

# HOUSE BILL REPORT

## SSB 5776

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### As Reported by House Committee On:

Financial Institutions & Insurance

**Title:** An act relating to protecting the confidentiality of information relating to insurance.

**Brief Description:** Protecting the confidentiality of information relating to insurance.

**Sponsors:** By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Prentice, Winsley, Gardner and Costa; by request of Insurance Commissioner).

### Brief History:

#### Committee Activity:

Financial Institutions & Insurance: 3/27/01 [DP].

#### Brief Summary of Substitute Bill

- In the furtherance of his regulatory duties, the State Insurance Commissioner is authorized to receive confidential information from authorized agencies while being exempted from the requirements of the public disclosure act.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** Do pass. Signed by 12 members: Representatives Benson, Republican Co-Chair; Hatfield, Democratic Co-Chair; Bush, Republican Vice Chair; McIntire, Democratic Vice Chair; Barlean, Cairnes, DeBolt, Keiser, Miloscia, Roach, Santos and Simpson.

**Staff:** Thamas Osborn (786-7129).

### Background:

With the passage of the Gramm-Leach-Bliley Act in 1999, cross-ownership between banks and insurance companies is now lawful, resulting in the ever increasing hybridization of the two industries. This change has been particularly challenging to state and federal regulatory agencies, whose regulatory powers evolved during a period in which banking and insurance were barred from having interlocking corporate structures.

In order to exercise regulatory oversight with respect to insurance companies that have financial ties with banks, the State Insurance Commissioner must be able to share information with federal banking regulators and to generally have access to the pertinent banking records. However, the Gramm-Leach-Bliley Act prohibits federal banking agencies from sharing confidential information with state insurance regulators unless they can guarantee that all such information will remain confidential. The public disclosure laws in the state of Washington could present an obstacle to the maintenance of the confidentiality required under the Gramm-Leach-Bliley Act.

The State Insurance Commissioner (the commissioner) has requested this legislation in order to address the confidentiality issue stemming from the implementation of Gramm-Leach-Bliley.

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**Summary of Substitute Bill:**

In the furtherance of his regulatory duties, the commissioner is authorized to obtain confidential information from authorized agencies while being exempted from requirements of the public disclosure act.

Specified categories of confidential and/or privileged information are made exempt from public disclosure by the commissioner. Such confidential information cannot be subject to subpoena, is not discoverable through court procedures, and is not admissible as evidence in any private civil action. The bill specifically exempts the information from discovery under Washington's public disclosure act, chapter 48.02 RCW. Furthermore, neither the commissioner nor his employees may be required to testify in any private civil action as to the substance of any of the confidential information covered by the bill.

The confidentiality privilege applies only to the Office of the Insurance Commissioner, the National Association of Insurance Commissioners, and other specified public agencies.

The categories of confidential information covered by the bill are as follows: 1) information received from the National Association of Insurance Commissioners; and 2) information received from federal, state and international governmental agencies. Information obtained from these sources is protected from disclosure only to the extent that it is confidential and/or privileged under the laws of the jurisdiction from which it originated. The commissioner may share confidential information among these sources, provided the recipient agrees to maintain the confidentiality of the information.

The commissioner may use and/or disclose the confidential information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

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

**Testimony For:** The Insurance Commissioner is presently unable to obtain information from federal banking regulators that is necessary for the commissioner to perform his regulatory duties with respect to insurance companies. The Gramm-Leach-Bliley Act prohibits federal regulators from sharing banking information with the states absent guarantees that the information will remain confidential. Under current state law, such information received from federal regulators would not be confidential. The federal agencies are concerned about public disclosure of sensitive banking information that might cause a "run" on a bank. The bill would create the necessary confidentiality and thus enable the commissioner to get the information he needs in order to regulate insurance companies that have corporate ties to banks. Information about banks obtained by the commissioner through his own investigatory efforts would not be subject to confidentiality. Unless the bill is passed, the state will be out of compliance with federal law and the federal government will eventually impose its own regulatory framework on the state. The bill has provisions that protect both businesses and consumers

**Testimony Against:** None.

**Testified:** Bill Daley, Office of the Insurance Commissioner; and Larry Shannon, Washington State Trial Lawyers Association.