

---

**Civil Rights & Judiciary Committee**

---

**HB 2306**

**Brief Description:** Regulating legal service contractors.

**Sponsors:** Representatives Kirby, Vick, Walen, Hoff, Ryu and Volz.

**Brief Summary of Bill**

- Creates a new chapter and regulatory scheme for legal services contractors.
- Adds legal services as a specialty line of insurance.

**Hearing Date:** 1/22/20

**Staff:** Ingrid Lewis (786-7289).

**Background:**

Legal Services Plans.

A legal service plan, sometimes referred to as a prepaid legal plan, is an arrangement in which a member prepays for legal services that the member may need in the future. Typically, the member pays a monthly or annual fee which entitles the member to certain basic legal services as they are needed. Basic legal services that may be provided under a prepaid legal plan include legal advice and consultation by telephone, office consultations, review of simple legal documents, and correspondence or communication made by a lawyer to an adverse party. Some plans may offer more comprehensive services at an extra charge for more complex legal services. The provider of the legal service plan contracts with private attorneys or law firms to provide covered legal services to the members of the plan. Providers of legal service plans are not currently regulated in Washington. Many other states have established regulations requiring legal service plan providers to register, provide certain information for disclosure, and comply with minimum standards regarding the conduct of their businesses.

Office of the Insurance Commissioner and Insurance Producers.

The Office of the Insurance Commissioner licenses and regulates insurance transactions and producers in Washington. "Insurance producer" is defined as a person required to be licensed

---

*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.*

under the laws of Washington to sell, solicit, or negotiate insurance. An insurance producer may obtain a license in one or more of the following lines of authority: life, disability, property, casualty, variable life and variable annuity, personal lines, limited lines, specialty lines, or any other line permitted under state law.

### **Summary of Bill:**

#### Public Policy.

A public policy is stated that ready access to legal assistance and counsel for all citizens of the state must be promoted, and that plans that promote arrangements between the public as consumers of legal services and lawyers who provide legal services to the public should be encouraged and regulated.

#### Definitions.

A "legal services contractor" is a person, entity, or group of persons who provide enrolled participants with legal services through agreements with providing attorneys. "Legal services plan" means an arrangement between a legal services contractor and a person or group of persons, called enrolled participants, where specified legal services are provided in consideration of a specified payment for a specified period.

#### Certificate of Registration.

A legal services contractor must have a valid certificate of registration with the Office of the Insurance Commissioner (Commissioner) to transact business in the state. In addition, the legal services contractor must post a bond or provide evidence of a security deposit. The bond or security deposit must be held in trust for the protection of enrolled participants in the plan and must be held in a bank authorized to transact business in Washington and insured by the Federal Deposit Insurance Corporation.

To apply for registration a legal services contractor must:

- use forms specified by the Commissioner;
- pay all applicable registration fees, including filing fees established by the Commissioner;
- appoint the Insurance Commissioner as attorney-in-fact for service of process;
- designate the person who will serve as the legal service contractor's registered agent to whom the Commissioner must forward legal process issued against the contractor;
- provide information showing that the directors, officers, and managers of the legal services contractor are competent and trustworthy, and have sufficient management and business experience to conduct business in a reasonable and prudent manner;
- comply with uniform standards established by rule; and
- provide other information required by the Commissioner.

A legal services contractor conducting business in Washington on the effective date of the act is permitted to continue operations but must apply for and receive a certificate of registration within 90 days after the effective date of the act. An initial registration is valid through the end of the year in which it is issued. A legal services contractor may renew a registration by paying a renewal fee established by the Commissioner, and renewed certificates are valid for one calendar year.

The Commissioner may suspend, revoke, or refuse to issue a registration after providing the legal services contractor both a written notice of the specific reason for the action and an opportunity for administrative appeal and hearing.

#### Providing Attorney Agreements.

A legal services contractor may not transact business or operate a legal services plan until the legal services contractor enters into a providing attorney agreement with a sufficient number of providing attorneys with the expertise necessary to support enrolled participants in the legal services plan. A "providing attorney" is an attorney eligible to practice law in Washington and licensed in good standing with the Washington State Bar Association, who provides legal services under a providing attorney agreement.

#### Legal Services Plans.

A legal services contractor must provide a copy of the legal services plan to each enrolled participant. In addition to providing contact information for the legal services contractor's principal place of business and contact information in Washington, the plan must include a clear description of the legal services provided under the plan, how to access the services, any fees or costs for which the enrolled participant is responsible, and a clear explanation of the limits of the legal services.

The legal services contractor must file a copy of each unique legal services plan issued in Washington or that covers a resident of Washington with the Commissioner.

#### Unfair and Discriminatory Provisions Prohibited.

A providing attorney agreement or legal services plan may not contain provisions that are unfair, discriminatory, misleading, or that endanger the solvency of the legal services contractor of the plan or are intentionally contrary to law.

#### Third-Party Marketer.

A legal services contractor may market its products either directly to consumers or by contracting with a third-party marketer. If utilizing a third-party marketer, the legal services contractor must have a written agreement prior to the marketer's marketing, promotion, selling, or distribution of the legal services contractor's plans. The agreement must include a requirement that the legal services contractor provide prior written approval of any marketing materials used by the marketer. The legal services contractor is bound by and responsible for the activities of the marketer that are within the scope of the marketer-legal services contractor relationship.

#### Office of the Insurance Commissioner.

Legal services contractors and legal services plans are subject to the oversight and authority of the Commissioner. The Commissioner has the authority to adopt rules to implement and administer the provisions of the act.

The Commissioner may conduct investigations of the legal services contractor, its sales representatives, administrators, and other persons to protect enrolled participants and enforce the chapter. All accounts, books, and records must be made available to the Commissioner upon request. A penalty of not more than \$500 for any violation of the provisions of the chapter may be imposed by the Commissioner.

Scope and Applicability.

The act does not affect the practice of law in Washington or the validity of existing legal service plans or providing attorney agreements, but any renewal or modification made to such plans or agreements after the effective date of the act are subject to the requirements of the act.

The act does not apply to the following arrangements: retainer, fee, engagement, or representation agreements made by an attorney or firm of attorneys with any person or group other than a legal services contractor; free referral of individual clients to an attorney by a nonprofit lawyer referral service; employee welfare benefit plans if state law is preempted by federal law; legal assistance plans financed primarily by public funds or public service funds; and policies of insurance or coverage incidental to such insurance.

Specialty Lines of Authority.

Legal services are added to the list of specialty lines of authority for which an insurance producer may obtain a license.

**Appropriation:** None.

**Fiscal Note:** Available.

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