

§216. Records; inspection; destruction

1. The superintendent shall carefully preserve in the bureau and in permanent form a correct account of all the superintendent's transactions and of all fees and money received by the superintendent by virtue of the superintendent's office, together with all financial statements, examination reports, correspondence, filings and documents duly received by the bureau. The superintendent shall hand the same over to the superintendent's successor in office.

[RR 2021, c. 1, Pt. B, §160 (COR).]

2. All records of the bureau are subject to public inspection, except as otherwise expressly provided by law as to particular matters; and except that records, correspondence and reports of investigation in connection with actual or claimed violations of this Title or prosecution or disciplinary action for those violations are confidential. The confidential nature of any such record, correspondence or report may not limit or affect use of the same by the superintendent in any such prosecution or action. This subsection does not preclude participation by the superintendent in the establishment of an interstate complaint handling system that may involve the sharing of information with insurance regulatory officials in other jurisdictions and with the National Association of Insurance Commissioners, as long as the names of the complainant and insured remain confidential. This subsection does not preclude the dissemination of aggregate ratios of consumer complaints to the public by the superintendent. Only complaints received in writing are included in the calculation of the complaint ratio. A complaint received by electronic means is considered a written complaint. For the purposes of this subsection, a "consumer complaint" means any written complaint that results in the need for the bureau to conduct further investigation or to communicate in writing with a regulated entity for a response or resolution to the complaint. The superintendent shall adopt rules necessary to define the method for calculating complaint ratios. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 2001, c. 165, Pt. A, §1 (AMD).]

3. All records and documents of the bureau are subject to subpoena by a court of competent jurisdiction.

[PL 1973, c. 585, §12 (AMD).]

4. The superintendent may destroy unneeded or obsolete records and filings in the bureau in accordance with provisions and procedures applicable to administrative agencies of the State in general.

[PL 1973, c. 585, §12 (AMD).]

5. In order to assist the superintendent in the regulation of insurers in this State, it is the duty of the superintendent to maintain as confidential a document or information received from the National Association of Insurance Commissioners or International Association of Insurance Supervisors, public officials of other jurisdictions and members of supervisory colleges in which the superintendent participates pursuant to section 222, subsection 7-B, agencies of the Federal Government, the Financial Industry Regulatory Authority, the National Association of Registered Agents and Brokers or political subdivisions or other agencies of this State, if the document or the information has been provided to the superintendent with notice that it is confidential under the laws of the jurisdiction that is the source of the document or information.

A. Any information furnished pursuant to this subsection by or to the superintendent that has been designated confidential by the official, agency or other entity furnishing the information remains the property of the agency furnishing the information and must be held as confidential by the recipient of the information, except as authorized by the official, agency or other entity furnishing the information to the superintendent, with prior notice to interested parties and consistent with other applicable laws. The authority of the superintendent, pursuant to paragraph B, to permit further disclosure to a 3rd party or to the public of information shared by the superintendent is subject to the same requirements and conditions that apply if the superintendent discloses the

information directly to a 3rd party or to the public. [PL 2013, c. 238, Pt. A, §1 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

B. The superintendent may share information, including otherwise confidential information, with the National Association of Insurance Commissioners or International Association of Insurance Supervisors, public officials of other jurisdictions and members of supervisory colleges in which the superintendent participates pursuant to section 222, subsection 7-B, agencies of the Federal Government, the Financial Industry Regulatory Authority, the National Association of Registered Agents and Brokers or political subdivisions or other agencies of this State, if the recipient of the information agrees to maintain the same level of confidentiality as is available under Maine law and has demonstrated that it has the legal authority to do so. [PL 2017, c. 115, §1 (AMD).]

B-1. The superintendent may authorize a contractor retained pursuant to section 208, or any other person outside the bureau that is otherwise designated to act on behalf of the superintendent, to receive confidential information. The recipient of confidential information is under the direction and control of the superintendent, is subject to the same confidentiality standards and requirements as the superintendent and shall act in a purely advisory capacity. The recipient of confidential information shall comply with the requirements of this paragraph.

(1) Access to confidential information may not be granted unless the recipient agrees in writing that:

(a) The recipient will maintain the confidentiality of any confidential information that the superintendent has authorized the recipient to access, and establish appropriate procedures to protect such information from unauthorized access or use;

(b) Ownership of any confidential information shared by the superintendent pursuant to this paragraph remains with the superintendent and that the use of such information by the recipient is subject to the direction of the superintendent;

(c) The recipient will not store confidential information obtained or created under the contract in a permanent file or database after the work involving the information is completed;

(d) The recipient will provide prompt notice to the superintendent of any subpoena, request for disclosure or request for production of confidential information; and

(e) The recipient will consent to intervention by an insurer in any judicial or administrative action in which the recipient may be required to disclose confidential information about the insurer that has been shared pursuant to this paragraph.

(2) The recipient of confidential information shall confirm in writing to the superintendent that the recipient is free from conflicts of interest and will conduct ongoing monitoring for conflicts of interest for the duration of the work involving the confidential information. [PL 2021, c. 521, §3 (NEW).]

C. The superintendent may enter into one or more written agreements with the National Association of Insurance Commissioners governing sharing and using information under this subsection that:

(1) Specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners pursuant to this paragraph, including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state, federal or international insurance regulators;

(2) Specify that ownership of information shared with the National Association of Insurance Commissioners pursuant to this paragraph remains with the superintendent and that the use of

information by the National Association of Insurance Commissioners is subject to the direction of the superintendent;

(2-A) Prohibit the National Association of Insurance Commissioners from storing confidential information in a permanent file or database after the analysis of the confidential information is completed, other than liquidity stress test information obtained pursuant to section 222, subsection 8, paragraph B-1, subparagraph (3);

(3) Require prompt notice to be given by the National Association of Insurance Commissioners to any insurer whose confidential information is in the possession of the National Association of Insurance Commissioners pursuant to this paragraph when that information is the subject of a request or subpoena for disclosure or production; and

(4) Require the National Association of Insurance Commissioners to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners pursuant to this paragraph. [PL 2021, c. 521, §4 (AMD).]

D. This subsection does not alter prohibitions or restrictions applicable to ex parte contacts in the course of an adjudicatory proceeding in which a state agency is a party. [PL 2013, c. 238, Pt. A, §1 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

E. For purposes of this subsection, "other agencies of this State" includes bureau personnel and consultants designated as serving in an advocacy capacity in an adjudicatory proceeding before the superintendent. [PL 2013, c. 238, Pt. A, §1 (NEW); PL 2013, c. 238, Pt. A, §34 (AFF).]

[PL 2021, c. 521, §§3, 4 (AMD).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW). PL 1973, c. 585, §12 (AMD). PL 1989, c. 269, §5 (AMD). PL 1995, c. 375, §B1 (AMD). PL 1997, c. 314, §1 (AMD). PL 1999, c. 184, §19 (AMD). PL 2001, c. 165, §A1 (AMD). PL 2013, c. 238, Pt. A, §1 (AMD). PL 2013, c. 238, Pt. A, §34 (AFF). PL 2017, c. 115, §1 (AMD). RR 2021, c. 1, Pt. B, §160 (COR). PL 2021, c. 521, §§3, 4 (AMD).

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