HOUSE BILL REPORT
HB 2322

As Reported by House Committee On:
Business & Financial Services

Title: An act relating to risk mitigation in property insurance.

Brief Description: Allowing property insurers to assist their insureds with risk mitigation goods or services.

Sponsors: Representatives Stanford, Kirby, Vick, Barkis, McDonald and Ryu; by request of Insurance Commissioner.

Brief History:
Committee Activity:
Business & Financial Services: 1/10/18, 1/16/18 [DPS].

Brief Summary of Substitute Bill

- Authorizes a personal property insurer to include goods and services intended to reduce either the probability of loss, or the extent of loss, or both, from a covered event as part of a policy of personal property insurance, with the prior approval of the Office of the Insurance Commissioner (OIC).
- Limits the value of authorized goods and services to $1,000 per 12-month period.
- Specifies examples of authorized goods and services, and grants the OIC authority to identify additional authorized goods and services by rule and to generally adopt rules to implement the act.
- Requires a rate filing by a personal property insurer to include information pertaining to any of the specific goods or services offered, with an exemption from this requirement for risk mitigation goods and services offered through a pilot program.
- Authorizes personal property insurers to conduct a pilot program for providing risk mitigation goods and services.
- Provides that disaster response programs of personal property insurers, identified by the OIC through rule, are not subject to the act.

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.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kirby, Chair; Reeves, Vice Chair; Vick, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Barkis, Bergquist, Blake, Jenkin, McCabe, Santos and Stanford.

Staff: Peter Clodfelter (786-7127).

Background:

The Prohibition on Inducements and Rebates to Purchase Insurance, and Exceptions. Insurers, insurance producers, and title insurance agents are limited in what noninsurance benefits they may offer insureds or prospective insureds. Except to the extent provided for in a filing with the Office of the Insurance Commissioner (OIC), no insurer, insurance producer, or title insurance agent may, directly or indirectly, offer or pay to any insured, potential insured, or an employee of an insured, any rebate, discount, or reduction of premium, or any other valuable consideration or inducement whatsoever that is not expressly provided for in the insurance policy.

Additionally, insurers, insurance producers, and title insurance agents are prohibited from providing or offering, as inducements to insureds or prospective insureds, the following:

- any shares of stock or other securities, or any kind of contract or agreement providing for or promising profits or special returns or dividends; and
- any prizes, goods, wares, gift cards, gift certificates, or merchandise of an aggregate value in excess of $100 per person in any consecutive 12-month period.

There are various exceptions to the above prohibitions, including the following:

- advertising or promotional programs conducted by insurers or insurance producers (but not title insurers or title insurance agents) in which prizes, goods, gift cards, or merchandise, not exceeding $100 in value per person in the aggregate in any 12-month period are given to all insureds or prospective insureds under similar qualifying circumstances;
- certain health wellness programs conducted by a health carrier or disability insurer;
- commissions paid to an insurance producer or title insurance agent for insurance placed on their own property or risk;
- the allowance by a marine insurer, or marine insurance producer, to any insured, in connection with marine insurance, of such discount as is sanctioned by custom among marine insurers as being additional to the insurance producer's commission; and
- certain sales or purchases of securities.

Insurance Rate Filings.
Premium rates for insurance may not be excessive, inadequate, or unfairly discriminatory. Before offering insurance policies to consumers, a personal property insurer must file proposed rates with the OIC. The filing must indicate the type and extent of the coverage contemplated and must be accompanied by sufficient information to permit the OIC to determine whether it meets the requirements of the Insurance Code.

Insurers may file their proposed rates on their own behalf, or may do so through a licensed insurance rating organization. An insurer or rating organization must include all of the following information with a rate filing:

- the experience or judgment of the insurer or rating organization making the filing;
- an exhibit detailing the major elements of operating expense for the types of insurance affected by the filing;
- an explanation of how investment income has been taken into account in the proposed rates; and
- any other information which the insurer or rating organization deems relevant.

A filing must state its proposed effective date. The OIC must review a filing as soon as is reasonably possible upon its receipt. A filing is deemed to meet the requirements of the Insurance Code unless disapproved by the OIC within a 30-day waiting period or any extension thereof. The 30-day waiting period may be extended for an additional period not to exceed 15 days by the OIC if notice is provided to the insurer or rating organization.

Summary of Substitute Bill:

<u>The Prohibition on Inducements and Rebates to Purchase Insurance, and Exceptions</u>.
With the prior approval of the Office of the Insurance Commissioner (OIC), a personal property insurer may include the following goods and services intended to reduce either the probability of loss, or the extent of loss, or both, from a covered event as part of a policy of personal property insurance:

- goods, including a water monitor;
- foundation strapping to mitigate losses due to earthquake;
- ongoing services, including home safety monitoring or brush clearing to mitigate losses due to wildfire; and
- such other goods and services as the OIC may identify by rule.

Even if insurance is subsequently cancelled after an insured receives goods, the insured is the owner of the goods. The value of goods and services to be provided is limited to $1,000 in value in the aggregate in any 12-month period.

The OIC is not required to approve any particular proposed benefit. The OIC may disapprove any proposed noninsurance benefit that the OIC determines may tend to promote or facilitate the violation of any other provision of the Insurance Code.

If the OIC approves the inclusion of such goods and services in a policy of property insurance, it does not constitute a violation of the prohibitions on inducements to purchase insurance or the prohibition on rebates following the purchase of insurance.

<u>Insurance Rate Filings</u>.
With one exception, in order to receive prior approval of the OIC to include goods and services intended as risk mitigation in a personal insurance policy, the personal property insurer must include the following in its rate filing:

- a description of either the specific goods or services, or both, to be offered;

- a description of the method of delivering either the specific goods or services, or both, being offered; and
- the selection criteria for insureds receiving either the specific goods or services, or both, being offered.

However, there is an exemption from this requirement for risk mitigation goods and services provided through a pilot program through which the insurer offers or provides risk mitigation goods and services in connection with a personal insurance policy covering property risks, in accordance with rules adopted by the OIC. A pilot program may not last longer than two years.

A rate filing by a personal property insurer for a policy that includes risk mitigation goods and services must demonstrate that its rates account for the expected costs of the goods and services and the reduction in expected claims costs resulting from the goods and services. However, an insurer is not required to include any of this information in its rate filing if it offers or provides the goods and services through a pilot program.

It is provided that disaster response programs of personal property insurers are not subject to the act.

The OIC is granted rulemaking authority to implement the act, including but not limited to rules requiring a notice to insureds or potential insureds regarding their ability to opt out of receiving any risk mitigation goods or services, rules establishing requirements for pilot programs, and rules identifying which insurer disaster response programs are exempt from the act.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:
- removes the requirement that an insured must affirmatively sign up for any ongoing risk mitigation services and receive specific information (i.e., the opt-in requirement);
- increases the aggregate value of goods and services that may be provided in a 12-month period from $500 to $1,000;
- authorizes a personal property insurer to conduct a two-year long pilot program as a risk mitigation strategy through which the insurer offers or provides risk mitigation goods and services in connection with a personal insurance policy covering property risks. Insurers offering risk mitigation goods and services through a pilot program are exempt from including information about the risk mitigation goods and services in their rate filings;
- specifies that disaster response programs of personal property insurers are not regulated under the act; and
- specifies that the OIC's rulemaking authority to implement the act includes the authority to adopt rules requiring a notice to insureds or potential insureds regarding their ability to opt out of receiving any risk mitigation goods or services, rules establishing requirements for pilot programs, and rules identifying which insurer disaster response programs are exempt from the act.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: 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 is the result of collaboration between the industry and the Office of the Insurance Commissioner (OIC), and is innovative. It will improve the resiliency of homes and communities in the state in times of natural disasters, and benefit families and the economy. This is connected to another bill (House Bill 2320) before the Legislature this session, to create a work group to coordinate state resiliency efforts. This will result in a reduction in covered losses that would otherwise occur, and enable resources to be used more efficiently. By passing this bill, Washington will align its laws with other states that already allow insurers to offer insureds risk mitigation goods and services, like water monitors or foundation strapping. Stakeholders are working on two changes to the bill. One change is to authorize a pilot program that would exempt insurers from including information in their rate filings about the risk mitigation goods and services offered through the pilot program. Another change is removing the opt-in provision for insureds and replacing it with an opt-out provision for insureds, as most insureds will want to take advantage of the availability of risk mitigation goods and services, and through rulemaking the OIC can ensure people clearly understand the terms of the offers. Further, the requirement that the OIC must provide prior approval before any risk mitigation goods or may be provided is onerous and should be removed. Some insurers take more elaborate actions to, for example, protect an insured's home in a wildfire, where significant mitigation efforts are performed. To the extent risk mitigation like this is possible it greatly benefits both the consumer and the insurer, and should be facilitated.

(Opposed) None.

Persons Testifying: Representative Stanford, prime sponsor; Lonnie Johns-Brown, Office of the Insurance Commissioner; Jean Leonard, WA Insurers National Association of Mutual Insurance Companies, StateFarm; and Mel Sorensen, Property Casualty Insurers Association of America.

Persons Signed In To Testify But Not Testifying: None.