
**Financial Institutions &
Insurance Committee**

HB 1085

Brief Description: Providing confidentiality to certain insurance commissioner examinations.

Sponsors: Representatives Schual-Berke, Benson and Simpson; by request of Insurance Commissioner.

Brief Summary of Bill

- Exempts the Insurance Commissioner from the disclosure requirements of the Public Disclosure Act with respect to information obtained from an insurer or regulatory entity in the course of a financial or market conduct examination.
- Authorizes the Insurance Commissioner to publicly disclose information obtained from an insurer if the information results in official regulatory action.

Hearing Date: 1/22/03

Staff: Thamas Osborn (786-7129).

Background:

The Public Disclosure Act (Act) generally requires state agencies to make all documents available to the public unless specifically exempted by statute. However, as the result of legislation passed in 2001, the Office of the Insurance Commissioner (OIC) is exempted from the requirements of the Act with respect to certain categories of confidential information it obtains in the course of its official regulatory duties. This legislation was passed in response to federal laws prohibiting federal agencies from sharing information with a state unless the state has regulations ensuring that the information will remain confidential. With the passage of the 2001 legislation allowing confidentiality, the OIC is now able to share information with out-of-state regulators and obtain access to federal records.

The categories of confidential information protected from disclosure 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.

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. Furthermore, neither the commissioner nor his or her employees may be required to testify in any private civil action as to the substance of any of this confidential 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.

However, information obtained by the OIC in the course of its own investigation or examination of an insurer is not subject to these confidentiality requirements and must therefore be disclosed to the public under the Act. The OIC contends that this lack of confidentiality has caused other states and the federal government to be uncooperative in sharing information, and thus has hindered its ability to gather information from out-of-state sources that might be pertinent to the examination of a domestic insurer.

Summary of Bill:

Generally, information obtained from an insurer by the OIC in the course of conducting a financial or market conduct examination is exempt from the disclosure requirements of the Public Disclosure Act. However, such information may be publicly disclosed by the OIC in the event the information results in official regulatory action.

Disclosure of information to the OIC by an insurer or regulatory entity during the course of a financial or market conduct examination does not constitute a waiver of any existing privilege or claim of confidentiality.

Appropriation: None.

Fiscal Note: Not Requested.

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