

# SENATE BILL REPORT

## SB 5703

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As of February 21, 2019

**Title:** An act relating to examinations under oath when a person claims a loss under an insurance contract.

**Brief Description:** Concerning examinations under oath when a person claims a loss under an insurance contract.

**Sponsors:** Senator Kuderer.

**Brief History:**

**Committee Activity:** Financial Institutions, Economic Development & Trade: 2/07/19.

**Brief Summary of Bill**

- Requires all requests for examination under oath by an insurer to be made within 90 days after a written claim or form of proof of loss has been made by an individual making a claim.
- Requires insurers to furnish a transcript at its own expense to a person making the claim within 30 days or within 48 hours of the next examination under oath, whichever is earlier.
- Requires an insurer to issue a claims acceptance, denial, or provide a written reservation of rights detailing any reason why a claim cannot be accepted within 60 days of furnishing a transcript to the person making the claim.

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**SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, ECONOMIC DEVELOPMENT & TRADE**

**Staff:** Clint McCarthy (786-7319)

**Background:** Every insurer must furnish, upon request of any person making a claim to have a loss under an insurance contract, forms for proof of loss. The insurer does not have any responsibility for the completion the form. If a person makes a claim under a policy of insurance, the insurer may require the person be examined under oath.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Bill:** Requires all requests for examination under oath by an insurer to be made within 90 days after a written claim or form of proof of loss has been made by an individual making a claim. The insurer must furnish at its own expense to the person making the claim, a transcript of the examination within 30 days, or within 48 hours of the next examination under oath—whichever is earlier. Within 60 days after furnishing a transcript to the person making a claim, the insurer must issue a claims acceptance or denial, or provide a written reservation of rights detailing any reason why the claim cannot be accepted and paid to the person making the claim

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: Examinations under oath (EUO) taken by an insurance company made before a claim is accepted or denied. Often, the claimants make their EUO without representation. This bill put sideboards down around the process for being under oath. This is a consumer protection bill. It is important to furnish a transcript so that claimants can recall what they said previously. Getting EUOs is a process in need of fixing and current statute opens the process up to potential abuse by certain insurance carriers. EUOs are effective tools at fighting fraud, but this bill puts sideboards on the power that insurance carriers have. You should have a right to know what you said, you should have right to counsel.

CON: Back in 1995, a task force convened to deal with insurance fraud. Going after liars, cheats, and thieves require having a variety of tools at the disposal for the insurance commissioners. EUO's are uncommon and typically used when fraudulent claims are suspected—it is an investigative tool. There have to be multiple tools to investigate claims. The bill would limit the use of EUO's and is ambiguous on how insurance carriers can move forward. These are rarely used. One large carrier uses EUO's five times a year. An EUO can bring about more facts and questions that usually lead to further investigation. The time periods are arbitrary.

OTHER: Early iterations of the bill were in conflict with the OIC, but the OIC is now neutral. It has been 24 years since this has been used. EOU's have been used to the detriment of low income victims. This is an issue worth revisiting in the interim.

**Persons Testifying:** PRO: Senator Patty Kuderer, Prime Sponsor; Larry Shannon, WSAJ.

CON: Mel Sorensen, Property Casualty Insurers Association of America; Allstate; American Family Insurance; Jillian Hinman, Washington Defense Trial Lawyers; Jean Leonard, Washington Insurers and National Association of Mutual Insurance Companies and State Farm.

OTHER: Lonnie Johns-Brown, Office of the Insurance Commissioner.

**Persons Signed In To Testify But Not Testifying:** No one.