

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 654
Committee Substitute Favorable 4/21/05
Senate Commerce Committee Substitute Adopted 6/29/05

Short Title: Confidential Insurance Mkt./Financial Doc.-AB

(Public)

Sponsors:

Referred to:

March 16, 2005

A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE CONFIDENTIAL TREATMENT OF INSURANCE
MARKET CONDUCT ANALYSIS AND FINANCIAL ANALYSIS FILES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 58 of the General Statutes is amended by
adding the following new section to read:

**"§ 58-2-240. Market conduct analysis, financial analysis, and related information
not public record.**

(a) Notwithstanding Chapter 132 of the General Statutes, all market analysis,
documents arising from market conduct action, and financial analysis documents, ratios,
programs, findings, and other information in the custody of the Department are
confidential, are not open for public inspection, and are not discoverable or admissible
in evidence in a civil action brought by a party other than the Department against a
person regulated by the Department, its directors, officers, or employees, unless the
court finds that the interests of justice require that the documents be discoverable or
admissible in evidence or except as provided in G.S. 58-2-128 and G.S. 58-2-132(g)
through (j). The Commissioner, however, may use these documents, materials, findings,
or other information in the furtherance of any regulatory or legal action brought as part
of the Commissioner's official duties.

(b) As used in this Article:

(1) 'Market analysis' means a process whereby individuals employed or
contracted by the Commissioner collect and analyze information from
filed schedules, surveys, required reports other than periodic reports
specifically required by statute, and other sources in order to develop a
baseline understanding of the marketplace and to identify patterns or
practices of insurers that deviate significantly from the norm or that
may pose a potential risk to the insurance consumer.

1 (2) 'Market conduct action' means any of the full range of activities, other
2 than an examination that the Commissioner may initiate to assess and
3 address the market practices of insurers, beginning with market
4 analysis. Additional market conduct actions, including those taken
5 subsequent to market analysis as a result of the findings of or
6 indications from market analysis include: correspondence with insurer;
7 insurer interviews, information gathering; policy and procedure
8 reviews; interrogatories; and review of insurer self-evaluation and
9 compliance programs, including membership in a best-practice
10 organization. The Commissioner's activities to resolve an individual
11 consumer complaint or other report of a specific instance of
12 misconduct are not market conduct actions for purposes of this
13 section."

14 **SECTION 2.** G.S. 58-2-132(f) reads as rewritten:

15 "(f) All working papers, information, documents, and copies thereof produced by,
16 obtained by, or disclosed to the Commissioner or any other person in connection with
17 an ~~examination~~— examination, market analysis, market conduct action, or financial
18 analysis shall be given confidential treatment, are not subject to subpoena, and shall not
19 be made public by the Commissioner or any other person. The Commissioner may use
20 the documents, materials, or other information in the furtherance of any regulatory or
21 legal action brought as part of the Commissioner's official duties."

22 **SECTION 3.** This act becomes effective October 1, 2005.