
**Financial Institutions &
Insurance Committee**

SSB 5317

Brief Description: Providing confidentiality to certain insurance commissioner examinations.

Sponsors: Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Benton, Keiser, Benson, Prentice, Roach and Shin; by request of Insurance Commissioner).

Brief Summary of Substitute Bill

- Exempts information obtained by the Insurance Commissioner (Commissioner) from an insurer in the course of a financial or market conduct examination from public records disclosure requirements, subject to certain limitations and procedures.
- Authorizes the Commissioner to disclose such information if it is cited in connection with official agency action, subject to notice requirements, or if it relates to an examination undertaken regarding a change in control of certain insurers or health carriers.
- Authorizes a court action to disclose such information if it is connected to allegations of negligence or malfeasance by the Commissioner in the course of financial or market conduct examination.

Hearing Date: 3/24/05

Staff: Jon Hedegard (786-7127).

Background:

The public disclosure sections of chapter 42.17 RCW require state agencies to make public records available to the public unless the records are specifically exempted from the disclosure requirements or are made confidential by another statute.

Under RCW 48.02.065, certain documents provided to the Insurance Commissioner (Commissioner) may be confidential and exempt from public disclosure. Protected information includes information received from the National Association of Insurance Commissioners and 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.

Summary of Bill:

In general, information the Insurance Commissioner obtains from an insurer in the course of a financial or market conduct examination is exempt from the disclosure requirements of chapter 42.17 RCW. If, however, the Commissioner cites such records in connection with an official agency action, the records are subject to disclosure. In this case, the Commissioner must notify the entity that produced the records five business days before disclosure in connection with the agency action, and that entity may seek an injunction in any state superior court in Washington to prevent disclosure.

If the Commissioner has obtained information in the course of a financial or market conduct examination that is exempt from disclosure, and that information is connected to allegations of negligence or malfeasance by the Commissioner related to a financial or market conduct examination, then any person may petition any state superior court in Washington for access to the information. The court must conduct an in-camera review after providing notice to the Commissioner and parties who provided information. The court may order the Commissioner to allow the petitioner access to the information; the petitioner must maintain its confidentiality. After conducting a hearing, the court may order disclosure of the information if the court finds that there is a public interest in disclosure and that exemption from disclosure is not necessary to protect any individual's right of privacy or any vital government function.

Information related to a financial or market conduct examination undertaken as a result of a proposed change in control or ownership of an insurer or health carrier must be disclosed, unless:

- (1) the information is otherwise privileged or exempted from public disclosure; and
- (2) the Commissioner finds that the public interest in nondisclosure outweighs the public interest in disclosure.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.