

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.1761 Proprietary information; confidentiality; disclosure; exemption from freedom of information act; testimony in civil action; duties of director.

Sec. 1761. (1) Documents, materials, or other information, including the CGAD, in the possession or control of the director that are obtained by, created by, or disclosed to the director or any other person under this chapter are considered proprietary and to contain trade secrets. The documents, materials, or other information are confidential and privileged, are not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the director may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the director's official duties. The director shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer or insurance group. This section does not require written consent of the insurer or insurance group before the director may share or receive confidential documents, materials, or other CGAD-related information under subsection (3) to assist in the performance of the director's regular duties.

(2) The director or any person who received documents, materials, or other CGAD-related information, through examination or otherwise, while acting under the authority of the director, or with whom the documents, materials, or other information are shared under this act shall not testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1).

(3) The director may do any of the following:

(a) Except as otherwise provided in this subdivision, on request, share documents, materials, or other CGAD-related information, including the confidential and privileged documents, materials, or information described in subsection (1), including proprietary and trade secret documents and materials with other state, federal, and international financial regulatory agencies, including members of any supervisory college under chapter 13, with the NAIC, and with third-party consultants retained by the director under section 1763. The director shall not share documents, materials, or other CGAD-related information unless the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality.

(b) Except as otherwise provided in this subdivision, receive documents, materials, or other CGAD-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade-secret information or documents, from regulatory officials of other state, federal, and international financial regulatory agencies, including members of any supervisory college under chapter 13, and from the NAIC. The director shall maintain as confidential or privileged any documents, materials, 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.

(4) The sharing of information and documents by the director under this chapter is not a delegation of regulatory authority or rule-making, and the director is solely responsible for the administration, execution, and enforcement of this chapter.

(5) The disclosure or sharing of documents, proprietary and trade-secret materials, or other CGAD-related information to the director under this chapter is not a waiver of an applicable privilege or claim of confidentiality.

History: Add. 2018, Act 520, Eff. Jan. 1, 2020.

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