

304.3-764 Documents, materials, and other information -- Confidentiality -- Releases.

- (1) (a) Subject to paragraph (b) of this subsection and subsections (3) and (6) of this section, any documents, materials, or other information in the control or possession of the department that are furnished by a licensee, or an employee or agent acting on behalf of a licensee, under KRS 304.3-756, 304.3-758, or 304.3-760 or that are obtained by the commissioner in an investigation or examination under KRS 304.3-762 shall:
 1. Be confidential by law and privileged;
 2. Not be subject to KRS 61.870 to 61.884;
 3. Not be subject to subpoena; and
 4. Not be subject to discovery or admissible in evidence in any private civil action.
- (b) The commissioner may use documents, materials, or other information referenced under paragraph (a) of this subsection in furtherance of any regulatory or legal action brought as part of the commissioner's duties, and shall not otherwise make the documents, materials, or other information public without the written consent of the licensee.
- (2) The commissioner, and any person who received documents, materials, or other information while acting under the authority of the commissioner, shall not be permitted, or required, to testify in any private civil action concerning any confidential documents, materials, or other information subject to subsection (1)(a) of this section.
- (3) In order to assist in the performance of the commissioner's duties under KRS 304.3-750 to 304.3-768, the commissioner:
 - (a) May share documents, materials, and other information, including confidential and privileged documents, materials, or other information subject to subsection (1) of this section, with the following if the recipient agrees, in writing, to maintain the confidentiality and privileged status of the documents, materials, or other information:
 1. State, federal, and international regulatory agencies;
 2. The National Association of Insurance Commissioners, its affiliates, or subsidiaries; and
 3. State, federal, and international law enforcement authorities;
 - (b) May receive documents, materials, and other information, including confidential and privileged documents, materials, or information, from:
 1. The National Association of Insurance Commissioners, its affiliates, or subsidiaries; and
 2. Regulatory and law enforcement officials of other foreign and domestic jurisdictions;
 - (c) Shall maintain as confidential and privileged any document, material, or information received with notice or understanding that it is confidential and privileged under the laws of the jurisdiction that is the source of the

- documents, materials, or other information;
- (d) May share documents, materials, and other information subject to subsection (1) this section with a third-party consultant or vendor, if the consultant or vendor agrees, in writing, to maintain the confidentiality and privileged status of the documents, materials, or other information; and
 - (e) May enter into agreements governing the sharing and use of information consistent with this section.
- (4) No waiver of any applicable privilege or claim of confidentiality shall occur as a result of:
- (a) A disclosure to the commissioner of documents, materials, or other information under this section; or
 - (b) The sharing of the documents, materials, or other information as authorized under subsection (3) of this section.
- (5) Documents, materials, and other information in the possession or control of the National Association of Insurance Commissioners or a third-party consultant or vendor pursuant to KRS 304.3-750 to 304.3-768 shall:
- (a) Be confidential by law and privileged;
 - (b) Not be subject to KRS 61.870 to 61.884;
 - (c) Not be subject to subpoena; and
 - (d) Not be subject to discovery or admissible in evidence in any private civil action.
- (6) Nothing in KRS 304.3-750 to 304.3-768 shall prohibit the commissioner from releasing final, adjudicated actions that are open to public inspection under KRS 304.2-150 to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

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