

§ 58-10-175. Confidentiality.

(a) The statement of actuarial opinion shall be treated as a public record.

(b) Documents, materials, or other information in the possession or control of the Department that are considered an actuarial opinion summary, actuarial report, or work papers provided in support of the opinion, and any other material provided by the company to the Commissioner in connection with the actuarial opinion summary, actuarial report, or work papers shall be confidential by law and privileged, in accord with G.S. 58-2-240, shall not be subject to G.S. 58-2-100, shall not be subject to subpoena, and shall not be subject to discovery or admissible as evidence in any private civil action.

(c) Subsection (b) of this section shall not be construed to limit the Commissioner's authority to release documents to the Actuarial Board for Counseling and Discipline if the documents are required for the purpose of professional disciplinary proceedings and if the Actuarial Board for Counseling and Discipline establishes procedures satisfactory to the Commissioner for preserving the confidentiality of the documents. In addition, this section shall not be construed to limit the Commissioner's authority to use any documents, materials, or other information in furtherance of any regulatory or legal action brought as part of the Commissioner's official duties.

(d) Neither the Commissioner nor any person who received documents, materials, or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (b) of this section.

(e) In order to assist in the performance of the Commissioner's duties, the Commissioner:

- (1) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (b) of this section with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information and has the legal authority to maintain confidentiality.
- (2) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.
- (3) May enter into agreements governing the sharing and use of information consistent with this section.

(f) No waiver of any applicable 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 as authorized in subsection (e) of this section. (2007-127, s. 15.)