Overview

This bill involves insurance companies that choose to conduct voluntary internal evaluations of their own legal compliance. The bill makes documents created in the course of that type of "self-audit" privileged. This means that the company need not disclose these documents and that they cannot be used against the company.

1 Definitions. Defines the terms "self-audit" and "self-audit document."
2 Scope of privilege.
   Subd. 1. Privileged information. Makes self-audit documents privileged. This means they are nondiscussable or admissible in any civil, criminal, or administrative proceeding, except as provided in the next section of this bill. The privilege does not apply to documents created after the insurer has received notice of an investigation.
   Subd. 2. Examination prohibited. Prohibits examining witnesses about privileged self-audit documents.
   Subd. 3. No basis for finding violation. Prohibits using a self-audit document as the basis for punishment of the insurer, unless the insurer has not tried to remedy the problems by no later than six months after the commissioner's receipt of the document.
3 Privilege waived or disclosure ordered.
   Subd. 1. Waiver. Provides that the privilege may be waived, but only expressly in writing.
   Subd. 2. Required disclosure. Permits a court to order disclosure of a self-audit document, in a civil or administrative proceeding, if the court determines that the privilege is being asserted for a fraudulent purpose or that the document is not privileged.
4 Burden of proof. Provides that an insurer asserting the privilege has the burden of proving that the privilege applies. Permits the parties to stipulate as to whether the privilege applies to specific information.
Exceptions to privilege. Lists information to which the privilege does not apply.

Statutory or common law privilege applies. Provides that the new privilege created in this bill is in addition to other privileges already in statute or recognized in common law.