



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 28, 2016

Mr. David Wheelus
Attorney
Texas Department of Insurance
Legal Section 110-1C
P. O. Box 149104
Austin, Texas 78714-9104

OR2016-16997

Dear Mr. Wheelus:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 620446 (TDI# 172779).

The Texas Department of Insurance (the "department") received a request for current management service agreements, current appointments of attorney-in-fact, and all articles of agreement for five specified third parties. You state the department has released some information. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 823.011 of the Insurance Code. Section 823.011 states, in relevant part, the following:

(a) This section applies only to information, including documents and copies of documents, that is:

(1) reported or otherwise provided under Subchapter B or C [of Chapter 823 of the Insurance Code] or Section 823.201(d) or (e)[.]

...

(b) The information shall be confidential and privileged for all purposes. Except as provided by Subsections (c) and (d), the information may not be disclosed without the prior written consent of the insurer to which it pertains.

Ins. Code § 823.011(a)(1), (b). You state the submitted information, which consists of exhibits to required notices, was provided to the department under subchapter C of chapter 823 of the Insurance Code. You state the exceptions to confidentiality found in subsections (c) and (d) of section 823.011 do not apply to the information at issue, and you do not indicate the insurers to which it pertains have consented to its disclosure. *See id.* § 823.011(b)-(d). Therefore, we conclude the department must withhold the submitted information under section 823.011 of the Insurance Code pursuant to section 552.101 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ian Lancaster
Assistant Attorney General
Open Records Division

IML/eb

Ref: ID# 620446

Enc. Submitted documents

c: Requestor
(w/o enclosures)