

SENATE BILL REPORT

SB 5331

As of January 30, 2025

Title: An act relating to strengthening consumer protection through increased insurer accountability for violations of the insurance code.

Brief Description: Strengthening consumer protection through increased insurer accountability for violations of the insurance code.

Sponsors: Senators Cortes, Frame, Hasegawa, Kauffman, Lovelett, Lovick, Nobles, Orwall, Stanford, Trudeau and Wilson, C.; by request of Insurance Commissioner.

Brief History:

Committee Activity: Business, Financial Services & Trade: 1/30/25.

Brief Summary of Bill

- Authorizes the Office of the Insurance Commissioner to order the payment of restitution in enforcement actions.
- Authorizes the Office of the Insurance Commissioner to levy fines against authorized insurers of up to \$10,000 per violation, rather than \$10,000 total.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Staff: John Kim (786-7453)

Background: The Office of the Insurance Commissioner (OIC) administers the Washington Insurance Code (code) and oversees insurance companies and insurance professionals conducting business in the state. As part of its enforcement authority, the OIC may prosecute an action in any court of competent jurisdiction to enforce an order by the commissioner pursuant to any provision of the code. If the OIC has cause to believe that any person is violating or is about to violate any provision of the code or any regulation or

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order of the commissioner, the OIC may issue a cease and desist order or bring an action to enjoin the person from continuing the violation or doing any action in furtherance thereof.

An authorized insurer is an insurer transacting insurance in the state through a certificate of authority issued by the OIC. In imposing disciplinary actions against an authorized insurer, the OIC is authorized to levy a fine in addition to or in lieu of suspending, revoking, or refusing to review the insurer's certificate of authority. The amount of the fine may not be less than \$250 and may not be more than \$10,000.

Summary of Bill: Authority to Order Restitution. In addition to its authority to issue cease and desist orders and bring actions for injunctive relief, the OIC may also order the payment of restitution when a person regulated under the code possesses or controls, directly or indirectly, such fees, money, funds, or other property that belongs to, is due to, or is owed to another person.

After hearing or with the consent of the person, the OIC may order such person to pay restitution to any person entitled to restitution in the form of fees, money, funds, or other property.

Restitution must be paid with 8 percent simple interest from the date the obligation arose. It must be paid to the person to whom it is due within 30 days of the date of the order.

Authorized Insurer Fines. The OIC may levy fines against authorized insurers of up to \$10,000 per violation, rather than \$10,000 total.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: It is critical that we have pathways for consumers to receive restitution if they have been harmed by an insurer rather than going through the court system. This bill strengthens consumer protections by giving the state Office of the Insurance Commissioner additional enforcement tools if an insurance company is violating the law. This bill is designed to address bad actors only. Most insurers and producers do the right thing by their policyholders and cooperate with the OIC when a mistake is made, but not every one of them does. When OIC imposes a fine, it incentivizes the insurer or individual to come back into compliance and helps deter them from harming future consumers. But the fine goes to the General Fund and not to the policyholders, and that is why we need the authority to institute restitution. The fine schedule for property and casualty insurers has not been updated since 1980. Every other insurer in our state and

producer is held to a per-violation standard except for property and casualty insurers. It's time to put them on parity with the rest of the insurers in the state. We have worked with the industry on an amendment to address all concerns but one, that is a cap imposed on fines. The Independent Insurance Agents and Brokers of Washington supports the bill to go after bad actors, such as an agent who takes a premium but fails to remit it to the insurer or an agent who fails to remit a refund from an insurer to the customer.

OTHER: We appreciate the target of the bill is toward bad actors, but the good actors are covered by this bill, and so we want to make sure that the definitions are tight as referenced around restitution and who this applies to. Under the current consent order process, property and casualty insurers routinely pay fines well in excess of \$10,000 and pay restitution in the form of refunding premiums or taking other actions to reimburse policyholders who can show they have been harmed. The problem comes in when an insurer challenges the OIC before an administrative law judge (ALJ). This bill goes beyond that because it doesn't just address fines in the ALJ process. A per-violation standard for fines is a hammer. It provides opportunity for the insurance regulator to apply more pressure on insurers in the consent order process as well as issue fines it can't issue in the ALJ process. We are working with the OIC in tightening the language. Of the 35 or so states that have per-violation standards, it's very common to have one or more of aggregate caps, distinctions, or tiered impositions based on intent, willfulness, or inadvertence. The overarching concern with the penalties provision is the risk of unfair treatment of good actors.

Persons Testifying: PRO: Senator Adrian Cortes, Prime Sponsor; Patty Kuderer, Office of the Insurance Commissioner; Bryon Welch, Office of the Insurance Commissioner; Rory Paine-Donovan, Office of the Insurance Commissioner; Bill Stauffacher, Independent Insurers and Brokers of Washington.

OTHER: Christine Brewer, Premera Blue Cross; Kenton Brine, NW Insurance Council; Kris Tefft, American Property Casualty Insurance Association.

Persons Signed In To Testify But Not Testifying: No one.