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SENATE BILL 5269

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State of Washington

63rd Legislature

2013 Regular Session

By Senators Benton and Mullet

Read first time 01/24/13. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to title insurance rate filings; amending RCW  
2 48.03.010, 48.03.060, and 42.56.400; and adding new sections to chapter  
3 48.29 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.29 RCW  
6 to read as follows:

7 (1) The commissioner must designate one statistical reporting agent  
8 to assist him or her in gathering information on title insurance policy  
9 issuance, business income, and expenses and making compilations  
10 thereof. The costs and expenses of the statistical reporting agent  
11 must be borne by all the authorized title insurance companies and title  
12 insurance agents licensed to conduct the business of title insurance in  
13 this state. The commissioner may adopt rules setting forth how the  
14 costs and expenses of the statistical reporting agent are to be paid  
15 and apportioned among the authorized title insurers and licensed title  
16 insurance agents.

17 (2) Upon designation of a statistical reporting agent by the  
18 commissioner under subsection (1) of this section all authorized title  
19 insurance companies and licensed title insurance agents must annually,

1 by May 31st, file a report with the statistical reporting agent of  
2 their policy issuance, business income, expenses, and loss experience  
3 in this state. The report must be filed with the statistical reporting  
4 agent in a manner and form prescribed by the commissioner by rule,  
5 which must be consistent with the manner and form adopted by the  
6 national association of insurance commissioners.

7 (3) The statistical reporting agent must review the information  
8 filed with it for completeness, accuracy, and quality within one  
9 hundred twenty days of its receipt. All title insurance companies and  
10 title insurance agents must cooperate with the statistical reporting  
11 agent to verify the completeness, accuracy, and quality of the data  
12 that they submitted.

13 (4) Within thirty days after completing its review of the  
14 information for quality and accuracy, the statistical reporting agent  
15 must file the information for each title insurance company and title  
16 insurance agent, individually and in the aggregate, with the  
17 commissioner with a copy of the aggregate data from such statistical  
18 reporting agent provided to each title insurer and title insurance  
19 agent.

20 (5) The commissioner may adopt rules to implement and administer  
21 this section.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.29 RCW  
23 to read as follows:

24 (1) Information filed with the commissioner under section 1 of this  
25 act must be kept confidential and is not subject to public disclosure  
26 under chapter 42.56 RCW, unless the commissioner finds, after notice  
27 and hearing with the affected parties, it is in the public interest to  
28 disclose the information.

29 (2) The commissioner may share the information in subsection (1) of  
30 this section with the national association of insurance commissioners  
31 and its affiliates and subsidiaries, regulatory and law enforcement  
32 officials of other states and nations, the federal government, and  
33 international authorities, provided that the recipient agrees to  
34 maintain the confidentiality and privileged status of the information.

35 (3) This section does not prohibit the commissioner from sharing or  
36 publishing the information in an aggregate form.

1       **Sec. 3.** RCW 48.03.010 and 1993 c 462 s 43 are each amended to read  
2 as follows:

3       (1) The commissioner shall examine the affairs, transactions,  
4 accounts, records, documents, and assets of each authorized insurer as  
5 often as he or she deems advisable. The commissioner shall so examine  
6 each insurer holding a certificate of authority or certificate of  
7 registration not less frequently than every five years. Examination of  
8 an alien insurer may be limited to its insurance transactions in the  
9 United States. In scheduling and determining the nature, scope, and  
10 frequency of an examination, the commissioner shall consider such  
11 matters as the results of financial statement analyses and ratios,  
12 changes in management or ownership, actuarial opinions, reports of  
13 independent certified public accountants, and other criteria as set  
14 forth in the examiner's handbook adopted by the National Association of  
15 Insurance Commissioners and in effect when the commissioner exercises  
16 discretion under this section.

17       (2) As often as the commissioner deems advisable and at least once  
18 in five years, the commissioner shall fully examine each rating  
19 organization and examining bureau licensed in this state. As often as  
20 he or she deems it advisable the commissioner may examine each advisory  
21 organization, any statistical reporting agent designated by the  
22 commissioner under section 1 of this act, and each joint underwriting  
23 or joint reinsurance group, association, or organization.

24       (3) The commissioner shall in like manner examine each insurer or  
25 rating organization applying for authority to do business in this  
26 state.

27       (4) In lieu of making an examination under this chapter, the  
28 commissioner may accept a full report of the last recent examination of  
29 a nondomestic rating or advisory organization, or joint underwriting or  
30 joint reinsurance group, association or organization, as prepared by  
31 the insurance supervisory official of the state of domicile or of  
32 entry. In lieu of an examination under this chapter of a foreign or  
33 alien insurer licensed in this state, the commissioner may accept an  
34 examination report on the company as prepared by the insurance  
35 department for the company's state of domicile or port-of-entry state  
36 until January 1, 1994. Thereafter, an examination report may be  
37 accepted only if: (a) That insurance department was at the time of the  
38 examination accredited under the National Association of Insurance

1 Commissioners' financial regulation standards and accreditation  
2 program; or (b) the examination was performed either under the  
3 supervision of an accredited insurance department or with the  
4 participation of one or more examiners employed by an accredited state  
5 insurance department who, after a review of the examination work papers  
6 and report, state under oath that the examination was performed in a  
7 manner consistent with the standards and procedures required by their  
8 insurance department.

9 (5) The commissioner may elect to accept and rely on an audit  
10 report made by an independent certified public accountant for the  
11 insurer in the course of that part of the commissioner's examination  
12 covering the same general subject matter as the audit. The  
13 commissioner may incorporate the audit report in his or her report of  
14 the examination.

15 (6) For the purposes of completing an examination of any company  
16 under this chapter, the commissioner may examine or investigate any  
17 managing general agent or any other person, or the business of any  
18 managing general agent or other person, insofar as that examination or  
19 investigation is, in the sole discretion of the commissioner, necessary  
20 or material to the examination of the company.

21 **Sec. 4.** RCW 48.03.060 and 2011 c 47 s 4 are each amended to read  
22 as follows:

23 (1) Examinations within this state of any insurer or self-funded  
24 multiple employer welfare arrangement as defined in RCW 48.125.010  
25 domiciled or having its home offices in this state, other than a title  
26 insurer, made by the commissioner or the commissioner's examiners and  
27 employees must, except as to fees, mileage, and expense incurred as to  
28 witnesses, be at the expense of the state.

29 (2) Every other examination, whatsoever, or any part of the  
30 examination of any person domiciled or having its home offices in this  
31 state requiring travel and services outside this state, must be made by  
32 the commissioner or by examiners designated by the commissioner and  
33 must be at the expense of the person examined; but a domestic insurer  
34 must not be liable for the compensation of examiners employed by the  
35 commissioner for such services outside this state.

36 (3) When making an examination under this chapter, the commissioner  
37 may retain attorneys, appraisers, independent actuaries, independent

1 certified public accountants, or other professionals and specialists as  
2 examiners, the cost of which must be borne by the person who is the  
3 subject of the examination, except as provided in subsection (1) of  
4 this section.

5 (4) The person examined and liable must reimburse the state upon  
6 presentation of an itemized statement for the actual travel expenses of  
7 the commissioner's examiners, their reasonable living expense  
8 allowance, and their per diem compensation, including salary and the  
9 employer's cost of employee benefits, at a reasonable rate approved by  
10 the commissioner, incurred on account of the examination. Per diem  
11 salary and expenses for employees examining insurers domiciled outside  
12 the state of Washington must be established by the commissioner on the  
13 basis of the national association of insurance commissioner's  
14 recommended salary and expense schedule for zone examiners, or the  
15 salary schedule established by the state director of personnel, and the  
16 expense schedule established by the office of financial management,  
17 whichever is higher. A domestic title insurer must pay the examination  
18 expense and costs to the commissioner as itemized and billed by the  
19 commissioner.

20 The commissioner or the commissioner's examiners must not receive  
21 or accept any additional emolument on account of any examination.

22 (5) Nothing contained in this chapter limits the commissioner's  
23 authority to terminate or suspend any examination in order to pursue  
24 other legal or regulatory action under the insurance laws of this  
25 state. Findings of fact and conclusions made pursuant to any  
26 examination are prima facie evidence in any legal or regulatory action.

27 (6) The expense of the examination of any statistical reporting  
28 agent designated by the commissioner under section 1 of this act must  
29 be borne by and apportioned among all authorized title insurance  
30 companies and licensed title insurance agents in this state.

31 **Sec. 5.** RCW 42.56.400 and 2012 2nd sp.s. c 3 s 8 are each amended  
32 to read as follows:

33 The following information relating to insurance and financial  
34 institutions is exempt from disclosure under this chapter:

35 (1) Records maintained by the board of industrial insurance appeals  
36 that are related to appeals of crime victims' compensation claims filed  
37 with the board under RCW 7.68.110;

1 (2) Information obtained and exempted or withheld from public  
2 inspection by the health care authority under RCW 41.05.026, whether  
3 retained by the authority, transferred to another state purchased  
4 health care program by the authority, or transferred by the authority  
5 to a technical review committee created to facilitate the development,  
6 acquisition, or implementation of state purchased health care under  
7 chapter 41.05 RCW;

8 (3) The names and individual identification data of either all  
9 owners or all insureds, or both, received by the insurance commissioner  
10 under chapter 48.102 RCW;

11 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

12 (5) Information provided under RCW 48.05.510 through 48.05.535,  
13 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600  
14 through 48.46.625;

15 (6) Examination reports and information obtained by the department  
16 of financial institutions from banks under RCW 30.04.075, from savings  
17 banks under RCW 32.04.220, from savings and loan associations under RCW  
18 33.04.110, from credit unions under RCW 31.12.565, from check cashers  
19 and sellers under RCW 31.45.030(3), and from securities brokers and  
20 investment advisers under RCW 21.20.100, all of which is confidential  
21 and privileged information;

22 (7) Information provided to the insurance commissioner under RCW  
23 48.110.040(3);

24 (8) Documents, materials, or information obtained by the insurance  
25 commissioner under RCW 48.02.065, all of which are confidential and  
26 privileged;

27 (9) Confidential proprietary and trade secret information provided  
28 to the commissioner under RCW 48.31C.020 through 48.31C.050 and  
29 48.31C.070;

30 (10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and  
31 7.70.140 that, alone or in combination with any other data, may reveal  
32 the identity of a claimant, health care provider, health care facility,  
33 insuring entity, or self-insurer involved in a particular claim or a  
34 collection of claims. For the purposes of this subsection:

35 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

36 (b) "Health care facility" has the same meaning as in RCW  
37 48.140.010(6).

- 1 (c) "Health care provider" has the same meaning as in RCW  
2 48.140.010(7).
- 3 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).
- 4 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);
- 5 (11) Documents, materials, or information obtained by the insurance  
6 commissioner under RCW 48.135.060;
- 7 (12) Documents, materials, or information obtained by the insurance  
8 commissioner under RCW 48.37.060;
- 9 (13) Confidential and privileged documents obtained or produced by  
10 the insurance commissioner and identified in RCW 48.37.080;
- 11 (14) Documents, materials, or information obtained by the insurance  
12 commissioner under RCW 48.37.140;
- 13 (15) Documents, materials, or information obtained by the insurance  
14 commissioner under RCW 48.17.595;
- 15 (16) Documents, materials, or information obtained by the insurance  
16 commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);
- 17 (17) Documents, materials, or information obtained by the insurance  
18 commissioner in the commissioner's capacity as receiver under RCW  
19 48.31.025 and 48.99.017, which are records under the jurisdiction and  
20 control of the receivership court. The commissioner is not required to  
21 search for, log, produce, or otherwise comply with the public records  
22 act for any records that the commissioner obtains under chapters 48.31  
23 and 48.99 RCW in the commissioner's capacity as a receiver, except as  
24 directed by the receivership court;
- 25 (18) Documents, materials, or information obtained by the insurance  
26 commissioner under RCW 48.13.151;
- 27 (19) Data, information, and documents provided by a carrier  
28 pursuant to section 1, chapter 172, Laws of 2010;
- 29 (20) Information in a filing of usage-based insurance about the  
30 usage-based component of the rate pursuant to RCW 48.19.040(5)(b);  
31 (~~and~~)
- 32 (21) Data, information, and documents, other than those described  
33 in RCW 48.02.210(2), that are submitted to the office of the insurance  
34 commissioner by an entity providing health care coverage pursuant to  
35 RCW 28A.400.275 and 48.02.210; and
- 36 (22) Data, information, and documents obtained by the insurance

1 commissioner under section 1 of this act.

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