

HOUSE BILL REPORT

HB 2594

As Passed House:

January 28, 2008

Title: An act relating to distributing the insurance commissioner's examination reports.

Brief Description: Distributing the insurance commissioner's examination reports.

Sponsors: By Representatives Kirby, Ormsby, Kenney and Upthegrove; by request of Insurance Commissioner.

Brief History:

Committee Activity:

Insurance, Financial Services & Consumer Protection: 1/15/08 [DP].

Floor Activity:

Passed House: 1/28/08, 93-0.

Brief Summary of Bill

- Allows the Insurance Commissioner the option of sending examination reports electronically to examined companies and the directors of examined companies.

HOUSE COMMITTEE ON INSURANCE, FINANCIAL SERVICES & CONSUMER PROTECTION

Majority Report: Do pass. Signed by 8 members: Representatives Kirby, Chair; Kelley, Vice Chair; Roach, Ranking Minority Member; Hurst, Loomis, Santos, Simpson and Smith.

Staff: Jon Hedegard (786-7127).

Background:

Examinations by the Insurance Commissioner

Under the Insurance Code, the Insurance Commissioner is authorized to examine the financial affairs, transactions, accounts, records, documents, assets, and business practices of regulated entities (these entities include insurers, health care service contractors, health maintenance organizations, and other persons or corporations involved in the business of insurance).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Financial examinations - The Insurance Commissioner is authorized to examine the financial affairs, transactions, accounts, records, documents, and assets of regulated entities (these entities include insurers, health care service contractors, health maintenance organizations, and other persons or corporations involved in the business of insurance) at least every five years. In conducting an examination, the Insurance Commissioner must be given access to accounts, records, documents, and files relating to the subject of the examination.

Market analyses and market conduct examinations - The Insurance Commissioner may also undertake a market analyses or a market conduct examinations. In 2007, the Legislature passed ESSB 5717 which established a new statutory framework for market analyses and market conduct examinations. In a market analysis, staff for the Office of the Insurance Commissioner (OIC) collect and use information to develop a baseline understanding of the market and determine if a regulated entity is deviating from the norm or engaging in a practice that may be detrimental to consumers. A market analysis may lead to some sort of action to remedy a practice of a regulated entity. It may also lead to a more thorough market conduct review of a regulated entity. Market conduct actions must focus on general business practices and compliance activities instead of infrequent or unintentional random errors. The Insurance Commissioner may determine that the market conduct action has not sufficiently addressed the business practices of a regulated entity and decide to have a market conduct examination. In conducting a market conduct examination, the Insurance Commissioner must be given access to accounts, records, documents, and files relating to the subject of the examination.

Examination Reports

Within 60 days after completing an examination, the Insurance Commissioner must make a full certified written report containing facts, conclusions, and recommendations. A copy of the report is provided to the examined entity not less than 10 days and not more than 30 days prior to the filing of the report for public inspection. If the examined entity requests in writing within this time period, the Insurance Commissioner must hold a hearing to consider objections to the report as proposed, and must not file the report until after the hearing and after any necessary modifications in the report have been made. Within 30 days of this time period, the Insurance Commissioner must consider the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order that may be appealed. The order may:

- adopt the examination report as filed or modified. This may include a requirement to cure any violations;
- reject the examination report and direct the examiners to reopen the examination, obtain more information, and file a new examination report; or
- call for an investigatory hearing for the purpose of obtaining more information.

Examination Report Confidentiality

After adopting an examination report, the Insurance Commissioner must continue to hold the content of the examination report as private and confidential information for a period of five days except that the order may be disclosed to the examined entity. After that time, the Insurance Commissioner may open the report for public inspection so long as no court of competent jurisdiction has stayed its publication. The Insurance Commissioner may withhold

from public inspection any examination or investigation report for so long as he or she deems it advisable.

Summary of Bill:

The Insurance Commissioner may provide copies of financial examination reports to an examined entity by certifiable electronic means instead of sending the report by certified mail to the entity.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) There is a need to deliver examination information to entities and their directors. The law requires certified hard copies delivered to the entity and to the residence of the director. The bill allows the Insurance Commissioner the option of using modern technology. Information sent electronically to a director must be sent to the personal e-mail of a director. The information can be delivered more quickly. Additionally, there may be some cost-savings. There must be a record of the delivery, whether by mail or electronically. While there is a reason to send the information to a director personally, not all directors want to receive these at home. The bill still requires a director to receive the information personally but they now can get it electronically.

Persons Testifying: Mary Clogston, Office of the Insurance Commissioner; and Mike Kapphahn, Farmers Insurance Group.

Persons Signed In To Testify But Not Testifying: None.