
**Consumer Protection & Business
Committee**

SSB 5806

Brief Description: Concerning the confidentiality of insurance company data.

Sponsors: Senate Committee on Business, Financial Services, Gaming & Trade (originally sponsored by Senators Kuderer, Hunt, Dhingra, Hasegawa and Nobles).

Brief Summary of Substitute Bill

- Excludes from disclosure under the Public Records Act information provided to the Office of the Insurance Commissioner (OIC) regarding emergencies and hazard mitigation, and data requested by the OIC from regulated property and casualty entities for studying insurance market conditions.
- Allows state agencies to receive confidential and privileged information from the OIC if confidentiality is maintained.

Hearing Date: 2/14/24

Staff: Michelle Rusk (786-7153).

Background:

The Public Records Act and Office of the Insurance Commissioner.

The Public Records Act (PRA) requires state agencies to make records available to the public unless expressly exempted from disclosure or are otherwise made confidential in statute.

Documents Not Subject to Disclosure.

Under the Washington Insurance Code, the following are deemed confidential, privileged, and

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not subject to disclosure under the PRA:

- documents, materials, or information that are protected from disclosure by the laws of the jurisdiction from which they come, and are shared with the OIC by: (1) the National Association of Insurance Commissioners; (2) national or state regulatory or law enforcement officials, the federal government, or international authorities; or (3) state agencies; and
- working papers, documents, materials, or information produced by, obtained by, or disclosed to the OIC in the course of a financial or market conduct examination, or in the course of financial analysis or market conduct desk audit.

Documents the OIC May Disclose or Share.

The OIC may share and receive confidential and privileged documents, materials, or information with: (1) the National Association of Insurance Commissioners; and (2) national or state regulatory and law enforcement officials, the federal government, and international authorities if confidentiality is maintained. The OIC may enter into agreements governing the sharing and use of the foregoing information, consistent with the Insurance Code.

The OIC may disclose, if cited in connection with an agency action, working papers, documents, materials, or information produced by, obtained by, or disclosed to the OIC in the course of a financial or market conduct examination, or in the course of a financial analysis or market conduct desk audit. Agency action refers to 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. It does not include agency decisions related to contracting and procurement, disputes related to collective bargaining, property transactions, or granting of a license or permission to use an agency trademark. Parties involved must be notified within five business days before disclosure. The notified party may seek injunctive relief in any Washington state superior court to prevent disclosure it believes is confidential or privileged.

Summary of Bill:

New Exemptions from the Public Records Act.

The following are deemed confidential, privileged, and exempt from disclosure under the PRA:

- documents, materials, or information provided to the OIC by the federal government related to emergency management, hazard mitigation, and the National Flood Insurance Program; and
- data requested by the OIC from property and casualty (P&C) entities for the purpose of understanding and studying insurance market conditions outside of the context of market conduct action.

Use of Data in Aggregate.

The OIC may use data received from P&C entities for reports, analysis, and other documents, if used in the aggregate form without identifying individual companies. Data in the aggregate form is available for public inspection.

Permissible Disclosure of Confidential and Privileged Information by the Office of the Insurance Commissioner.

State agencies may receive confidential and privileged documents, materials, and information from the OIC if confidentiality is maintained.

Appropriation: None.

Fiscal Note: Available.

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