



Ohio Revised Code

Section 3901.36 Confidential and privileged treatment of documents and information - exceptions.

Effective: September 4, 2014

Legislation: Senate Bill 140

(A) Documents, materials, or other information in the possession or control of the department of insurance that are obtained by or disclosed to the superintendent of insurance or any other person in the course of an examination or investigation made pursuant to section 3901.35 of the Revised Code and all information reported pursuant to section 3901.33 of the Revised Code shall be given confidential and privileged treatment and shall not be subject to section 149.43 of the Revised Code, subpoena, or discovery, and shall not be admissible in evidence in any private civil action. The superintendent shall not make the documents, materials, or other information public unless one of the following applies:

(1) The superintendent uses the documents, materials, or other information in furtherance of any regulatory or legal action brought as a part of the superintendent's official duties.

(2) The superintendent has obtained the prior written consent of the insurer pertaining to the disclosure of the documents, materials, or other information of the insurer.

(3) The superintendent, after giving the insurer and those affiliates that are the subject of the documents, materials, or other information notice and an opportunity to be heard in accordance with Chapter 119. of the Revised Code, determines that the interests of policyholders, shareholders, or the public will be served by the disclosure, in which case the superintendent may make disclosures as the superintendent considers appropriate.

(B) Neither the superintendent nor any person who receives documents, materials, or other information while acting under the authority of the superintendent or with whom such documents, materials, or other information are shared pursuant to this section shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to division (A) of this section.



(C) In order to assist in the performance of the superintendent's duties under this section, the superintendent may do either of the following:

(1) Share documents, materials, or other information, including the confidential and privileged documents, materials, or other information subject to division (A) of this section with other local, state, federal, and international regulatory and law enforcement agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, and with members of any supervisory college described in section 3901.351 of the Revised Code, provided that the recipient agrees to maintain the confidential or privileged status of the confidential or privileged documents, materials, or other information and has verified in writing the legal authority to do so. The superintendent may share confidential and privileged documents, materials, or other information reported pursuant to section 3901.33 of the Revised Code only with superintendents of states having statutes or regulations substantially similar to division (A) of this section and who have agreed in writing not to disclose such information.

(2) Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information from the national association of insurance commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions. The superintendent shall maintain as confidential or privileged any such 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.

(D) The superintendent shall enter into written agreements with the national association of insurance commissioners governing sharing and use of information provided pursuant to sections 3901.32 to 3901.37 of the Revised Code consistent with division (C) of this section. The written agreements shall do all of the following:

(1) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to sections 3901.32 to 3901.37 of the Revised Code, including procedures and protocols for sharing by the national association of insurance commissioners with other state, federal, or international regulators;



(2) Specify that ownership of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to sections 3901.32 to 3901.37 of the Revised Code remains with the superintendent and the national association of insurance commissioners' use of the information is subject to the direction of the superintendent;

(3) Require prompt notice to be given to an insurer whose confidential information is in the possession of the national association of insurance commissioners or its affiliates or subsidiaries and is subject to a request or subpoena for disclosure or production;

(4) Require the national association of insurance commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to sections 3901.32 to 3901.37 of the Revised Code.

(E) The sharing of information by the superintendent pursuant to sections 3901.32 to 3901.37 of the Revised Code shall not constitute a delegation of regulatory or rule-making authority. The superintendent is solely responsible for the administration, execution, and enforcement of the provisions of sections 3901.32 to 3901.37 of the Revised Code.

(F) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or other information described in this section shall occur as a result of sharing or receiving documents and information as authorized in division (C) of this section.

(G) Documents, materials, or other information in the possession or control of the national association of insurance commissioners pursuant to this section shall be given confidential and privileged treatment and shall not be subject to section 149.43 of the Revised Code, subpoena, or discovery, and shall not be admissible in evidence in any private civil action.