



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 24, 2020

Ms. Mary Dougherty
Open Records Attorney
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR2020-21242

Dear Ms. Dougherty:

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# 841123 (Ref. No. R008443).

The Texas Department of Insurance (the "department") received a request for the insurance credit scoring models pertaining to a named entity and its affiliated companies. Although you take no position regarding whether the submitted information is excepted from disclosure, you state release of the information at issue may implicate the proprietary interests of Farmers Insurance Exchange, Farmers Texas County Mutual Insurance Company, Fire Insurance Exchange, and Foremost County Mutual Insurance Company (collectively, the "affiliates"). Accordingly, you state, and provide documentation demonstrating, the department notified the affiliates of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from Farmers Insurance ("Farmers") on behalf of the affiliates. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note Farmers generally objects to release of information not consisting of the requested credit scoring models. However, we note the department has not submitted any such information to this office for our review. This ruling does not address information that was not submitted by the department and is limited to the information the department has submitted for our review. *See* Gov't Code § 552.301(e)(1)(D) (governmental body

requesting decision from attorney general must submit copy of specific information requested).

Farmers asserts, and we agree, some of the information at issue appears to be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; see Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. As no exceptions to disclosure have been raised, the department must release the submitted information; however, any information subject to copyright may only be released in accordance with copyright law.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/gw

Ref: ID# 841123

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)