

521A.7 Confidential treatment.

1. *a.* All information, documents, and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to [section 521A.6](#) or [521A.6A](#), and all information reported or provided to the commissioner pursuant to [sections 521A.4](#), [521A.5](#), [521A.6A](#), and [521A.6B](#), shall be considered a confidential record and be recognized and protected as a trade secret pursuant to [section 22.7](#), shall not be subject to subpoena, shall not be subject to discovery or admissible in evidence in a private civil action, and shall not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as the commissioner may deem appropriate. However, the commissioner is authorized to use the information, documents, or copies obtained by, disclosed to, or reported or provided to the commissioner as described in [this subsection](#), in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

b. Notwithstanding paragraph "a", the commissioner shall maintain the confidentiality and shall not publish any of the following submitted to the commissioner pursuant to [section 521A.4](#), [subsection 13](#):

- (1) Group capital calculations.
- (2) Group capital ratios produced within the group capital calculation.
- (3) Any group capital information received from an insurance holding company supervised by the federal reserve board or any United States' group-wide supervisor.

c. Notwithstanding paragraph "a", the commissioner shall maintain the confidentiality and shall not publish any of the following submitted to the commissioner pursuant to [section 521A.4](#), [subsection 14](#):

- (1) Liquidity stress test results and supporting documentation.
- (2) Any liquidity stress test information received from an insurance holding company supervised by the federal reserve board or any non-United States' group-wide supervisor.

2. Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to [this chapter](#) shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or other information subject to [subsection 1](#).

3. In order to assist in the performance of the commissioner's duties, the commissioner:

a. May share documents, materials, or other information, including confidential, privileged, and trade secret documents, materials, or information subject to [subsection 1](#), with other state, federal, and international regulatory agencies, the NAIC, any third-party consultants designated by the commissioner, state, federal, and international law enforcement authorities, including members of any supervisory college described in [section 521A.6A](#), if the recipient provides a written attestation that states all of the following:

- (1) That the recipient shall maintain the confidentiality, privileged, or trade secret status of the document, material, or other information.
- (2) That the recipient has the legal authority to maintain the confidentiality, privileged, or trade secret status of the document, material, or other information.

b. Notwithstanding paragraph "a", the commissioner may only share confidential and privileged documents, materials, or information filed or submitted pursuant to [section 521A.4](#), [subsection 12](#), with the commissioner of a state that has statutes or regulations substantially similar if the commissioner provides a written attestation that the documents, material, or information shall not be disclosed.

c. May receive documents, materials, or information, including otherwise confidential, privileged, proprietary, or trade secret documents, materials, or information from the NAIC and its affiliates and subsidiaries, regulatory and law enforcement officials of other

foreign or domestic jurisdictions, and shall maintain as confidential, privileged, proprietary, or trade secret any document, material, or information received with either notice or the understanding that it is confidential, privileged, proprietary, or trade secret under the laws of the jurisdiction that is the source of the document, material, or information.

d. Shall enter into a written agreement with the NAIC, and any third-party consultant designated by the commissioner, that governs sharing and the use of information provided pursuant to [this chapter](#), that is consistent with [this subsection](#), and that does all the following:

(1) Specifies procedures and protocols regarding the confidentiality and security of information shared pursuant to [this chapter](#) with the NAIC or a third-party consultant designated by the commissioner, including procedures and protocols for the NAIC sharing the information with other state, federal, or international regulators. The agreement must provide that the recipient of the information shared by the NAIC or a third-party consultant designated by the commissioner shall provide a written attestation that states all of the following:

(a) That the recipient shall maintain the confidentiality, privileged, or trade secret status of the information.

(b) That the recipient has the legal authority to maintain the confidentiality, privileged, or trade secret status of the information.

(2) Specifies that ownership of all information shared pursuant to [this chapter](#) with the NAIC or a third-party consultant designated by the commissioner remains with the commissioner, and the NAIC's or third-party consultant's use of the information is subject to the direction of the commissioner.

(3) Prohibits the NAIC or a third-party consultant designated by the commissioner from storing the information shared pursuant to [this chapter](#) in a permanent database after the underlying analysis is completed. This prohibition shall not apply to filings and supporting documentation made pursuant to [section 521A.4, subsection 13](#).

(4) Requires prompt notice be given by the NAIC or a third-party consultant designated by the commissioner to an insurer whose confidential information is the possession of the NAIC or the consultant pursuant to [this chapter](#) and that is subject to a request or subpoena to the NAIC or the consultant for disclosure or production.

(5) Requires the NAIC or a third-party consultant designated by the commissioner to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or the consultant may be required to disclose confidential information about the insurer that had been shared with the NAIC or consultant pursuant to [this chapter](#).

(6) Requires notification to an insurer of the identity of a third-party consultant designated by the commissioner that is in possession of the results of the insurer's liquidity stress test or any supporting documentation filed pursuant to [section 521A.4, subsection 14](#).

4. The sharing of information by the commissioner pursuant to [this chapter](#) shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of [this chapter](#).

5. 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 3](#).

6. Documents, materials, or other information in the possession or control of the NAIC or a third-party consultant designated by the commissioner pursuant to [this chapter](#) shall be confidential by law and privileged, shall not be subject to [chapter 22](#), shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

[C71, 73, 75, 77, 79, 81, §521A.7]

[93 Acts, ch 88, §31; 2014 Acts, ch 1018, §20; 2016 Acts, ch 1122, §11; 2022 Acts, ch 1050, §6 – 8](#)

Referred to in [§521A.6A, 521A.6B](#)