



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 2, 2022

Ms. Mary Dougherty  
Open Records Attorney  
Texas Department of Insurance  
P.O. Box 12030  
Austin, Texas 78711

OR2022-26892

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# 970140 (TDI# R015812).

The Texas Department of Insurance (the "department") received a request for the stock purchase agreement and Form A for a specified company. 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. In addition, you state release of the submitted information may implicate the proprietary interests of First Continental Life & Accident Insurance Company ("FCL"). Accordingly, you state, and provide documentation showing, you notified this third party of the request for information and of the 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 FCL. We have reviewed the submitted argument and 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) or Section 823.0147[.]

...

(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 some of the submitted information 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 insurer to which it pertains has consented to its disclosure. *See id.* § 823.011(b)-(d). Therefore, we conclude the department must withhold the information it marked and indicated under section 823.011 of the Insurance Code pursuant to section 552.101 of the Government Code.<sup>1</sup> The department must release the remaining information.

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,

Sarah E. Reese  
Attorney  
Open Records Division

SER/mo

Ref: ID# 970140

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup> As our ruling is dispositive, we need not address FCL's remaining arguments against disclosure of this information.