
**Insurance, Financial Services &
Consumer Protection Committee**

HB 1235

Brief Description: Providing confidentiality to certain insurance commissioner examinations.

Sponsors: Representatives Kirby and Roach; by request of Insurance Commissioner.

Brief Summary of Bill

- Exempts from public records disclosure requirements information that is obtained by the Insurance Commissioner from an insurer in the course of financial analysis or market conduct desk audit, subject to certain limitations and procedures.

Hearing Date: 1/23/07

Staff: Jon Hedegard (786-7127).

Background:

The Public Disclosure Act (Act) requires 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.

In general, information the Insurance Commissioner (Commissioner) obtains from an insurer in the course of a financial or market conduct examination is exempt from the disclosure requirements of the Public Disclosure Act.

Exception - Records cited in an official agency action

If the exempt records are cited by the Commissioner 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. The notified party may seek an injunction in any superior court in Washington to prevent disclosure.

Exception - Records connected to allegations of official negligence or malfeasance

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.

If exempt information obtained in the course of a financial or market conduct examination is connected to allegations of negligence or malfeasance by the Commissioner, then any person may petition any superior court in Washington for access to the information. In that case, 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.

Exception - Records connected to proposed changes in control or ownership of health carriers

Information related to a financial or market conduct examination undertaken as a result of a proposed change in control or ownership of a nonprofit or mutual health insurer 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.

Summary of Bill:

Information produced by, obtained by, or disclosed to the Commissioner in the course of financial analysis or a market conduct desk audit is generally exempt from public disclosure requirements.

The specific exceptions for information obtained by the Commissioner in a financial or market conduct examination are applicable to the information obtained by the Commissioner in the course of financial analysis or a market conduct desk audit. This includes:

- records cited in an official agency action;
- records connected to allegations of official negligence or malfeasance; and
- records connected to proposed changes in control or ownership of a nonprofit or mutual health insurer.

Appropriation: None.

Fiscal Note: Not requested.

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