

# HOUSE BILL REPORT

## HB 1763

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### As Reported by House Committee On:

Financial Institutions & Insurance

**Title:** An act relating to protecting the confidentiality of information relating to insurance.

**Brief Description:** Protecting the confidentiality of information relating to insurance.

**Sponsors:** Representatives McIntire, Bush, Keiser and Ogden; by request of Insurance Commissioner.

### Brief History:

#### Committee Activity:

Financial Institutions & Insurance: 2/16/01, 2/27/01 [DPS].

#### Brief Summary of Substitute Bill

- In the furtherance of his regulatory duties, the State Insurance Commissioner is authorized to receive confidential information from authorized agencies while being exempted from the requirements of the public disclosure act.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Benson, Republican Co-Chair; Hatfield, Democratic Co-Chair; Bush, Republican Vice Chair; McIntire, Democratic Vice Chair; Barlean, Cairnes, DeBolt, Keiser, Miloscia, Roach, Santos and Simpson.

**Staff:** Thamas Osborn (786-7129).

### Background:

With the passage of the Gramm-Leach-Bliley Act in 1999, cross-ownership between banks and insurance companies is now lawful, resulting in the ever increasing hybridization of the two industries. This change has been particularly challenging to state and federal regulatory agencies, whose regulatory powers evolved during a period in which banking and insurance were barred from having interlocking corporate structures.

In order to exercise regulatory oversight with respect to insurance companies that have

financial ties with banks, the State Insurance Commissioner must be able to share information with federal banking regulators and to generally have access to the pertinent banking records. However, the Gramm-Leach-Bliley Act prohibits federal banking agencies from sharing confidential information with state insurance regulators unless they can guarantee that all such information will remain confidential. The public disclosure laws in the state of Washington could present an obstacle to the maintenance of the confidentiality required under Gramm-Leach-Bliley.

The State Insurance Commissioner (the commissioner) has requested this legislation in order to address the confidentiality issue stemming from the implementation of Gramm-Leach-Bliley.

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### **Summary of Substitute Bill:**

In the furtherance of his regulatory duties, the commissioner is authorized to obtain confidential information from authorized agencies while being exempted from requirements of the public disclosure act.

Specified categories of confidential and/or privileged information are made exempt from public disclosure by the commissioner. Such confidential information cannot be subject to subpoena, is not discoverable through court procedures, and is not admissible as evidence in any private civil action. The bill specifically exempts the information from discovery under Washington's public disclosure act, chapter 48.02 RCW. Furthermore, neither the commissioner nor his employees may be required to testify in any private civil action as to the substance of any of the confidential information covered by the bill.

The confidentiality privilege applies only to the Office of the Insurance Commissioner, the National Association of Insurance Commissioners, and other specified public agencies.

The categories of confidential information covered by the bill are as follows: 1) Information received from the National Association of Insurance Commissioners; and 2) information received from federal, state and international governmental agencies. Information obtained from these sources is protected from disclosure only to the extent that it is confidential and/or privileged under the laws of the jurisdiction from which it originated. The commissioner may share confidential information among these sources, provided the recipient agrees to maintain the confidentiality of the information.

The commissioner may use and/or disclose the confidential information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

### **Substitute Bill Compared to Original Bill:**

The substitute bill specifies that the confidentiality provisions of the bill are applicable only to the Office of the Insurance Commissioner, the National Association of Insurance Commissioners, and other specified public agencies.

A section of the original bill making logs of information requests confidential is deleted.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

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

**Testimony For:** (Original Bill) The passage of the Gramm-Leach-Bliley Act creates a difficult problem for the insurance Commissioner's Office as the Office regulates only the insurance companies and not the financial institutions. Unlike the Department of Financial Institutions, which operates under federal law, the Insurance Commissioner must align state public disclosure laws with the Act. Until rectified, the federally regulated financial institutions will not share the necessary information because the Insurance Commissioner cannot guarantee the confidentiality of the shared information. This bill would allow the Insurance Commissioner's Office sufficient information to prevent a failing bank from taking funds from an insurance company operated under the same holding company. Moreover, it will not transform otherwise nonconfidential information into protected, confidential information.

(With concerns) The work product produced by the Office of the Insurance Commissioner based on the confidential information should be disclosable. In addition, the log and indices of requests for information to the financial institutions by the Office of the Insurance Commissioner should be accessible by the public. This would allow the public to discover how the agency is handling a financial institution, especially if there is a bank failure. Finally, there is concern about importing provisions of confidentiality laws from other jurisdictions and imposing them on Washington citizens and statutes.

**Testimony Against:** None

**Testified:** (In support) Representative McIntire, prime sponsor; and Bill Daley , Office of the Insurance Commissioner.

(Concerns) Rowland Thompson, Allied Daily Newspapers ; and Larry Shannon, Washington State Trial Lawyers Association.