

# SENATE BILL REPORT

## SB 5806

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As of January 15, 2024

**Title:** An act relating to the confidentiality of insurance company data.

**Brief Description:** Concerning the confidentiality of insurance company data.

**Sponsors:** Senators Kuderer, Hunt, Dhingra, Hasegawa and Nobles.

**Brief History:**

**Committee Activity:** Business, Financial Services, Gaming & Trade: 1/16/24.

**Brief Summary of Bill**

- Excludes from public disclosure under the public records act certain information pertaining to emergencies and hazard mitigation received by the Office of the Insurance Commissioner (OIC) from insurance entities or the federal government.
- Allows state agencies to receive confidential and privileged information from the OIC if confidentiality is maintained.
- Permits certain data from regulated property and casualty (P&C) entities to be disclosed under an agency action.
- Establishes that the OIC may prepare and publish reports using certain data from P&C companies if the data is in aggregate.

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**SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE**

**Staff:** Kellee Gunn (786-7429)

**Background:** The Public Records Act and Office of the Insurance Commissioner. The Public Records Act (PRA) requires state agencies to make public records available to the public unless the records are explicitly exempted from disclosure or are otherwise made

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confidential in statute.

Under state law information the Office of the Insurance Commissioner (OIC) obtains from an insurer during financial or market conduct examination is exempt from PRA disclosure.

Permissible Disclosures of Confidential Information and Documents by the Office of the Insurance Commissioner. The OIC may:

- share and receive confidential and privileged documents with the National Association of Insurance Commissioners and its affiliates, regulatory and law enforcement officials of other states and nations, the federal government, and international authorities if confidentiality is maintained; and
- enter into agreements governing the sharing and use of the information.

No waiver of an existing claim of confidentiality or privilege may occur due to sharing of this information or permissible disclosures.

Agency Action Exception to Public Records Act Exemption. Unless cited in connection with an agency action, working papers, documents, and materials produced by, obtained by, or disclosed to the OIC during a financial or market conduct examination—confidential and privileged documents, or desk audit, are exempt from disclosure.

Parties involved must be notified within five business days before disclosure in connection with an agency action. The notified party may seek injunctive relief in any Washington State superior court to prevent disclosure it believes is confidential or privileged.

An agency action includes acts related 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 certain decisions by an agency related to contracting and procurement, disputes related to collective bargaining, property transactions, or granting of a license or trademark.

**Summary of Bill:** Additional Exemptions from the Public Records Act. In addition to confidential and privileged documents already exempt from public disclosure under the PRA, the following are also exempt:

- certain 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.

Agency Action Exception. Data related to understanding and studying insurance market conditions from P&C entities may be subject to public disclosure if cited by the OIC in connection with an agency action.

Use of Data in Aggregate. OIC may prepare and publish reports, analysis, or other documents using data received from individual P&C companies if the data is in aggregate form. Data in the aggregate form is considered open records available for public inspection.

Permissible Disclosure of Confidential and Privileged Information by the Office of the Insurance Commissioner. State agencies are added as entities who may receive confidential and privileged documents, materials, and information from the OIC if confidentiality is maintained.

**Appropriation:** None.

**Fiscal Note:** Requested on January 10, 2024.

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

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