



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

April 2, 1998

Ms. Sammie K. Glasco  
Assistant General Counsel  
Texas Department of Banking  
2601 North Lamar Boulevard  
Austin, Texas 78705-4294

OR98-0874

Dear Ms. Glasco:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113820.

The Texas Department of Banking (the "department") received a request for "a copy of the Special Audits Division's 'PFC Annual Report' listing all PFC permit holders and other pertinent data." You state that the department has offered to release the portion of the Special Audit Division's Prepaid Funeral Contract Annual Report ("PFC Report") which lists the names and permit numbers of all entities permitted to write prepaid funeral contracts in Texas. However, you assert that the portion of the PFC Report which details the number and amount of trust-funded contracts and the number and amount of insurance funded contracts held by each entity is excepted from required public disclosure based on section 552.101 of the Government Code in conjunction with section 154.055 of the Finance Code.<sup>1</sup> We have considered your argument and have reviewed the submitted information.

Section 154.055 of the Finance Code provides:

- (a) Information relating to the financial condition of a seller obtained by the department directly or indirectly, through examination or otherwise, other than published statements, is confidential.
- (b) The files and records of the department relating to the financial condition of a seller are confidential.

---

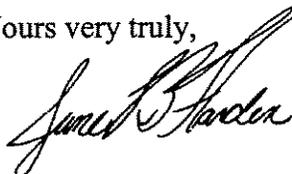
<sup>1</sup>We note that the requestor withdrew the part of his request for information relating to insurance funded contracts.

(c) The commissioner may disclose the information described by Subsection (a) or (b) to an agency, department, or instrumentality of this or another state or the United States if the commissioner considers disclosure to be in the best interest of the public and necessary or proper to enforce the laws of this or another state or the United States.

After consideration of the arguments from both the department and the requestor, we conclude that the portion of the PFC Report relating to each permit holder/seller's total number of outstanding contracts, total dollar amount of funds in trust and the year to year percentage change related to these items is "information relating to the financial condition of a seller obtained by the department directly or indirectly, through examination or otherwise." Thus, as you state that none of this information was obtained from published reports, we conclude you may withhold said portions of the PFC Report pursuant to section 552.101, in conjunction with section 154.055 of the Finance Code.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/MAP/gle

Ref.: ID# 113820

Enclosures: Submitted documents

cc: Mr. Brian R. Herrick  
Vice President and General Counsel  
Mission Life Insurance Company  
P.O. Box 55841  
Houston, Texas 77255-5841  
(w/o enclosures)