

SHB 1085 - S COMM AMD

By Committee on Financial Services, Insurance & Housing

ADOPTED 04/09/2003

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 48.02.065 and 2001 c 57 s 1 are each amended to read  
4 as follows:

5 (1) Documents, materials, or other information as described in  
6 subsection (5) of this section are confidential by law and privileged,  
7 are not subject to public disclosure under chapter 42.17 RCW, and are  
8 not subject to subpoena directed to the commissioner or any person who  
9 received documents, materials, or other information while acting under  
10 the authority of the commissioner. The commissioner is authorized to  
11 use such documents, materials, or other information in the furtherance  
12 of any regulatory or legal action brought as a part of the  
13 commissioner's official duties. The confidentiality and privilege  
14 created by this section and RCW 42.17.31916 applies only to the  
15 commissioner, any person acting under the authority of the  
16 commissioner, the national association of insurance commissioners and  
17 its affiliates and subsidiaries, regulatory and law enforcement  
18 officials of other states and nations, the federal government, and  
19 international authorities.

20 (2) Neither the commissioner nor any person who received documents,  
21 materials, or other information while acting under the authority of the  
22 commissioner is permitted or required to testify in any private civil  
23 action concerning any confidential and privileged documents, materials,  
24 or information subject to subsection (1) of this section.

25 (3) The commissioner:

26 (a) May share documents, materials, or other information, including  
27 the confidential and privileged documents, materials, or information  
28 subject to subsection (1) of this section, with (i) the national  
29 association of insurance commissioners and its affiliates and  
30 subsidiaries, and (ii) regulatory and law enforcement officials of

1 other states and nations, the federal government, and international  
2 authorities, if the recipient agrees to maintain the confidentiality  
3 and privileged status of the document, material, or other information;

4 (b) May receive documents, materials, or information, including  
5 otherwise either confidential or privileged, or both, documents,  
6 materials, or information, from (i) the national association of  
7 insurance commissioners and its affiliates and subsidiaries, and (ii)  
8 regulatory and law enforcement officials of other states and nations,  
9 the federal government, and international authorities and shall  
10 maintain as confidential and privileged any document, material, or  
11 information received that is either confidential or privileged, or  
12 both, under the laws of the jurisdiction that is the source of the  
13 document, material, or information; and

14 (c) May enter into agreements governing the sharing and use of  
15 information consistent with this subsection.

16 (4) No waiver of an existing privilege or claim of confidentiality  
17 in the documents, materials, or information may occur as a result of  
18 disclosure to the commissioner under this section or as a result of  
19 sharing as authorized in subsection (3) of this section.

20 (5)(a) Documents, materials, or information, which is either  
21 confidential or privileged, or both, which has been provided to the  
22 commissioner by (~~(a)~~) (i) the national association of insurance  
23 commissioners and its affiliates and subsidiaries, (~~(b)~~) (ii)  
24 regulatory or law enforcement officials of other states and nations,  
25 the federal government, or international authorities, or (~~(c)~~) (iii)  
26 agencies of this state, is confidential and privileged only if the  
27 documents, materials, or information is protected from disclosure by  
28 the applicable laws of the jurisdiction that is the source of the  
29 document, material, or information.

30 (b) Working papers, documents, materials, or information produced  
31 by, obtained by, or disclosed to the commissioner or any other person  
32 in the course of a financial or market conduct examination are not  
33 required to be disclosed by the commissioner unless cited by the  
34 commissioner in connection with an agency action. The commissioner  
35 shall notify a party that produced documents, materials, or information  
36 twenty days before disclosure in connection to an agency action. The  
37 notified party may seek injunctive relief to prevent disclosure of any

1 documents, materials, or information it believes is confidential or  
2 privileged in a court of competent jurisdiction. A waiver of existing  
3 privilege or claim of confidentiality may not occur as a result of a  
4 disclosure to the commissioner under this section."

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5 On page 1, line 2 of the title, after "examinations;" strike the  
6 remainder of the title and insert "and amending RCW 48.02.065."

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