

**56-1-420. Statement of actuarial opinion provided with annual statement and treated as public document -- Materials provided in support of opinion that are confidential and privileged -- Release of documents -- Testimony -- Powers of commissioner -- Waiver of privilege or confidentiality.**

**(a)** The statement of actuarial opinion, submitted pursuant to § 56-1-419, shall be provided with the annual statement in accordance with the appropriate National Association of Insurance Commissioners (NAIC) property and casualty annual statement instructions and shall be treated as a public document.

**(b) (1)** Notwithstanding the provisions of § 10-7-503 or any other law to the contrary, documents, materials or other information in the possession or control of the department of commerce and insurance that are considered an actuarial report, work papers or actuarial opinion summary provided in support of the opinion, and any other material provided by the company to the commissioner in connection with the actuarial report, work papers or actuarial opinion summary, shall be confidential by law and privileged, shall not be subject to open records requests or sunshine laws, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

**(2)** This subsection (b) shall not be construed to limit the commissioner's authority to release the documents to the Actuarial Board for Counseling and Discipline (ABCD) so long as the material is required for the purpose of professional disciplinary proceedings and that the ABCD establishes procedures satisfactory to the commissioner for preserving the confidentiality of the documents, nor shall this section be construed to limit the commissioner's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

**(c)** Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (b).

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

**(1)** May share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (b) with other state, federal and international regulatory agencies, with NAIC and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material or other information and has the legal authority to maintain confidentiality;

**(2)** May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from NAIC and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or 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 document, material or information; and

**(3)** May enter into agreements governing sharing and use of information consistent with subsections (b)-(d).

**(e)** No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (d).