

SENATE BILL REPORT

SB 5419

As Reported by Senate Committee On:
Business, Financial Services & Trade, February 13, 2025

Title: An act relating to reports of fire losses.

Brief Description: Modifying reports of fire losses.

Sponsors: Senators Lovick, Muzzall, Nobles and Shewmake; by request of Insurance Commissioner.

Brief History:

Committee Activity: Business, Financial Services & Trade: 1/29/25, 2/13/25 [DPS, w/oRec].

Brief Summary of First Substitute Bill

- Revises requirements for authorized insurers in reporting fire losses, including those known or suspected to be due to criminal activity.
- Requires that fire loss reports be made directly to the Office of the Insurance Commissioner rather than to the chief of the Washington State Patrol.
- Specifies requirements and restrictions regarding the confidentiality and privilege of fire loss information and provides a public records exemption for fire loss information.
- Provides civil immunity to an insurer for certain reports and cooperation.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES & TRADE

Majority Report: That Substitute Senate Bill No. 5419 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kauffman, Chair; Cortes, Vice Chair; Hasegawa, Lovick and

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

Stanford.

Minority Report: That it be referred without recommendation.

Signed by Senators Dozier, Ranking Member; Fortunato, McCune and Wilson, J..

Staff: John Kim (786-7453)

Background: Reports of Fire Loss by Authorized Insurers. An authorized insurer is an insurer transacting insurance through a certificate of authority issued by the Office of the Insurance Commissioner (OIC). Each authorized insurer must promptly report to the chief of the Washington State Patrol each fire loss of property in this state reported to it and whether the loss is due to criminal activity or to undetermined causes, as well as claims paid by it for loss or damage by fire in this state.

If the insurer has reason to believe that a fire loss reported to the insurer may be of other than accidental cause, it must include any and all relevant material developed from the insurer's inquiry. Copies of such reports must be promptly transmitted to the OIC.

Public Records Act. The Public Records Act requires state and local agencies to make all public records available for public inspection and copying unless exempted.

Summary of Bill (First Substitute): Fire Loss Reporting Requirements. The bill specifies that rather than promptly, an authorized insurer must report fire losses within 90 days of closing a claim related to a fire loss or damage, or any subsequent non-*de minimis* adjustment or further investigation related to a fire loss or damage.

The insurer must report fire losses directly to the OIC in a manner prescribed by the OIC, rather than to the chief of the Washington State Patrol.

The reported information must include, at a minimum:

- the property address;
- the date of loss;
- the amount that the insurer paid on each coverage;
- the known or suspected origin and cause of the loss or damage, including whether the loss is due to criminal activity or to undetermined causes;
- the National Association of Insurance Commissioners company number; and
- any other information required by the OIC relating to the insurance policy and insurance claim.

Reporting Requirements for Known or Suspected Criminal Activity. Whenever an insurer knows or suspects that a fire loss or damage may be due to criminal activity, the insurer must immediately report to the local or tribal law enforcement agency of jurisdiction and the OIC the details of the loss or damage and the basis for the insurer's knowledge or suspicion that it may be due to criminal activity. Upon request, it must provide a complete

copy of any full or partial investigation of the claim or loss.

The receiving local or tribal law enforcement agency must timely share such information and coordinate with the responsible fire department chief or county fire marshal or other designated fire official.

Civil Immunity. Unless actual malice is shown, an insurer is immune from civil liability for its reports of known or suspected criminal activity or for cooperation with a duly issued subpoena for a criminal investigation or prosecution.

Confidentiality and Privilege of Fire Loss Information. Documents, materials, reports, data, investigations, and other information relating to fire loss reports and known or suspected criminal activity reports are confidential and privileged and are not subject to a civil matter subpoena directed to the OIC commissioner or any person who processes information received. The OIC commissioner, OIC staff, or anyone receiving or processing such information may not testify in any private civil action concerning such information. Such persons may cooperate with subpoenas for documents or testimony in criminal matters.

The OIC may share such information with:

- the National Association of Insurance Commissioners and its affiliates and subsidiaries;
- regulatory, law enforcement, and prosecutorial officials of other states and nations, the Federal Government, tribal governments, and international authorities;
- agencies of this state;
- rating bureaus;
- the State Fire Marshal's office; and
- local or tribal law enforcement officials, prosecutors, or fire chiefs and fire marshals in this state.

The OIC must require a recipient of information to maintain the confidentiality and privileged status of the information, with the following exceptions:

- the State Fire Marshal's office may use the shared information for wildfire and resiliency planning purposes, so long as it does not publicly disclose information that contains personally identifiable information about properties, property owners, policyholders, losses, claimants, or claims;
- rating bureaus may use the shared information to analyze and inform rating classifications, so long as they do not publicly disclose, other than to rating subscribers, information that contains personally identifiable information about property owners, policyholders, losses, claimants, claims, or properties, other than aggregated by zip code or fire district boundary;
- local or tribal law enforcement officials, prosecutors, and fire chiefs and fire marshals in this state may use the shared information for public safety planning purposes, so long as they do not publicly disclose information that contains personally identifiable information about properties, property owners, policyholders, losses, claimants, or

- claims, other than aggregated by zip code; and
- local, tribal, state, or federal law enforcement officials, prosecutors, and fire chiefs and fire marshals in this state and limited authority peace officers employed by the OIC may use the shared information to investigate and prosecute crime. In so doing, they may release the information as is necessary for investigative and prosecutorial purposes to comply with all due process rights of criminally accused individuals and to comply with public records obligations applicable to criminal investigations or prosecutions.

Public Records Exemption. Data, information, and documents obtained from an insurer, or by or from the OIC, relating to fire loss reports and known or suspected criminal activity reports are exempt from public disclosure under the Public Records Act.

Rulemaking. The OIC may adopt rules as necessary for implementation.

EFFECT OF CHANGES MADE BY BUSINESS, FINANCIAL SERVICES & TRADE COMMITTEE (First Substitute):

- Extends the timeframe for insurers to report fire losses from 30 days to 90 days after closing a claim or subsequent adjustment or investigation.
- Specifies that an adjustment or investigation triggering a fire loss report must be *non-de minimis*.
- Revises information required in fire reports.
- Revises circumstances under which civil immunity does not apply to an insurer.
- Adds local fire marshals to a list of entities that may receive fire loss information from the OIC for certain purposes.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The current statute is a remnant of when the State Fire Marshal was the Insurance Commissioner. The data hasn't been actively collected in many respects. The bill allows for a more efficient use of data collection and improved timeliness. This will help with public safety planning and accurate pricing of homeowners' insurance. In the future, this data can be used for safety planning and insurance analytics. The OIC worked with the State Fire Marshal's office, the Washington State Patrol, and the Washington Association of Sheriffs & Police Chiefs on the language of the bill. The bill allows the OIC to look at data and work with communities to raise

awareness about preventing different types of fires. Things we can do to reduce loss frequency and severity will be for the benefit of all Washingtonians.

OTHER: We support the goals of reducing and preventing fires. We appreciate the protection from public disclosure of sometimes sensitive information that we are required to provide. We have concerns about the breadth of the bill and how much information is being asked for. The open-ended nature of some of the definitions and the extent of the information could be very burdensome. Companies already report suspected fraud and suspected criminal activity to a variety of different agencies. Certain references in the bill are vague and ambiguous, including the requirement to provide any subsequent adjustment or further investigation related to fire loss and to provide any other information required by the Insurance Commissioner.

Persons Testifying: PRO: Senator John Lovick, Prime Sponsor; Rory Paine-Donovan, Office of the Insurance Commissioner; David Forte, Office of the Insurance Commissioner.

OTHER: Jean Leonard, WA Insurers.

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