

BILL ANALYSIS

Senate Research Center
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H.B. 1074
By: Hull (Zaffirini)
Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties contend that it is unclear whether the current statute that prohibits insurers from providing rebates or inducements of unrelated gifts to consumers applies to loss control products and mitigation services that benefit both the insured and insurers by preventing damages and loss. These products and services may be offered in both personal and commercial lines, such as water detection and shut-off valves and leak detection products, wildfire prevention services, or cybersecurity services.

H.B. 1074 would clarify that loss control and mitigation services are not deceptive trade practices, nor are they prohibited by the anti-rebating and anti-inducement statutes if these services are related integrally to the policy and are aimed at predicting and preventing losses under the policy. It would prohibit unfair discrimination to ensure that similar products or offers are made to similarly insured and that the products or services are reasonable in comparison to the customer's policy. What's more, it would prevent an insurer from providing to another person any data or other information obtained about the customer from or in connection with the loss control product or service offered. Accordingly, H.B. 1074 could help mitigate losses and damages from various risks and potentially lower insurance premiums over time.

H.B. 1074 amends current law relating to construction of certain laws prohibiting discrimination, distinctions, inducements, rebates, and certain other conduct related to property and casualty insurance.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 (Section 1806.002, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 1806, Insurance Code, by adding Section 1806.002, as follows:

Sec. 1806.002. CONSTRUCTION OF CERTAIN PROVISIONS; SERVICES RELATED TO LOSS CONTROL. (a) Provides that nothing in Section 1806.053 (Discriminations or Distinctions), 1806.054 (Other Prohibited Inducements), 1806.059 (Certain Promotional Practices Authorized), 1806.104 (Prohibited Acts), 1806.1041 (Certain Promotional Practices Authorized), 1806.153 (Unjust Discrimination; Rebates), 1806.1541 (Certain Promotional Practices Authorized), or 1806.156 (Acceptance of Rebate or Other Inducement; Criminal Penalty) is authorized to be construed as:

(1) permitting an unfair method of competition or a false, misleading, or deceptive act or practice under Section 17.46 (Deceptive Trade Practices Unlawful), Business and Commerce Code; or

(2) prohibiting an insurer or an insurer's agent from offering or giving to an insured or applicant, for free or at a discounted price in a manner that is not unfairly discriminatory to insureds or applicants of the same class and of essentially the same hazard, services or other offerings not specified in

the insurance policy that relate to loss control of the risks covered under the policy, subject to Subsection (b).

(b) Requires that the cost to the insurer or the insurer's agent offering the product or service to any given customer be reasonable in comparison to that customer's premiums or insurance coverage for the policy class.

(c) Prohibits the insurer or insurer's agent offering the product or service, other than for purposes related to loss control of risks covered under the policy, from providing to another person any data or other information obtained about the customer from or in connection with the product or service.

(d) Authorizes the commissioner of insurance to adopt rules as necessary to implement this section.

SECTION 2. Effective date: September 1, 2023.