



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 14, 2006

Ms. Cynthia Villarreal-Reyna  
Section Chief  
Legal and Compliance Division  
Texas Department of Insurance  
Mail Code 110-1A  
P.O. Box 149104  
Austin, Texas 78714-9104

OR2006-06283

Dear Ms. Reyna:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 251747.

The Texas Department of Insurance (the "department") received a request for information related to annual premium increases for the requestor and his spouse. You state that you have released some of the information to the requestor. Further, you state that you will withhold certain enrollee information pursuant to a previous determination issued by this office.<sup>1</sup> See Open Records Letter No. 2001-4777 (2001) (concluding that department could withhold the name, address, telephone number, birth date, social security number, and claim number of enrollees without requesting a ruling from this office); see also Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under section 552.301(a)). You claim that portions of the remaining submitted information

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<sup>1</sup>We note that the requestor in this case may have a right of access as the authorized representative of his spouse. In Open Records Letter No. 2001-4777 (2001), we noted that section 552.023 of the Government Code grants a special right of access for such information to the enrollee or enrollee's authorized representative. Consent for a governmental body to release information excepted from disclosure to the general public but available to a specific person under section 552.023 must be in writing and signed by the specific person. See Gov't Code § 552.229(a).

are excepted from disclosure under section 552.136 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The submitted information contains a policy account number which TDI has marked pursuant to section 552.136 of the Government Code. Section 552.136 provides as follows:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value;  
or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device that is collected, assembled, or maintained by or for a governmental body is confidential.

Gov't Code § 552.136. The policy account number you have marked in the submitted information must be withheld under section 552.136. We note that the marked information pertains to the spouse of this requestor. If this requestor is seeking the submitted information on behalf of his spouse, pursuant to section 552.023, the requestor has a special right of access to information pertaining to the spouse that is otherwise confidential under section 552.136 of the Government Code. To the extent the requestor has a right of access to the information you have marked, the department must release it to him.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(t). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Matthew T. McLain  
Assistant Attorney General  
Open Records Division

MM/eb

Ref: ID# 251747

Enc. Submitted documents

c: Mr. Tom Whitaker  
P.O. Box 793835  
Dallas, Texas 75379  
(w/o enclosures)