

SENATE BILL REPORT

SB 5317

As Reported By Senate Committee On:
Financial Institutions, Housing & Consumer Protection, February 1, 2005

Title: An act relating to providing confidentiality to certain insurance commissioner examinations.

Brief Description: Providing confidentiality to certain insurance commissioner examinations.

Sponsors: Senators Benton, Keiser, Benson, Prentice, Roach and Shin; by request of Insurance Commissioner.

Brief History:

Committee Activity: Financial Institutions, Housing & Consumer Protection: 1/25/05, 2/1/05 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5317 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Berkey, Vice Chair; Benson, Brandland, Delvin, Franklin, Keiser, Prentice, Schmidt and Spanel.

Staff: Joyce Ahlering (360-786-7486)

Background: The Office of the Insurance Commissioner (OIC) examines the market conduct and financial solvency of companies it regulates, including out-of-state insurers doing business in Washington State. Information obtained in these examinations can be exempt from the Public Disclosure Act, but only to the extent that it is protected from disclosure under the laws of the jurisdiction from which it originated.

Summary of Substitute Bill: Information obtained in a financial or market conduct examination is subject to disclosure only if the Insurance Commissioner cites that information in connection with an agency action. In this case, the Commissioner must notify the party that produced the information five business days prior to disclosure. The notified party can seek an injunction to prevent disclosure in any Washington state superior court.

Information used in an insurer change of control proposal is also subject to disclosure. However, if the information is otherwise privileged, or if the Commissioner finds that the public interest in nondisclosure outweighs that of disclosure, release of the documents is not required.

Where information exempt from disclosure relates to allegations of Commissioner misconduct in performing insurer examinations, a Washington State superior court can be petitioned for access to the information.

Substitute Bill Compared to Original Bill: Parties seeking nondisclosure of documents used in commissioner examinations must apply for injunctions in a Washington State superior court, rather than in any court of competent jurisdiction. When allegations of commissioner misconduct in the performance of insurer examinations have been made, parties can petition for access to the information in any Washington State superior court, not just in the Thurston County Superior Court.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: Other states have been reluctant to collaborate with Washington in performing examinations because of our state's lack of disclosure protections. Disclosure of proprietary information opens up insurers to data mining and liability. This bill will help the state collaborate with other states in the examination of more than 1300 out-of-state insurers doing business in Washington.

Testimony Against: None.

Concerns: Parties seeking protection of information used in Commissioner examinations should be required to seek injunctions in the Thurston County Superior Court. Furthermore, the confidential information of out-of-state companies acquiring Washington insurers should be protected only according to Washington State law.

Who Testified: PRO WITH CONCERNS: Rowland Thompson, Allied Daily Newspapers. PRO: Mary Clogston, Jim Odiorne, Office of the Insurance Commissioner; Mel Sorensen, Property Casualty Insurers Association of America; Jean Leonard, State Farm Insurance, Washington Insurers.