

286.4-605 Confidential and privileged documents -- Commissioner's powers -- Privilege or claim of confidentiality not waived.

- (1) The following shall be considered confidential by law and privileged, and shall not be subject to disclosure under the Kentucky Open Records Act, KRS 61.870 to 61.884:
 - (a) Reports of examination, and correspondence that relates to a report of examination, of a licensee;
 - (b) Investigations, and records that relate to an investigation, conducted under this subtitle;
 - (c) Annual reports filed under KRS 286.4-590; and
 - (d) Any confidential and privileged documents, materials, reports, or information received by the commissioner pursuant to subsection (5)(c) of this section.
- (2) Confidential and privileged documents shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any civil action, unless the commissioner determines or, after notice to the commissioner and a hearing, a court of competent jurisdiction determines that the commissioner would not be prejudiced.
- (3)
 - (a) Subject to paragraph (b) of this subsection, all other documents, materials, reports, or other information that are provided to or filed with the commissioner under this subtitle shall be open to public inspection.
 - (b) Notwithstanding paragraph (a) of this subsection, the commissioner may, as authorized by the provisions of KRS Chapter 61, classify as confidential or withhold from public inspection for a period of time, as he or she considers necessary, any information which in his or her judgment, the public welfare or the welfare of any licensee or its customers requires to be withheld.
- (4) Neither the commissioner nor any person who receives documents, materials, reports, or other information while acting under the authority of the commissioner shall be required to testify in any civil action concerning any confidential documents, materials, reports, or information.
- (5) In order to assist in the performance of the commissioner's duties, the commissioner may:
 - (a) Use, disclose, or make public the confidential and privileged documents or information referenced in subsection (1) of this section in furtherance of any regulatory or legal action brought as part of the commissioner's official duties;
 - (b) Share the confidential and privileged documents referenced in subsection (1) of this section with other state and federal regulatory agencies, or with local, state, federal, and international law enforcement authorities, if the recipient agrees to maintain the confidential and privileged status of the documents in accordance with any sharing or use agreements referenced in paragraph (d) of this subsection;
 - (c) Receive documents, materials, reports, or other information, including otherwise confidential and privileged documents, materials, reports, or

information, from other state, federal, and international regulatory agencies, the related associations, affiliates, or subsidiaries, and from local, state, federal, and international law enforcement authorities, except that the commissioner shall maintain as confidential and privileged any documents, materials, reports, or information received with notice or the understanding that they are confidential and privileged under the laws of the jurisdiction that is the source of the documents, materials, reports, or information; and

- (d) Enter into agreements governing the sharing and use of confidential documents and information when the sharing or use is serving a legitimate governmental need or is necessary in the performance of a legitimate governmental function, including the furtherance of any regulatory or legal action brought as part of the recipient's official duties.
- (6) No waiver of any applicable privilege or claim of confidentiality in documents, materials, reports, or information shall occur as a result of the disclosures authorized under this section.

Effective: June 27, 2019

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