
SUBSTITUTE SENATE BILL 5148

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Financial Services, Insurance & Housing
(originally sponsored by Senators Winsley and Prentice; by request of
Insurance Commissioner)

READ FIRST TIME 02/07/03.

1 AN ACT Relating to providing confidentiality to certain insurance
2 commissioner examinations; and amending RCW 48.02.065.

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

4 **Sec. 1.** RCW 48.02.065 and 2001 c 57 s 1 are each amended to read
5 as follows:

6 (1) Documents, materials, or other information as described in
7 subsection (5) of this section are confidential by law and privileged,
8 are not subject to public disclosure under chapter 42.17 RCW, and are
9 not subject to subpoena directed to the commissioner or any person who
10 received documents, materials, or other information while acting under
11 the authority of the commissioner. The commissioner is authorized to
12 use such documents, materials, or other information in the furtherance
13 of any regulatory or legal action brought as a part of the
14 commissioner's official duties. The confidentiality and privilege
15 created by this section and RCW 42.17.31916 applies only to the
16 commissioner, any person acting under the authority of the
17 commissioner, the national association of insurance commissioners and
18 its affiliates and subsidiaries, regulatory and law enforcement

1 officials of other states and nations, the federal government, and
2 international authorities.

3 (2) Neither the commissioner nor any person who received documents,
4 materials, or other information while acting under the authority of the
5 commissioner is permitted or required to testify in any private civil
6 action concerning any confidential and privileged documents, materials,
7 or information subject to subsection (1) of this section.

8 (3) The commissioner:

9 (a) May share documents, materials, or other information, including
10 the confidential and privileged documents, materials, or information
11 subject to subsection (1) of this section, with (i) the national
12 association of insurance commissioners and its affiliates and
13 subsidiaries, and (ii) regulatory and law enforcement officials of
14 other states and nations, the federal government, and international
15 authorities, if the recipient agrees to maintain the confidentiality
16 and privileged status of the document, material, or other information;

17 (b) May receive documents, materials, or information, including
18 otherwise either confidential or privileged, or both, documents,
19 materials, or information, from (i) the national association of
20 insurance commissioners and its affiliates and subsidiaries, and (ii)
21 regulatory and law enforcement officials of other states and nations,
22 the federal government, and international authorities and shall
23 maintain as confidential and privileged any document, material, or
24 information received that is either confidential or privileged, or
25 both, under the laws of the jurisdiction that is the source of the
26 document, material, or information; and

27 (c) May enter into agreements governing the sharing and use of
28 information consistent with this subsection.

29 (4) No waiver of an existing privilege or claim of confidentiality
30 in the documents, materials, or information may occur as a result of
31 disclosure to the commissioner under this section or as a result of
32 sharing as authorized in subsection (3) of this section.

33 (5)(a) Documents, materials, or information, which is either
34 confidential or privileged, or both, which has been provided to the
35 commissioner by (~~(a)~~) (i) the national association of insurance
36 commissioners and its affiliates and subsidiaries, (~~(b)~~) (ii)
37 regulatory or law enforcement officials of other states and nations,
38 the federal government, or international authorities, or (~~(c)~~) (iii)

1 agencies of this state, is confidential and privileged only if the
2 documents, materials, or information is protected from disclosure by
3 the applicable laws of the jurisdiction that is the source of the
4 document, material, or information.

5 (b) Working papers, documents, materials, or information produced
6 by, obtained by, or disclosed to the commissioner or any other person
7 in the course of a financial or market conduct examination are not
8 required to be disclosed by the commissioner unless cited by the
9 commissioner in connection with an agency action. The commissioner
10 shall notify a party that produced documents, materials, or information
11 five days before disclosure in connection to an agency action. The
12 notified party may seek injunctive relief to prevent disclosure of any
13 documents, materials, or information it believes is confidential or
14 privileged in a court of competent jurisdiction. A waiver of existing
15 privilege or claim of confidentiality may not occur as a result of a
16 disclosure to the commissioner under this section.

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