



Ohio Revised Code

Section 3901.44 Records of insurance fraud investigation.

Effective: June 18, 2002

Legislation: Senate Bill 138 - 124th General Assembly

(A) As used in this section, "insurance fraud investigation" means any investigation conducted by the superintendent of insurance or a designee of the superintendent that relates to a fraudulent insurance act as defined in section 3999.31 of the Revised Code.

(B) All documents, reports, and evidence in the possession of the superintendent or the superintendent's designee that pertain to an insurance fraud investigation are confidential law enforcement investigatory records under section 149.43 of the Revised Code. Notwithstanding such section, the superintendent shall not prohibit public inspection of such records that pertain to an insurance fraud investigation after the expiration of all federal and state statutes of limitations applicable to the particular offense to which the papers, documents, reports, and evidence relate.

(C) All documents, reports, and evidence in the possession of the superintendent that do not pertain to such an insurance fraud investigation are public records under section 149.43 of the Revised Code, and are not by such possession alone confidential law enforcement investigatory records.

(D) All documents, reports, and evidence in the possession of the superintendent or the superintendent's designee that pertain to such an insurance fraud investigation are not subject to subpoena in civil actions by any court of this state until opened for public inspection by the superintendent in accordance with division (B) of this section or with section 149.43 of the Revised Code, unless the superintendent or the superintendent's designee consents, or until after reasonable notice to the superintendent and opportunity for hearing, the court determines the superintendent would not be hindered unnecessarily by such subpoena.

(E) Notwithstanding divisions (B), (C), and (D) of this section, the superintendent may do either of the following:

(1) Share documents, reports, and evidence that are the subject of this section with the chief deputy rehabilitator, the chief deputy liquidator, other deputy rehabilitators and liquidators, and any other



person employed by, or acting on behalf of, the superintendent pursuant to Chapter 3901. or 3903. of the Revised Code, with other local, state, federal, and international regulatory and law enforcement agencies, with local, state, and federal prosecutors, with the national association of insurance commissioners and its affiliates and subsidiaries, with insurers, and with investigators hired by insurers, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged document, report, or evidence and has authority to do so;

(2) Disclose documents, reports, and evidence that are the subject of this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent or the state, resulting from the exercise of the superintendent's official duties.

(F) Notwithstanding divisions (B), (C), (D), and (E) of this section, the superintendent may authorize the national association of insurance commissioners and its affiliates and subsidiaries by agreement to share confidential or privileged documents, reports, and evidence received pursuant to division (E)(1) of this section with local, state, federal, and international regulatory and law enforcement agencies and with local, state, and federal prosecutors, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged document, report, or evidence and has authority to do so.

(G) Notwithstanding divisions (B), (C), (D), and (E) of this section, the chief deputy rehabilitator, the chief deputy liquidator, and other deputy rehabilitators and liquidators may disclose documents, reports, and evidence that are the subject of this section in the furtherance of any regulatory or legal action brought by or on behalf of the superintendent, the rehabilitator, the liquidator, or the state resulting from the exercise of the superintendent's official duties in any capacity.

(H) Nothing in this section shall prohibit the superintendent from receiving documents, reports, and evidence in accordance with section 3901.045 of the Revised Code.

(I) The superintendent may enter into agreements governing the sharing and use of documents, reports, and evidence consistent with the requirements of this section.

(J)(1) No waiver of any applicable privilege or claim of confidentiality in the documents, reports, and evidence described in this section shall occur as a result of sharing or receiving documents,



reports, and evidence as authorized in divisions (E)(1), (F), and (H) of this section.

(2) The disclosure of a document, report, or evidence in connection with a regulatory or legal action pursuant to divisions (E)(2) and (G) of this section does not prohibit an insurer or any other person from taking steps to limit the dissemination of the document, report, or evidence to persons not involved in or the subject of the regulatory or legal action on the basis of any recognized privilege arising under any other section of the Revised Code or the common law.

(K) The superintendent and the superintendent's designee are not subject to subpoena in civil actions by any court of this state to testify concerning any matter of which they have knowledge pursuant to a pending insurance fraud investigation by the superintendent.