



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 28, 2020

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

OR2020-21774

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# 840205 ((TDI #R008251 and R008252).

The Texas Department of Insurance (the "department") received two requests from the same requestor for information related to a specific person and particular insurance company.¹ 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. Section 2651.206 of the Insurance Code authorizes the department to adopt rules for the purpose of preserving the confidentiality of information pertaining to certain examination reports, and provides, in part:

¹ You state the department sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

(a) An audit, review, or examination conducted under this chapter or Chapter 2602 must be conducted in accordance with rules adopted by the commissioner. The rules must provide:

...

(4) procedures to ensure that the report and any evidence regarding the report remain confidential and are transmitted only to designated representatives of the title agent or direct operation.

Ins. Code § 2651.206(a)(4). We note the department promulgated section 9.1 of title 28 of the Texas Administrative Code to provide that “[t]he [department] adopts by reference the Basic Manual of Rules, Rates and Forms for the Writing of Title Insurance in the State of Texas [the “Basic Manual of Title Insurance”] as amended, effective March 7, 2019.” 28 T.A.C. § 9.1. Rule S.6 of section VI of the department’s Basic Manual of Title Insurance states, in part:

A. A report of an audit, review, or examination of a title agent or direct operation conducted under Chapter 2602 or 2651 of the Insurance Code shall be subject to all of the following procedures and requirements:

...

4. The report and any evidence regarding the report are confidential and not subject to disclosure under the Insurance Code or Chapter 552 of the Government Code, and may be transmitted only to designated representatives of the title agent or direct operation previously specified in writing by the title agent.

Basic Manual of Title Insurance, Section VI, S.6, .4, *available at* <https://www.tdi.texas.gov/title/titleman.html>. You state the submitted information consists of a compliance audit report and workpapers that were obtained during an audit, and this information is subject to section 2651.206(a)(4) of the Insurance Code. *See* Ins. Code § 2651.206(a)(4). We have no indication the requestor is one of the parties to whom the department may release the information at issue under Rule S.6. *See* Basic Manual of Title Insurance, Section VI, S.6, .4, *available at* <https://www.tdi.texas.gov/title/titleman.html>. Therefore, upon review, we find the submitted information is confidential, and the department must withhold it under section 552.101 of the Government Code in conjunction with section 2651.206(a)(4) of the Insurance Code and rule S.6 of the Basic Manual of Title Insurance as adopted by section 9.1 of title 28 of the Texas Administrative 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 <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,

Erin Groff
Assistant Attorney General
Open Records Division

EMG/be

Ref: ID# 840205

Enc. Submitted documents

c: Requestor
(w/o enclosures)