

SENATE BILL REPORT

SB 5874

As Passed Senate, March 17, 1997

Title: An act relating to the confidentiality of voluntary compliance efforts by financial institutions.

Brief Description: Establishing the confidentiality of voluntary compliance efforts by financial institutions.

Sponsors: Senators Hale and Winsley.

Brief History:

Committee Activity: Financial Institutions, Insurance & Housing: 2/26/97, 3/4/97 [DP]. Passed Senate, 3/17/97, 48-0.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, INSURANCE & HOUSING

Majority Report: Do pass.

Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey and Prentice.

Staff: Catherine Mele (786-7470)

Background: Under current state law, various examination reports and documents obtained by the Department of Financial Institutions are confidential and privileged information. Generally, in any civil action when such information is sought, the court may permit discovery of and introduction of only those documents which are relevant and otherwise unobtainable by the requesting party. This confidential status does not apply to internal reports or documentation created by a financial institution.

Summary of Bill: State and federally chartered financial institutions are given a compliance review privilege. Generally, this privilege applies to self-critical analysis of a financial institution that ascertains, monitors, or remedies violations of state and federal statutes or rules. Compliance review documents are not discoverable or admissible as evidence in any civil action. Financial institution personnel involved in a compliance review may not be required to testify at a deposition or trial. Financial institutions may waive the compliance review privilege in writing. If there is a question as to whether documents are covered by the privilege, the court may determine what documents are not subject to the privilege.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is designed to encourage financial institutions to undertake internal self-policing without the fear of civil lawsuits. The compliance review privilege protects internal working documents that identify weaknesses in financial institution policies and procedures. The financial institution is then free to address its own weaknesses without fear of reprisal in court.

Testimony Against: None.

Testified: Meara Nisbet, Washington Bankers Association (pro); David McCrea, Vice President/Compliance Officer, Frontier Bank (pro).