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SENATE BILL 5172

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State of Washington                      53rd Legislature                      1993 Regular Session

By Senators Wojahn, Moore, Fraser, Prentice and Pelz

Read first time 01/15/93. Referred to Committee on Labor & Commerce.

1            AN ACT Relating to insurer reporting of financial impairment;  
2 adding new sections to chapter 48.05 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.      **Sec. 1.**      Unless the context clearly requires  
5 otherwise, the definitions in this section apply throughout sections 1  
6 through 4 of this act.

7            (1) "Chief executive officer" means the person, irrespective of  
8 title, designated by the board of directors or trustees of an insurer  
9 as the person charged with the responsibility of administering and  
10 implementing the insurer's policies and procedures.

11            (2) "Impaired" or "impairment" means a financial situation in which  
12 the assets of an insurer are less than the sum of the insurer's minimum  
13 required capital, minimum required surplus, and all liabilities as  
14 determined in accordance with the requirements for the preparation and  
15 filing of the annual statement of an insurer under RCW 48.05.250,  
16 48.44.095, or 48.46.080.

17            (3) "Insurer" means a domestic insurer engaged in the business of  
18 insurance in this state and includes, but is not limited to, health

1 care service contractors and health maintenance organizations  
2 authorized under chapters 48.44 and 48.46 RCW, respectively.

3 NEW SECTION. **Sec. 2.** (1) Whenever a chief executive officer of an  
4 insurer knows or has reason to know that an insurer is impaired, he or  
5 she shall provide written notice of impairment to the commissioner and  
6 the board of directors or trustees of the insurer. The chief executive  
7 officer shall provide the notices as soon as reasonably possible, but  
8 in no event later than fifteen days after the chief executive officer  
9 knows or has reason to know of the impairment.

10 (2) An officer, director, or trustee of an insurer shall notify the  
11 person serving as chief executive officer of the impairment of the  
12 insurer if the officer, director, or trustee knows or has reason to  
13 know that the insurer is impaired.

14 (3) Notification provided to the commissioner under this section  
15 shall be withheld from public inspection unless the commissioner  
16 determines that release of the information is in the public interest  
17 and is not detrimental to the financial condition of the insurer.

18 NEW SECTION. **Sec. 3.** If a person knows that his or her actions  
19 will result in or contribute to the impairment of an insurer, the  
20 person may not:

21 (1) Conceal property belonging to an insurer; or

22 (2) Transfer or conceal the person's own property or property  
23 belonging to an insurer in contemplation of a state insolvency  
24 proceeding; or

25 (3) Conceal, destroy, mutilate, alter, or make a false entry in a  
26 document that affects or relates to the property of an insurer or  
27 withhold any such document from a receiver, trustee, or other officer  
28 of a court entitled to its possession; or

29 (4) Give, obtain, or receive a thing of value for acting or  
30 forbearing to act in a court proceeding, and the act or acts results in  
31 or contributes to an insurer becoming impaired or insolvent.

32 NEW SECTION. **Sec. 4.** (1) A person who violates section 2 of this  
33 act is guilty of a felony punishable by imprisonment in a state  
34 correctional institution for a maximum term of not more than one year,  
35 or by a fine in an amount fixed by the court of not more than fifty  
36 thousand dollars, or by both imprisonment and fine.

1           (2) A person who violates section 3 of this act is guilty of a  
2 class C felony punishable under chapter 9A.20 RCW.

3           NEW SECTION.   **Sec. 5.** Sections 1 through 4 of this act are added  
4 to chapter 48.05 RCW.

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