

BILL ANALYSIS

C.S.H.B. 1074
By: Hull
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It is currently unclear whether state law prohibiting 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, examples of which include water detection and shut-off valves and leak detection products, wildfire prevention services, or cybersecurity services. C.S.H.B. 1074 seeks to clarify that loss control and mitigation services are not deceptive trade practices, nor are they prohibited by the anti-rebating and anti-inducement statutes, as long as these services are integrally related to the policy and are aimed at predicting and preventing losses under the policy.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1074 amends the Insurance Code to prohibit statutory provisions prohibiting certain discrimination, distinctions, inducements, rebates, and other related conduct with respect to certain property and casualty insurance policies, as well as related provisions authorizing certain promotional practices, from being construed as doing the following:

- permitting an unfair method of competition or a deceptive trade act or practice; or
- 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 insured 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.

The bill 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. The bill prohibits the insurer or insurer's agent offering the product or service from providing to another person any data or other information obtained about the customer from or in connection with the product or service other than for purposes related to loss control of risks covered under the policy. The bill authorizes the commissioner of insurance to adopt rules as necessary to implement these provisions.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1074 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Unlike the introduced, the substitute includes among the statutory provisions subject to the bill's prohibition regarding statutory construction the provision authorizing certain promotional practices by an insurer or an insurer's agent or other representative in connection with an offer or sale of an applicable automobile insurance policy with respect to an item that is a promotional advertising item, educational item, or traditional courtesy commonly extended to consumers and that is valued at \$25 or less.

The substitute includes a provision absent from the introduced prohibiting the insurer or insurer's agent offering the product or service from providing to another person any data or other information obtained about the customer from or in connection with the product or service other than for purposes related to loss control of risks covered under the policy.