

RCW 48.195.040 Documents, materials, and other information are confidential—Restricted use by commission—Restricted use in civil actions. (1) Documents, materials, or other information including the corporate governance annual disclosure, in the possession or control of the commissioner that are obtained by, created by, or disclosed to the commissioner or any other person under this chapter, are recognized by this state as being proprietary and to contain trade secrets. All the documents, materials, or other information is confidential by law and privileged, is not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer. This section does not require written consent of the insurer before the commissioner shares or receives confidential documents, materials, or other corporate governance annual disclosure related information under subsection (3) of this section to assist in the performance of the commissioner's regular duties.

(2) Neither the commissioner nor any person who received documents, materials, or other corporate governance annual disclosure related information, through examination or otherwise, while acting under the authority of the commissioner, or with whom the documents, materials, or other information are shared under this chapter are permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the commissioner's regulatory duties, the commissioner:

(a) May, upon request, share documents, materials, or other corporate governance annual disclosure related information including confidential and privileged documents, materials, or information subject to subsection (1) of this section, including proprietary and trade secret documents and materials with other state, federal, and international financial regulatory agencies, including members of any supervisory college as defined in RCW 48.31B.037, with the national association of insurance commissioners, and with third-party consultants under RCW 48.195.050, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the corporate governance annual disclosure related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality; and

(b) May receive documents, materials, and other corporate governance annual disclosure related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade secret information or documents, from regulatory officials of other state, federal, and international financial regulatory agencies, including members of any supervisory college as defined in RCW 48.31B.037, and from the national association of insurance commissioners, and shall maintain as confidential or privileged any documents, materials, or other 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 documents, materials, or information.

(4) The sharing of information and documents by the commissioner under this chapter does not constitute a delegation of regulatory authority or rule making, and the commissioner is solely responsible for the administration, execution, and enforcement of this chapter.

(5) A waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade secret materials, or other corporate governance annual disclosure related information does not occur as a result of disclosure of the corporate governance annual disclosure related information or documents to the commissioner under this section or as a result of sharing as authorized in this chapter. [2018 c 30 s 5.]

Effective date—2018 c 30: See note following RCW 48.195.005.