

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

500.1355 Examination of insurer or affiliates; confidentiality of information; written consent; disclosure; notice; publication in interest of public; sharing documents, materials, or other information with regulator, NAIC, or law enforcement authority; written agreement; responsibility of director.

Sec. 1355. (1) Except as otherwise provided in this subsection, the information, documents, and copies of documents obtained by or disclosed to the director or any other person in the course of an examination or investigation made under sections 1351 and 1357 and the information reported under sections 1324 to 1333 is confidential, is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject to subpoena, is not subject to discovery or admissible in evidence in a private civil or administrative action, and shall not be made public by the director or any other person, without the prior written consent of the insurer to which it pertains. The director may, after giving the insurer and its affiliates who would be affected by the disclosure notice and opportunity to be heard, disclose the information if the director determines that the interests of policyholders, shareholders, or the public will be served by the publication of the information. The director or a person who received documents, materials, or other information while acting under the authority of the director or with whom the documents, materials, or other information is shared under this act shall not testify in a private civil or administrative action concerning confidential documents, materials, or information obtained under sections 1351 and 1357 and information reported under sections 1324 to 1333.

(2) The director may share documents, materials, or other information, including the confidential and privileged documents, materials, or information obtained under sections 1351 and 1357 and information reported under sections 1324 to 1333 with other state, federal, and international regulatory agencies; the NAIC; and state, federal, and international law enforcement authorities, including members of a supervisory college under section 1357, if the regulator, the NAIC, or law enforcement authority agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information and has verified in writing the legal authority to maintain confidentiality. The director may only share confidential and privileged documents, material, or information reported under section 1325a with commissioners of states having statutes or regulations substantially similar to subsection (1) and who have agreed in writing to not disclose the information. The director may receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information from the NAIC 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. The disclosure or sharing of information, a document, or other material to the director or other person under this section is not a waiver of an applicable privilege or claim of confidentiality.

(3) Documents, materials, or other information in the possession or control of the department or the NAIC under this chapter are confidential and privileged, are not subject to 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 as evidence in a private civil or administrative action. The director shall enter into written agreements with the NAIC governing sharing and use of information provided under this chapter. The written agreement must specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC and its affiliates and subsidiaries, including procedures and protocols for sharing by the NAIC with other state, federal, or international regulators. The agreement must provide that the director owns the information shared with the NAIC and its affiliates and subsidiaries and that the NAIC's use of the information is subject to the direction of the director. The agreement must provide for prompt notice to be given to an insurer whose confidential information in possession of the NAIC under this chapter is subject to a request or subpoena to the NAIC for disclosure or production, and require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in a judicial or administrative action.

(4) The sharing of information 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 the provisions of this chapter.

History: Add. 1970, Act 136, Imd. Eff. July 29, 1970;—Am. 2015, Act 244, Imd. Eff. Dec. 22, 2015.

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