

SB 5180 - H AMD 943

By Representative Pollet

ADOPTED 03/08/2016

1 Beginning on page 8, line 28, after "(1)" strike all material
2 through "confidential." on page 10, line 10 and insert "(a) The
3 opinion and memorandum in support of the opinion submitted to the
4 commissioner under RCW 48.74.025 are confidential and privileged, are
5 exempt from disclosure pursuant to chapter 42.56 RCW, are not subject
6 to subpoena, and are not subject to discovery or admissible in
7 evidence in any private civil action, only if and to the extent that
8 the opinion and memorandum supporting the opinion independently
9 qualify for exemption from disclosure as documents, materials, or
10 information in the possession of the commissioner pursuant to a
11 financial conduct examination.

12 (b) If independently qualifying for exemption from disclosure, as
13 provided in (a) of this subsection, the provisions of RCW 48.02.065
14 apply to the opinion and memorandum in support of the opinion to the
15 same extent as documents, materials, and information in possession of
16 the commissioner pursuant to a financial conduct examination.

17 (2) In addition to the provisions of RCW 48.02.065, (a) through
18 (c) of this subsection apply to the opinion and memorandum in support
19 of the opinion submitted to the commissioner under RCW 48.74.025.

20 (a) A memorandum in support of the opinion, and any other
21 material provided by the company to the commissioner in connection
22 with the memorandum, may be subject to subpoena for the purpose of
23 defending an action seeking damages from the actuary submitting the
24 memorandum by reason of an action required by this section or by
25 rules adopted under this section.

26 (b) A memorandum or other material may otherwise be released by
27 the commissioner with the written consent of the company or to the
28 American academy of actuaries upon request stating that the
29 memorandum or other material is required for the purpose of
30 professional disciplinary proceedings and setting forth procedures
31 satisfactory to the commissioner for preserving the confidentiality
32 of the memorandum or other material.

1 (c) Once any portion of the confidential memorandum is cited by
2 the company in its marketing or is cited before a governmental agency
3 other than a state insurance department or is released by the company
4 to the news media, all portions of the confidential memorandum are no
5 longer confidential.

6 (3) Included in those agencies or organizations with which the
7 commissioner may share the opinion and memorandum in support of the
8 opinion, as provided in this section and RCW 48.02.065, is the office
9 of the attorney general for purposes of investigating any consumer
10 protection or antitrust action."

11 Beginning on page 38, line 28, strike all of sections 19, 20, and
12 21 and insert the following:

13 "**Sec. 19.** RCW 42.56.400 and 2015 c 122 s 13 and 2015 c 17 s 10
14 are each reenacted and amended to read as follows:

15 The following information relating to insurance and financial
16 institutions is exempt from disclosure under this chapter:

17 (1) Records maintained by the board of industrial insurance
18 appeals that are related to appeals of crime victims' compensation
19 claims filed with the board under RCW 7.68.110;

20 (2) Information obtained and exempted or withheld from public
21 inspection by the health care authority under RCW 41.05.026, whether
22 retained by the authority, transferred to another state purchased
23 health care program by the authority, or transferred by the authority
24 to a technical review committee created to facilitate the
25 development, acquisition, or implementation of state purchased health
26 care under chapter 41.05 RCW;

27 (3) The names and individual identification data of either all
28 owners or all insureds, or both, received by the insurance
29 commissioner under chapter 48.102 RCW;

30 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

31 (5) Information provided under RCW 48.05.510 through 48.05.535,
32 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and
33 48.46.600 through 48.46.625;

34 (6) Examination reports and information obtained by the
35 department of financial institutions from banks under RCW 30A.04.075,
36 from savings banks under RCW 32.04.220, from savings and loan
37 associations under RCW 33.04.110, from credit unions under RCW
38 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and

1 from securities brokers and investment advisers under RCW 21.20.100,
2 all of which is confidential and privileged information;

3 (7) Information provided to the insurance commissioner under RCW
4 48.110.040(3);

5 (8) Documents, materials, or information obtained by the
6 insurance commissioner under RCW 48.02.065, all of which are
7 confidential and privileged;

8 (9) Documents, materials, or information obtained by the
9 insurance commissioner under RCW 48.31B.015(2) (l) and (m),
10 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential
11 and privileged;

12 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
13 7.70.140 that, alone or in combination with any other data, may
14 reveal the identity of a claimant, health care provider, health care
15 facility, insuring entity, or self-insurer involved in a particular
16 claim or a collection of claims. For the purposes of this subsection:

17 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

18 (b) "Health care facility" has the same meaning as in RCW
19 48.140.010(6).

20 (c) "Health care provider" has the same meaning as in RCW
21 48.140.010(7).

22 (d) "Insuring entity" has the same meaning as in RCW
23 48.140.010(8).

24 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

25 (11) Documents, materials, or information obtained by the
26 insurance commissioner under RCW 48.135.060;

27 (12) Documents, materials, or information obtained by the
28 insurance commissioner under RCW 48.37.060;

29 (13) Confidential and privileged documents obtained or produced
30 by the insurance commissioner and identified in RCW 48.37.080;

31 (14) Documents, materials, or information obtained by the
32 insurance commissioner under RCW 48.37.140;

33 (15) Documents, materials, or information obtained by the
34 insurance commissioner under RCW 48.17.595;

35 (16) Documents, materials, or information obtained by the
36 insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and
37 (7)(a)(ii);

38 (17) Documents, materials, or information obtained by the
39 insurance commissioner in the commissioner's capacity as receiver
40 under RCW 48.31.025 and 48.99.017, which are records under the

1 jurisdiction and control of the receivership court. The commissioner
2 is not required to search for, log, produce, or otherwise comply with
3 the public records act for any records that the commissioner obtains
4 under chapters 48.31 and 48.99 RCW in the commissioner's capacity as
5 a receiver, except as directed by the receivership court;

6 (18) Documents, materials, or information obtained by the
7 insurance commissioner under RCW 48.13.151;

8 (19) Data, information, and documents provided by a carrier
9 pursuant to section 1, chapter 172, Laws of 2010;

10 (20) Information in a filing of usage-based insurance about the
11 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

12 (21) Data, information, and documents, other than those described
13 in RCW 48.02.210(2), that are submitted to the office of the
14 insurance commissioner by an entity providing health care coverage
15 pursuant to RCW 28A.400.275 and 48.02.210;

16 (22) Data, information, and documents obtained by the insurance
17 commissioner under RCW 48.29.017;

18 (23) Information not subject to public inspection or public
19 disclosure under RCW 48.43.730(5); (~~and~~

20 ~~(23) [(24)]~~) (24) Documents, materials, or information obtained
21 by the insurance commissioner under chapter 48.05A RCW; and

22 (25) Documents, materials, or information obtained by the
23 insurance commissioner under RCW 48.74.025, sections 6, 13(6), 14(2)
24 (b) and (c), and 15 of this act to the extent such documents,
25 materials, or information independently qualify for exemption from
26 disclosure as documents, materials, or information in possession of
27 the commissioner pursuant to a financial conduct examination and
28 exempt from disclosure under RCW 48.02.065.

29 **Sec. 20.** RCW 42.56.400 and 2015 c 122 s 14 and 2015 c 17 s 11
30 are each reenacted and amended to read as follows:

31 The following information relating to insurance and financial
32 institutions is exempt from disclosure under this chapter:

33 (1) Records maintained by the board of industrial insurance
34 appeals that are related to appeals of crime victims' compensation
35 claims filed with the board under RCW 7.68.110;

36 (2) Information obtained and exempted or withheld from public
37 inspection by the health care authority under RCW 41.05.026, whether
38 retained by the authority, transferred to another state purchased
39 health care program by the authority, or transferred by the authority

1 to a technical review committee created to facilitate the
2 development, acquisition, or implementation of state purchased health
3 care under chapter 41.05 RCW;

4 (3) The names and individual identification data of either all
5 owners or all insureds, or both, received by the insurance
6 commissioner under chapter 48.102 RCW;

7 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

8 (5) Information provided under RCW 48.05.510 through 48.05.535,
9 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and
10 48.46.600 through 48.46.625;

11 (6) Examination reports and information obtained by the
12 department of financial institutions from banks under RCW 30A.04.075,
13 from savings banks under RCW 32.04.220, from savings and loan
14 associations under RCW 33.04.110, from credit unions under RCW
15 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and
16 from securities brokers and investment advisers under RCW 21.20.100,
17 all of which is confidential and privileged information;

18 (7) Information provided to the insurance commissioner under RCW
19 48.110.040(3);

20 (8) Documents, materials, or information obtained by the
21 insurance commissioner under RCW 48.02.065, all of which are
22 confidential and privileged;

23 (9) Documents, materials, or information obtained by the
24 insurance commissioner under RCW 48.31B.015(2) (l) and (m),
25 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential
26 and privileged;

27 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and
28 7.70.140 that, alone or in combination with any other data, may
29 reveal the identity of a claimant, health care provider, health care
30 facility, insuring entity, or self-insurer involved in a particular
31 claim or a collection of claims. For the purposes of this subsection:

32 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

33 (b) "Health care facility" has the same meaning as in RCW
34 48.140.010(6).

35 (c) "Health care provider" has the same meaning as in RCW
36 48.140.010(7).

37 (d) "Insuring entity" has the same meaning as in RCW
38 48.140.010(8).

39 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

1 (11) Documents, materials, or information obtained by the
2 insurance commissioner under RCW 48.135.060;

3 (12) Documents, materials, or information obtained by the
4 insurance commissioner under RCW 48.37.060;

5 (13) Confidential and privileged documents obtained or produced
6 by the insurance commissioner and identified in RCW 48.37.080;

7 (14) Documents, materials, or information obtained by the
8 insurance commissioner under RCW 48.37.140;

9 (15) Documents, materials, or information obtained by the
10 insurance commissioner under RCW 48.17.595;

11 (16) Documents, materials, or information obtained by the
12 insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and
13 (7)(a)(ii);

14 (17) Documents, materials, or information obtained by the
15 insurance commissioner in the commissioner's capacity as receiver
16 under RCW 48.31.025 and 48.99.017, which are records under the
17 jurisdiction and control of the receivership court. The commissioner
18 is not required to search for, log, produce, or otherwise comply with
19 the public records act for any records that the commissioner obtains
20 under chapters 48.31 and 48.99 RCW in the commissioner's capacity as
21 a receiver, except as directed by the receivership court;

22 (18) Documents, materials, or information obtained by the
23 insurance commissioner under RCW 48.13.151;

24 (19) Data, information, and documents provided by a carrier
25 pursuant to section 1, chapter 172, Laws of 2010;

26 (20) Information in a filing of usage-based insurance about the
27 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

28 (21) Data, information, and documents, other than those described
29 in RCW 48.02.210(2), that are submitted to the office of the
30 insurance commissioner by an entity providing health care coverage
31 pursuant to RCW 28A.400.275 and 48.02.210;

32 (22) Data, information, and documents obtained by the insurance
33 commissioner under RCW 48.29.017; ~~((and))~~

34 (23) Documents, materials, or information obtained by the
35 insurance commissioner under chapter 48.05A RCW; and

36 (24) Documents, materials, or information obtained by the
37 insurance commissioner under RCW 48.74.025, sections 6, 13(6), 14(2)
38 (b) and (c), and 15 of this act to the extent such documents,
39 materials, or information independently qualify for exemption from
40 disclosure as documents, materials, or information in possession of

1 the commissioner pursuant to a financial conduct examination and
2 exempt from disclosure under RCW 48.02.065.

3 NEW SECTION. **Sec. 21.** Sections 1 through 19 of this act take
4 effect January 1, 2017."

5 Correct the title.

EFFECT: (1) Changes the disclosure provisions so that the opinion, memorandum in support of the opinion, and other information submitted to the insurance commissioner under the act are confidential and exempt from disclosure only to the extent that the opinion, memorandum in support of the opinion, and other information independently qualify as documents, materials, or information in possession of the commissioner that are submitted pursuant to a financial conduct examination and confidential and exempt from disclosure under current law (RCW 48.02.065).

(2) Makes a technical correction to update RCW 42.56.400 to reflect legislation passed in 2015 so that the bill amends the correct version of RCW 42.56.400, thus enabling proper codification.

(3) Changes the effective date from January 1, 2016, to January 1, 2017.

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