

HOUSE BILL REPORT

HB 1899

As Passed House:
February 10, 2022

Title: An act relating to confidentiality of certain data shared with the department of financial institutions.

Brief Description: Concerning confidentiality of certain data shared with the department of financial institutions.

Sponsors: Representatives Kirby, Vick, Graham and Young; by request of Department of Financial Institutions.

Brief History:

Committee Activity:

Consumer Protection & Business: 1/17/22, 1/20/22 [DP].

Floor Activity:

Passed House: 2/10/22, 93-1.

Brief Summary of Bill

- Exempts certain information provided to the Department of Financial Institutions (DFI) by an out-of-state or federal agency, or a regulatory association comprised of members of financial regulatory agencies, from disclosure under the Public Records Act (PRA).
- Provides that the Director of the DFI or the Director's designee may, for the purpose of regulating financial institutions, enter into agreements governing the sharing, receiving, and use of documents, materials, or other information consistent with the PRA.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: Do pass. Signed by 7 members: Representatives Kirby, Chair; Walen,

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Vice Chair; Vick, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Corry, Ryu and Santos.

Staff: Corey Patton (786-7388).

Background:

The Public Records Act (PRA) requires state and local agencies to disclose written records to the public for inspection and copying upon request unless the information belongs to a category which is exempt from disclosure under the PRA or another provision of state law. For example, certain information relating to insurance and financial institutions is exempt from disclosure. These exemptions include examination reports and information obtained by the Department of Financial Institutions from banks, savings banks, savings and loan associations, credit unions, check cashers and sellers, and securities brokers and investment advisers under certain statutory provisions. The stated policy of the PRA favors disclosure and requires narrow application of the listed exemptions.

Summary of Bill:

Information provided to the Department of Financial Institutions (DFI) by an out-of-state or federal agency, or a regulatory association comprised of members of financial regulatory agencies, is exempt from disclosure under the Public Records Act (PRA) to the extent that such information is confidential or exempt from disclosure under specific out-of-state or federal laws, except when the information is included in records prepared by the DFI that represent agency action.

The Director of the DFI or the Director's designee may, for the purpose of regulating financial institutions, enter into agreements governing the sharing, receiving, and use of documents, materials, or other information consistent with the PRA.

"Agency action" means licensing, the implementation or enforcement of a statute, the adoption or application of an agency rule or order, the imposition of sanctions, or the granting or withholding of benefits. Agency action does not include an agency decision regarding the following:

- contracting or procurement of goods, services, public works, and the purchase, lease, or acquisition by any other means, including eminent domain, of real estate, as well as all activities necessarily related to those functions;
- determinations as to the sufficiency of a showing of interest filed in support of a representation petition, or mediation or conciliation of labor disputes or arbitration of labor disputes under a collective bargaining law or similar statute;
- any sale, lease, contract, or other proprietary decision in the management of public lands or real property interests; or
- the granting of a license, franchise, or permission for the use of trademarks, symbols, and similar property owned or controlled by the agency.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Department of Financial Institutions (DFI) works with other regulators to perform multi-state licensing, investigations, and enforcement actions. During those actions, the DFI has run into situations where another regulator shares confidential information which consequently becomes subject to public disclosure under Washington state law. There are concerns that the DFI may not be allowed to fully participate in cooperative regulatory activities unless the DFI can protect the confidentiality of the information it receives from other regulators.

(Opposed) None.

(Other) This bill is tailored so that information provided to the DFI can be used in regulatory actions and investigations, but Washington state public disclosure laws will apply once a proceeding is initiated so that consumers can see what the DFI is doing and be confident in the DFI's activities.

Persons Testifying: (In support) Representative Steve Kirby, prime sponsor; and Drew Bouton, Department of Financial Institutions.

(Other) Rowland Thompson, Allied Daily Newspapers of Washington.

Persons Signed In To Testify But Not Testifying: None.