

# SENATE BILL REPORT

## SB 5521

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As of February 10, 2017

**Title:** An act relating to examinations under oath when a person claims a loss under an insurance contract.

**Brief Description:** Authorizing examinations under oath when a person claims a loss under an insurance contract.

**Sponsors:** Senators Kuderer, Pedersen, Frockt, Hasegawa, Liias and Cleveland.

**Brief History:**

**Committee Activity:** Financial Institutions & Insurance: 2/09/17.

**Brief Summary of Bill**

- Mandates that requests for examinations under oath must be reasonable and made within 90 days after a claim.
- Requires insurers to give the insured a transcript of the signed examination within 30 days.
- Specifies that insurers must make coverage decision within 60 days after the signed examination transcript is provided to the person making the claim.
- Requires insurers to provide in written detail why a claim is not accepted or paid.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Staff:** Aldo Melchiori (786-7439)

**Background:** Every insurer must furnish, upon request of any person making a claim to have a loss under an insurance contract, forms for proof of loss. The insurer does not have any responsibility for the completion the form. If a person makes a claim under a policy of insurance, the insurer may require that the person be examined under oath.

**Summary of Bill:** The insurance policy must contain a provision for conducting an examination under oath before one can be requested. All requests for examinations under

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oath must be reasonable and made within 90 days after a written claim or form of proof of loss has been made. Within 30 days after an examination under oath is taken, the insurer must furnish to the person making the claim, at the insurer's own expense, a signed transcript of the examination. Within 60 days after furnishing the signed transcript, the insurer must issue a claims acceptance or denial, or provide a written reservation of rights detailing any and all reasons why the claim cannot be accepted and paid.

A policy for under-insured motorist coverage may not contain a provision authorizing the taking of an examination under oath.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**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: Examinations under oath have been abused by insurers. They delay claims by requesting multiple examinations under oath and, in the meantime, the injured parties are getting behind with medical bills. In underinsured motorist claims, the insurer steps into the shoes of the opposing party to deny the claim even though their client has paid for the policy. People are simply trying to make a valid insurance claim.

CON: Insurance fraud is a large problem that continues to cost the industry. "Reasonable" does not need to be codified because court decisions already require reasonableness. Examinations under oath are used in a small proportion of underinsured motorist claims. Oral examinations are only used if there are suspicious circumstances. Full investigations of claims are often not completed in the time frame in the bill. This will add time, cost, and contention to a process that works effectively and fairly to the benefit of policyholders.

**Persons Testifying:** PRO: Senator Patty Kuderer, Prime Sponsor.

CON: Mel Sorensen, Property Casualty Insurers Assoc. of America; Allstate; American Family Insurance; Cliff Webster, American Insurance Association; Lonnie Johns-Brown, Office of the Insurance Commissioner; Jean Leonard, State Farm Insurance, NAMIC, Washington Insurers.

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