

WEST VIRGINIA CODE: §33-41-7

§33-41-7. Confidentiality.

(a) Documents, materials or other information in the possession or control of the office of the Insurance Commissioner that are provided pursuant to section six of this article or obtained by the commissioner in an investigation of alleged fraudulent acts related to the business of insurance shall be confidential by law and privileged, shall not be subject to the provisions of chapter twenty-nine-b of this code, shall not be open to public inspection, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The commissioner may 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 may use the documents, materials or other information if they are required for evidence in criminal proceedings or other action by the state or federal government and in such context may be discoverable as ordered by a court of competent jurisdiction exercising its discretion.

(b) Neither the commissioner nor any person who receives documents, materials or other information while acting under the authority of the commissioner may be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (a) of this section except as ordered by a court of competent jurisdiction.

(c) 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 (a) of this section with other state, federal and international regulatory agencies, with the national association of Insurance Commissioners and its affiliates and subsidiaries, and with local, 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;

(2) May receive documents, materials or information, including otherwise confidential and privileged documents, materials or information, from the national association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law-enforcement officers 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 including the furtherance of any regulatory or legal action brought as part of the recipient's official duties.

(d) 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 (c) of this section.

(e) Nothing in this section shall prohibit the commissioner from providing information to or receiving information from any local, state, federal or international law-enforcement authorities, including any prosecuting authority; or from complying with subpoenas or other lawful process in criminal actions; or as may otherwise be provided in this article.

(f) Nothing in this article may be construed to abrogate or limit the attorney-client or work product privileges existing at common law or established by statute or court rule.