

HOUSE BILL REPORT

ESSB 5743

As Passed House:
April 14, 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: Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Fain, Hobbs, Benton, Mullet and Angel).

Brief History:

Committee Activity:

Business & Financial Services: 3/18/15, 3/24/15 [DP].

Floor Activity:

Passed House: 4/14/15, 97-0.

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.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 11 members: Representatives Kirby, Chair; Ryu, Vice Chair; Vick, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Blake, G. Hunt, Hurst, Kochmar, McCabe, Santos and Stanford.

Staff: Linda Merelle (786-7092).

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 Bill:

Noncontractual Benefits.

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

Inducements.

As an exception to the rule that no insurer may offer gifts or prizes as inducements, insurers may offer such goods in an amount not exceeding \$100 per person in a 12-month period. The terms of this provision do not apply to title insurers or title insurance agents.

Payments for Referrals.

An insurer or an insurance producer may give to an individual: goods, wares, gift cards and gift certificates, or merchandise not exceeding \$100 in value per referral of insurance business 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. The insurance producer may pay a referral fee, without limitations regarding the amount of 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 farmers' associations;
- agricultural fairs; and
- other entities as determined by the Office of the Insurance 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 bill allows a finder's fee for an unlicensed individual who serves as a referral source. The language that is in the Senate version of the bill is the language supported by the Office of the Insurance Commissioner, and the hope is that this version of the bill will move forward.

(Opposed) None.

Persons Testifying: Mel Sorensen, Professional Insurance Agents Association, National Association of Insurance and Financial Advisors, Washington Association of Health Underwriters, Primerica Financial, and Answer Financial, Incorporated; and Bill Stauffacher, Independent Insurance Agents and Brokers of Washington.

Persons Signed In To Testify But Not Testifying: None.