

SSB 6050 - H AMD TO H HCW COMM AMD (H-5123.1/20) 2059

By Representative DeBolt

NOT ADOPTED 03/05/2020

1 On page 1, beginning on line 3 of the striking amendment,  
2 strike all of sections 1 through 4 and insert the following:

3 "Sec. 1. RCW 50B.04.100 and 2019 c 363 s 11 are each amended to  
4 read as follows:

5 (1) The long-term services and supports trust account is created  
6 in the custody of the state treasurer. All receipts from employers  
7 under RCW 50B.04.080 must be deposited in the account. Expenditures  
8 from the account may be used for the administrative activities of  
9 the department of social and health services, the health care  
10 authority, and the employment security department. Benefits  
11 associated with the program must be disbursed from the account by  
12 the department of social and health services. Only the secretary of  
13 the department of social and health services or the secretary's  
14 designee may authorize disbursements from the account. The account  
15 is subject to the allotment procedures under chapter 43.88 RCW. An  
16 appropriation is required for administrative expenses, but not for  
17 benefit payments. The account must provide reimbursement of any  
18 amounts from other sources that may have been used for the initial  
19 establishment of the program.

20 (2) The revenue generated pursuant to this chapter shall be  
21 utilized to expand long-term care in the state. These funds may not  
22 be used either in whole or in part to supplant existing state or  
23 county funds for programs that meet the definition of approved  
24 services.

25 (3) The moneys deposited in the account must remain in the  
26 account until expended in accordance with the requirements of this  
27 chapter. If moneys are appropriated for any purpose other than

1 supporting the long-term services and supports program, or for the  
2 purposes described in section 7 of this act, the legislature shall  
3 notify each qualified individual by mail that the person's premiums  
4 have been appropriated for an alternate use, describe the alternate  
5 use, and state its plan for restoring the funds so that premiums are  
6 not increased and benefits are not reduced.

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8       **Sec. 2.** RCW 48.32A.025 and 2001 c 50 s 3 are each amended to  
9 read as follows:

10       (1) This chapter provides coverage for the policies and  
11 contracts specified in subsection (2) of this section as follows:

12       (a) To persons who, regardless of where they reside, except for  
13 nonresident certificate holders under group policies or contracts,  
14 are the beneficiaries, assignees, or payees of the persons covered  
15 under (b) of this subsection;

16       (b) To persons who are owners of or certificate holders under  
17 the policies or contracts, other than unallocated annuity contracts  
18 and structured settlement annuities, and in each case who:

19       (i) Are residents; or

20       (ii) Are not residents, but only under all of the following  
21 conditions:

22       (A) The insurer that issued the policies or contracts is  
23 domiciled in this state;

24       (B) The states in which the persons reside have associations  
25 similar to the association created by this chapter; and

26       (C) The persons are not eligible for coverage by an association  
27 in any other state due to the fact that the insurer was not licensed  
28 in the state at the time specified in the state's guaranty  
29 association law;

30       (c) For unallocated annuity contracts specified in subsection  
31 (2) of this section, (a) and (b) of this subsection do not apply,  
32 and this chapter, except as provided in (e) and (f) of this  
33 subsection, does provide coverage to:

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1 (i) Persons who are the owners of the unallocated annuity  
2 contracts if the contracts are issued to or in connection with a  
3 specific benefit plan whose plan sponsor has its principal place of  
4 business in this state; and

5 (ii) Persons who are owners of unallocated annuity contracts  
6 issued to or in connection with government lotteries if the owners  
7 are residents;

8 (d) For structured settlement annuities specified in subsection  
9 (2) of this section, (a) and (b) of this subsection do not apply,  
10 and this chapter, except as provided in (e) and (f) of this  
11 subsection, does provide coverage to a person who is a payee under a  
12 structured settlement annuity, or beneficiary of a payee if the  
13 payee is deceased, if the payee:

14 (i) Is a resident, regardless of where the contract owner  
15 resides; or

16 (ii) Is not a resident, but only under both of the following  
17 conditions:

18 (A)(I) The contract owner of the structured settlement annuity  
19 is a resident; or

20 (II) The contract owner of the structured settlement annuity is  
21 not a resident, but the insurer that issued the structured  
22 settlement annuity is domiciled in this state; and the state in  
23 which the contract owner resides has an association similar to the  
24 association created by this chapter; and

25 (B) Neither the payee, nor beneficiary, nor the contract owner  
26 is eligible for coverage by the association of the state in which  
27 the payee or contract owner resides;

28 (e) This chapter does not provide coverage to:

29 (i) A person who is a payee, or beneficiary, of a contract owner  
30 resident of this state, if the payee, or beneficiary, is afforded  
31 any coverage by the association of another state; or

32 (ii) A person covered under (c) of this subsection, if any  
33 coverage is provided by the association of another state to the  
34 person; and

1 (f) This chapter is intended to provide coverage to a person who  
2 is a resident of this state and, in special circumstances, to a  
3 nonresident. In order to avoid duplicate coverage, if a person who  
4 would otherwise receive coverage under this chapter is provided  
5 coverage under the laws of any other state, the person shall not be  
6 provided coverage under this chapter. In determining the application  
7 of this subsection (1)(f) in situations where a person could be  
8 covered by the association of more than one state, whether as an  
9 owner, payee, beneficiary, or assignee, this chapter shall be  
10 construed in conjunction with other state laws to result in coverage  
11 by only one association.

12 (2)(a) This chapter provides coverage to the persons specified  
13 in subsection (1) of this section for direct, nongroup life,  
14 disability, or annuity policies or contracts and supplemental  
15 contracts to any of these, for certificates under direct group  
16 policies and contracts, and for unallocated annuity contracts issued  
17 by member insurers, except as limited by this chapter. Annuity  
18 contracts and certificates under group annuity contracts include but  
19 are not limited to guaranteed investment contracts, deposit  
20 administration contracts, unallocated funding agreements, allocated  
21 funding agreements, structured settlement annuities, annuities  
22 issued to or in connection with government lotteries, and any  
23 immediate or deferred annuity contracts. However, any annuity  
24 contracts that are unallocated annuity contracts are subject to the  
25 specific provisions in this chapter for unallocated annuity contracts.

26 (b) This chapter does not provide coverage for:

27 (i) A portion of a policy or contract not guaranteed by the  
28 insurer, or under which the risk is borne by the policy or contract  
29 owner;

30 (ii) A policy or contract of reinsurance, unless assumption  
31 certificates have been issued pursuant to the reinsurance policy or  
32 contract;

33 (iii) A portion of a policy or contract to the extent that the  
34 rate of interest on which it is based, or the interest rate,

1 crediting rate, or similar factor determined by use of an index or  
2 other external reference stated in the policy or contract employed  
3 in calculating returns or changes in value:

4 (A) Averaged over the period of four years prior to the date on  
5 which the member insurer becomes an impaired or insolvent insurer  
6 under this chapter, whichever is earlier, exceeds the rate of  
7 interest determined by subtracting two percentage points from  
8 Moody's corporate bond yield average averaged for that same fouryear  
9 period or for such lesser period if the policy or contract was  
10 issued less than four years before the member insurer becomes an  
11 impaired or insolvent insurer under this chapter, whichever is  
12 earlier; and

13 (B) On and after the date on which the member insurer becomes an  
14 impaired or insolvent insurer under this chapter, whichever is  
15 earlier, exceeds the rate of interest determined by subtracting  
16 three percentage points from Moody's corporate bond yield average as  
17 most recently available;

18 (iv) A portion of a policy or contract issued to a plan or  
19 program of an employer, association, or other person to provide  
20 life, disability, or annuity benefits to its employees, members, or  
21 others, to the extent that the plan or program is selffunded or  
22 uninsured, including but not limited to benefits payable by an  
23 employer, association, or other person under:

24 (A) A multiple employer welfare arrangement as defined in 29  
25 U.S.C. Sec. 1144;

26 (B) A minimum premium group insurance plan;

27 (C) A stoploss group insurance plan; or

28 (D) An administrative services only contract;

29 (v) A portion of a policy or contract to the extent that it  
30 provides for:

31 (A) Dividends or experience rating credits;

32 (B) Voting rights; or

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1 (C) Payment of any fees or allowances to any person, including  
2 the policy or contract owner, in connection with the service to or  
3 administration of the policy or contract;

4 (vi) A policy or contract issued in this state by a member  
5 insurer at a time when it was not licensed or did not have a  
6 certificate of authority to issue the policy or contract in this  
7 state;

8 (vii) An unallocated annuity contract issued to or in connection  
9 with a benefit plan protected under the federal pension benefit  
10 guaranty corporation, regardless of whether the federal pension  
11 benefit guaranty corporation has yet become liable to make any  
12 payments with respect to the benefit plan;

13 (viii) A portion of an unallocated annuity contract that is not  
14 issued to or in connection with a specific employee, union, or  
15 association of natural persons benefit plan or a government lottery;

16 (ix) A portion of a policy or contract to the extent that the  
17 assessments required by RCW 48.32A.085 with respect to the policy or  
18 contract are preempted by federal or state law;

19 (x) An obligation that does not arise under the express written  
20 terms of the policy or contract issued by the insurer to the  
21 contract owner or policy owner, including without limitation:

22 (A) Claims based on marketing materials;

23 (B) Claims based on side letters, riders, or other documents  
24 that were issued by the insurer without meeting applicable policy  
25 form filing or approval requirements;

26 (C) Misrepresentations of or regarding policy benefits;

27 (D) Extracontractual claims; or

28 (E) A claim for penalties or consequential or incidental damages;

29 (xi) A contractual agreement that establishes the member  
30 insurer's obligations to provide a book value accounting guaranty  
31 for defined contribution benefit plan participants by reference to a  
32 portfolio of assets that is owned by the benefit plan or its  
33 trustee, which in each case is not an affiliate of the member  
34 insurer; or

1 (xii) A portion of a policy or contract to the extent it  
2 provides for interest or other changes in value to be determined by  
3 the use of an index or other external reference stated in the policy  
4 or contract, but which have not been credited to the policy or  
5 contract, or as to which the policy or contract owner's rights are  
6 subject to forfeiture, as of the date the member insurer becomes an  
7 impaired or insolvent insurer under this chapter, whichever is  
8 earlier. If a policy's or contract's interest or changes in value  
9 are credited less frequently than annually, then for purposes of  
10 determining the values that have been credited and are not subject  
11 to forfeiture under this subsection (2)(b)(xii), the interest or  
12 change in value determined by using the procedures defined in the  
13 policy or contract will be credited as if the contractual date of  
14 crediting interest or changing values was the date of impairment or  
15 insolvency, whichever is earlier, and will not be subject to  
16 forfeiture.

17 (3) The benefits that the association may become obligated to  
18 cover shall in no event exceed the lesser of:

19 (a) The contractual obligations for which the insurer is liable  
20 or would have been liable if it were not an impaired or insolvent  
21 insurer; or

22 (b)(i) With respect to one life, regardless of the number of  
23 policies or contracts:

24 (A) Five hundred thousand dollars in life insurance death  
25 benefits, but not more than five hundred thousand dollars in net  
26 cash surrender and net cash withdrawal values for life insurance;

27 (B) In disability insurance benefits:

28 (I) Five hundred thousand dollars for coverages not defined as  
29 disability income insurance or basic hospital, medical, and surgical  
30 insurance or major medical insurance including any net cash  
31 surrender and net cash withdrawal values;

32 (II) Five hundred thousand dollars for disability income  
33 insurance;

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1 (III) Five hundred thousand dollars for basic hospital medical  
2 and surgical insurance or major medical insurance; (~~(or)~~)  
3 (IV) Five hundred thousand dollars for long-term care insurance;  
4 or  
5 (C) Five hundred thousand dollars in the present value of  
6 annuity benefits, including net cash surrender and net cash  
7 withdrawal values, except as provided in (ii), (iii), and (v) of  
8 this subsection (3)(b);  
9 (ii) With respect to each individual participating in a  
10 governmental retirement benefit plan established under section 401,  
11 403(b), or 457 of the United States Internal Revenue Code covered by  
12 an unallocated annuity contract or the beneficiaries of each such  
13 individual if deceased, in the aggregate, one hundred thousand  
14 dollars in present value annuity benefits, including net cash  
15 surrender and net cash withdrawal values;  
16 (iii) With respect to each payee of a structured settlement  
17 annuity, or beneficiary or beneficiaries of the payee if deceased,  
18 five hundred thousand dollars in present value annuity benefits, in  
19 the aggregate, including net cash surrender and net cash withdrawal  
20 values, if any;  
21 (iv) However, in no event shall the association be obligated to  
22 cover more than: (A) An aggregate of five hundred thousand dollars  
23 in benefits with respect to any one life under (i), (ii), and (iii)  
24 of this subsection (3)(b) except with respect to benefits for basic  
25 hospital, medical, and surgical insurance and major medical  
26 insurance under (i)(B) of this subsection (3)(b), in which case the  
27 aggregate liability of the association shall not exceed five hundred  
28 thousand dollars with respect to any one individual; or (B) with  
29 respect to one owner of multiple nongroup policies of life  
30 insurance, whether the policy owner is an individual, firm,  
31 corporation, or other person, and whether the persons insured are  
32 officers, managers, employees, or other persons, more than five  
33 million dollars in benefits, regardless of the number of policies  
34 and contracts held by the owner;



1 (v) With respect to either: (A) One contract owner provided  
2 coverage under subsection (1)(d)(ii) of this section; or (B) one  
3 plan sponsor whose plans own directly or in trust one or more  
4 unallocated annuity contracts not included in (ii) of this  
5 subsection (3)(b), five million dollars in benefits, irrespective of  
6 the number of contracts with respect to the contract owner or plan  
7 sponsor. However, in the case where one or more unallocated annuity  
8 contracts are covered contracts under this chapter and are owned by  
9 a trust or other entity for the benefit of two or more plan  
10 sponsors, coverage shall be afforded by the association if the  
11 largest interest in the trust or entity owning the contract or  
12 contracts is held by a plan sponsor whose principal place of  
13 business is in this state and in no event shall the association be  
14 obligated to cover more than five million dollars in benefits with  
15 respect to all these unallocated contracts; or

16 (vi) The limitations set forth in this subsection are  
17 limitations on the benefits for which the association is obligated  
18 before taking into account either its subrogation and assignment  
19 rights or the extent to which those benefits could be provided out  
20 of the assets of the impaired or insolvent insurer attributable to  
21 covered policies. The costs of the association's obligations under  
22 this chapter may be met by the use of assets attributable to covered  
23 policies or reimbursed to the association pursuant to its  
24 subrogation and assignment rights.

25 (4) In performing its obligations to provide coverage under RCW  
26 48.32A.075, the association is not required to guarantee, assume,  
27 reinsure, or perform, or cause to be guaranteed, assumed, reinsured,  
28 or performed, the contractual obligations of the insolvent or  
29 impaired insurer under a covered policy or contract that do not  
30 materially affect the economic values or economic benefits of the  
31 covered policy or contract."  
32

33 Renumber the remaining sections consecutively and correct any  
34 internal references accordingly.

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2 On page 17, beginning on line 4 of the striking amendment, after  
3 "insurer" strike ", health care service contractor, or health  
4 maintenance organization"

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6 On page 22, beginning on line 7 of the striking amendment, after  
7 "insurer" strike ", disability insurer, health care service  
8 contractor, or health maintenance organization," and insert "or  
9 disability insurer,"

10

11 On page 26, beginning on line 27 of the striking amendment, after  
12 "(c)" strike all material through "insurers" on line 33, and insert  
13 "The class B assessment for long-term care insurance written by an  
14 impaired or insolvent insurer must be funded by the long-term services  
15 and supports trust account established in chapter 50B.04 RCW. The  
16 employment security department may not increase the premium rate to  
17 fund the class B assessment. Any additional funds necessary for the  
18 class B assessment shall be appropriated from the general fund"

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20 On page 28, beginning on line 30 of the striking amendment, after  
21 "insurance" strike ", health care service contractor business, or  
22 health maintenance organization business"

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24 On page 32, beginning on line 9 of the striking amendment, after  
25 "insurers" strike ", health care service contractors, or health  
26 maintenance organizations"

27

28 On page 32, beginning on line 15 of the striking amendment, after  
29 "insurer" strike ", health care service contractor, or health  
30 maintenance organization"

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32 On page 35, beginning on line 7 of the striking amendment, strike  
33 all of section 12

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EFFECT:

Requires the class B assessment for long-term care insurance written by an impaired or insolvent insurer to be funded by the long-term services and supports trust account. The employment security department may not increase the premium rate to fund the class B assessment. Any additional funds necessary for the class B assessment must be appropriated from the general fund.

Removes provisions:

- adding health care service contractors or health maintenance organizations to the Life and Disability Insurance Guaranty Association;
- specifying the amount of a Class B assessment for long-term care insurance must be allocated so that the disability and health member insurers are responsible for 50 percent of the assessment and the life and annuity member insurers are responsible for 50 percent of the assessment; and
- covering health plans from the benefits the Association may become obligated to cover.

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