

BILL ANALYSIS

C.S.H.B. 3964
By: Hull
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

There are concerns that state laws aimed at preventing deceptive trade practices and certain other noncompetitive behavior in property and casualty insurance policies may also be interpreted as prohibiting insurers from offering loss control products and mitigation services that benefit both the insured and insurers such as water shutoff valves and leak detection products, wildfire prevention services, and cybersecurity services. C.S.H.B. 3964 seeks to clarify that loss control and mitigation services are not prohibited under state law.

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. 3964 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 that relate to loss control of the risks covered under the insured's policy.

The cost to the insurer or their agent offering such a product or service to any given customer must be reasonable in comparison to that customer's premiums or insurance coverage for the policy class. The commissioner of insurance may adopt rules as necessary implement these provisions.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3964 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The original included a prohibition against the specified statutory provisions being construed as to prohibit an insurer or their agent from offering or giving to an insured, for free or at a discounted price, services or other offerings that relate to loss control of the risks covered under the insured's policy. The substitute retains that prohibition but further expands it so as to also apply to applicants and to specify that the service or other offering must not be made free or discounted in a manner that is unfairly discriminatory to insured or applicants of the same class and of essentially the same hazard.

The substitute includes a provision not in the original that requires the cost to an insurer or the insurer's agent offering a certain product or service to any given customer to be reasonable in comparison to that customer's premiums or insurance coverage for the policy class.

The substitute includes a provision not in the original authorizing the commissioner of insurance to adopt rules as necessary to implement the bill's provisions.