is no intent to create a continuous professional referral system. The bill was last changed in 1990, and the difference between 1990 and today is the massive advertising and the ability of consumers to go directly to market outside of their community. The new threshold is the right place to land. The world that agents live in is one that focuses on relationships. These gifts are modest, but they show that the business cares. Small businesses can use these modest relationship-based tools to survive. If a longtime client sends more than two referrals, the insurer may appear unappreciative if there is no ability to provide anything because it cannot exceed the current limit. This bill is not intended for anyone who sells, solicits, or negotiates insurance, but for an individual. This is a relatively modest legislative proposal. Many other states do not require agents to keep track of who they have made referrals to, though there are limits in place.

(With concerns) The change from \$25 to \$100 and the unlimited number of referrals raise some concerns. Many organizations could fall within the definition of not-for-profit organization, and the definition must be clarified.

(Opposed) None.

(Other) Title insurers don't market directly to consumers. In 2008 the Legislature addressed the issue of inducements and gifts relating to title insurers. Title insurance companies ask to be excluded from the provisions of this bill.

**Persons Testifying:** (In support) Representative Stanford, prime sponsor; Mel Sorensen, Professional Insurance Agents, Washington Association of Health Underwriters, National

Association of Insurance Financial Advisors, Primerica Financial Services Incorporated, and Answer Financial Incorporated; Bill Stauffacher, Independent Insurance Agents and Brokers of Washington; Claudia McLain, McLain Insurance Services; and Gary Strannigan, Safeco.

(With concerns) Jim Tompkins, Office of the Insurance Commissioner.

(Other) Carrie Tellefson, Fidelity National Title Group.

**Persons Signed In To Testify But Not Testifying:** None.