

40-223j. Same; authority of commissioner; rules and regulations. (a) The statement of actuarial opinion shall be provided with the annual statement in accordance with the appropriate NAIC property and casualty annual statement instructions and shall be treated as a public document.

(b) (1) Any document, material or other information, in the control or possession of the department that is furnished to the commissioner pursuant to this act or obtained by the commissioner in an investigation pursuant to this section shall be kept confidential by the commissioner. Such information shall not be made public or subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner pursuant to this act or any other provision of the insurance laws of this state.

(2) (A) This subsection shall not be construed to limit the commissioner's authority to release the documents to the actuarial board for counseling and discipline so long as the material is required for the purpose of professional disciplinary proceedings and that the actuarial board for counseling and discipline establishes procedures satisfactory to the commissioner for preserving the confidentiality of the documents.

(B) This subsection shall not be construed to limit the commissioner's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(3) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be required to testify in any private civil action concerning any confidential documents, materials or information subject to paragraph (1).

(4) The commissioner may share or exchange any documents, materials or other information, including confidential and privileged documents referred to in paragraph (1), received in the performance of the commissioner's duties under this act, with:

- (A) The NAIC and its affiliates and subsidiaries;
- (B) the actuarial board for counseling and discipline or any other entity which regulates actuaries;
- (C) other state, federal or international regulatory agencies; and
- (D) other state, federal or international law enforcement authorities.

(5) (A) The sharing or exchanging of documents, materials or other information under this subsection shall be conditioned upon the recipient's authority and agreement to maintain the confidential and privileged status, if any, of the documents, materials or other information being shared or exchanged.

(B) No waiver of an existing privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing such documents, materials or information as authorized by this subsection.

(6) The commissioner of insurance is hereby authorized to adopt such rules and regulations establishing protocols governing the exchange of information as may be necessary to implement and carry out the provisions of this act.

(c) The provisions of paragraph (2) of subsection (b) shall expire on July 1, 2013, unless the legislature acts to reenact such provision. The provisions of paragraph (2) of subsection (b) shall be reviewed by the legislature prior to July 1, 2013.

(d) For the purposes of this section: (1) "Commissioner" shall mean the commissioner of insurance.

(2) "NAIC" shall mean the national association of insurance commissioners.

History: L. 2008, ch. 63, § 3; July 1.