

HOUSE BILL REPORT

SHB 1075

As Passed Legislature

Title: An act relating to consumer competitive group insurance.

Brief Description: Concerning consumer competitive group insurance.

Sponsors: House Committee on Consumer Protection & Business (originally sponsored by Representatives Kirby and Vick).

Brief History:

Committee Activity:

Consumer Protection & Business: 1/16/19, 2/12/19 [DPS].

Floor Activity:

Passed House: 3/9/19, 95-1.

Senate Amended.

Passed Senate: 4/16/19, 48-0.

House Concurred.

Passed House: 4/22/19, 96-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Establishes that the Insurance Code's prohibition on offering rebates or inducements does not prohibit an insurer from issuing payment to offset documented expenses incurred by a group policy holder in changing coverage from one insurer to another.
- Requires the payment to be included in the calculation of the premium tax.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Kirby, Chair; Reeves, Vice Chair; Vick, Ranking Minority Member; Hoff, Assistant Ranking Minority Member; Barkis, Blake, Dufault, Ryu, Santos, Stanford, Volz, Walen and Ybarra.

Staff: Robbi Kesler (786-7153).

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 are limited in the noncontractual 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, any shares of stock or other securities or any kind of contract or agreement providing for or promising profits or special returns or dividends.

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.

Summary of Substitute Bill:

It is established that the prohibition on inducements or rebates to purchase insurance does not prohibit an insurer from issuing payment to offset documented expenses incurred by a group policy holder in changing coverage from one insurer to another. Insurers must describe such payments in the group insurance policy. Medicare supplemental insurance is not allowed to offer payments to offset expenses.

The payment must be included in the calculation of the premium tax.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 1, 2020.

Staff Summary of Public Testimony:

(In support) This bill will resolve the issue of what an insurer can and cannot offer. This is a common sense way to resolve a problem insurance companies are facing with group insurance in this state. The OIC has declared this type of reimbursement to be an

inducement. Forty-eight out of 50 states allow the use of implementation credits. Implementation credits are normal in the insurance industry and frequently a requested component in a group policy's request for proposal. Implementation credits offer a value to the owner to help create a smooth transition between old and new insurance vendors. This is an important option that should be made available in Washington.

(Opposed) Implementation credits appear to be pretty common. The bill as drafted presents some concerns. Requested changes include: (1) only actual expenses should be reimbursed (clarify that this can only be used when switching from one insurer to another and not for changing plans within the same company); (2) the OIC needs regulatory authority to audit actual business expenses; and (3) because this amount is not included in the premium, it would not be taxed.

Persons Testifying: (In support) Representative Kirby, prime sponsor; Mel Sorensen, American Council of Life Insurers; and David Rose and Steve Buckner, MetLife.

(Opposed) Lonnie Johns-Brown, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.