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KEY INSURANCE CHANGES FROM THE WASHINGTON STATE 2021 LEGISLATIVE SESSION

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The news surrounding the 2021 Washington legislative session focused primarily on state-led COVID-19 recovery efforts and various controversial tax proposals. However, there were also several insurance bills that deserve some attention as they impact both individuals and businesses across Washington state.

Captive Insurance – Washington Senate Bill 5315

Captive insurance is an option for companies to self-insure certain coverages typically placed with an insurance carrier, including general liability, automobile, workers' compensation, and more. Although common in Washington, captives did not have clear legal standing in Washington state law. The Office of the Insurance Commissioner has brought a number of complaints against Washington businesses based on that lack of standing. Typical insurance policies are subject to a tax collected by OIC through insurance carriers, but current captive programs were not paying that tax and therefore under investigation by the OIC. The legislature began working on a solution in 2020 to provide clarity for captive use in the state.

Senate Bill 5315 was the result of collaboration among businesses, the OIC, and the legislature. SB5315 sets up an OIC registration process and subjects the policies to a 2% premium tax. This legal clarity will continue to make captives a viable self-insurance option for Washington businesses going forward. You can learn more about captives here.

Washington State Long-term Care – House Bill 1323

In 2019, the Washington Legislature passed the Washington Long-Term Services and Supports Trust Act. This bill created a long-term care mandate in Washington funded by all workers in the state.

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Beginning Jan. 1, 2022, employees will pay 58 cents per \$100 of pay through payroll deductions with no cap on premiums. To be eligible to receive the benefit, you must work 500+ hours a year for at least 10 years. It provides \$100 per day for care with a maximum lifetime benefit of \$36,500. This policy is not portable; to utilize you must be a Washington resident. If you leave the state, you lose the benefit.

During rule-making, an opt-out clause was created for those employees with a standalone LTC policy. In the 2021 session, HB1323 provided some updated clarification on the opt-out created by the trust commission. Employees now have until Nov. 1, 2021, to secure a private policy, which can offer expanded options for portability, better coverages, and cost less than the state option.

Businesses and individuals looking for private options should act quickly, as the Nov. 1 deadline is fast approaching. Additional information on Washington's Long-Term Services and Supports Trust Act can be found [here](#).

Additional Insurance Bills of Interest

Some additional bills did not make it out of the legislature this year and primarily covered issues related to COVID-19. They would have had an impact on the insurance landscape here in Washington state and are worth reviewing.

Credit Scoring – Senate Bill 5010

Currently, individual insurance policies are rated on several factors, including a credit score. Senate Bill 5010 was introduced by request of the OIC to ban the use of credit scoring by insurance carriers to determine rates for personal insurance lines.

During the session, changes were made to the bill that the commissioner disagreed with, causing him to stop supporting the bill. The bill did not make it out of the Senate.

However, on March 23, 2021, the insurance commissioner issued an emergency order banning credit scoring. Insurance carriers are working on compliance with this emergency order, but individuals should expect to see rate adjustments when their policy renews.

Extraordinary life circumstances - House Bill 1351

This bipartisan bill would have required an insurer to provide reasonable exceptions to personal insurance rates and underwriting rules when certain events impacted a consumer, including catastrophes, divorce, identity theft, military deployment, death of a spouse, child, or parent, and more.

The OIC opposed this bill because they believed that treating individuals with special circumstances differently than others would be unfair. Per their testimony, they said it was better not to allow the exceptions. This bill was passed out of committee unanimously but failed to make it off the House floor.

Though these bills did not receive much attention in the media, they are important for various insurance programs throughout Washington. If you have questions about any of these changes to Washington law, reach out to an experienced insurance broker to learn more.

WANT TO LEARN MORE REGARDING CAPTIVES OR WASHINGTON'S LONG-TERM CARE ACT?

Video: [What is a Captive?](#)

Article: [Five Things You Need to Know About Captives](#)

Article: [Making Sense of Washington's New Long-term Care Law](#)