

HOUSE BILL REPORT

SSB 5806

As Passed House:
February 28, 2024

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

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 History:

Committee Activity:

Consumer Protection & Business: 2/14/24, 2/16/24 [DP].

Floor Activity:

Passed House: 2/28/24, 95-0.

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.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: Do pass. Signed by 11 members: Representatives Walen, Chair; Reeves, Vice Chair; Robertson, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Chapman, Connors, Donaghy, Hackney, Ryu, Sandlin and Santos.

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.

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 otherwise made confidential in statute.

Documents Not Subject to Disclosure.

Under the Washington Insurance Code, the following are deemed confidential, privileged, and 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 Office of the Insurance Commissioner 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.

Staff Summary of Public Testimony:

(In support) This bill came forward based on discussions about data that is not protected when it gets to the Office of the Insurance Commissioner (OIC). This bill is needed to provide exemptions to the Public Records Act (PRA) for certain information and documents. Exemptions to the PRA are not taken lightly, and interested parties were engaged right away because there is a desire to make sure this issue is analyzed correctly.

The OIC needs the information covered in this bill and needs to be able to share it with certain agencies in case of emergencies, but there is a desire not to compromise competition and proprietary information at the same time. This policy is not about keeping information from the public, but helping the people in this state in times of emergencies.

The OIC wants to be a responsible regulator and this policy is not covering data from the OIC, but data from insurance companies. The OIC agrees that to maintain competitive integrity, company data should be confidential from public disclosure and from their competitors. There is authority in current law to collect from insurance companies the information contemplated in this bill, but the OIC has been reluctant to use that authority because of the disclosure issues.

(Opposed) None.

Persons Testifying: Senator Patty Kuderer, prime sponsor; Jean Leonard, Washington Insurers, Nationwide Insurance, and State Farm Insurance; and Bryon Welch, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.