



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2014

Mr. William Clay Harris
Staff Attorney
Legal Section, Office of Agency Counsel
General Counsel Division
Texas Department of Insurance
P.O. Box 149104, Mail Code 110-1A
Austin, Texas 78714-9104

OR2014-15203

Dear Mr. Harris:

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# 534847 (TDI #152013).

The Texas Department of Insurance (the "department") received a request for all rating models and any other information deemed confidential from a specified filing. You state the department will redact personal e-mail addresses subject to section 552.137 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Ohio Security Insurance Company ("Ohio Security"). Accordingly, you inform us, and provide documentation showing, you notified Ohio Security of the request for information and of its right to submit

¹Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general opinion.

arguments to this office as to why the requested information should not be released to the requestor. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have received comments from a representative of Ohio Security. We have considered the submitted arguments and reviewed the submitted information.

Ohio Security claims portions of the submitted information are excepted from disclosure under section 552.110 of the Government Code. However, the department informs us the submitted information consists of Ohio Security's modeled workers compensation insurance rate filing submitted to the department pursuant to chapter 2053 of the Insurance Code. Section 2053.004 of the Insurance Code states that, "[e]ach filing made, including any supporting information filed, under this subchapter is open to public inspection as of the date the filing is made." Thus, a filing made under chapter 2053 of the Insurance Code is public information. Information that is specifically made public by statute may not be withheld from disclosure under any of the exceptions in the Act. *See, e.g.*, Open Records Decision Nos. 544 (1990), 378 (1983), 161 (1977), 146 (1976). Because the submitted information is information made public by section 2053.004 of the Insurance Code, it may not be withheld under section 552.110 of the Government Code. Accordingly, the submitted information must be released.

We note some of the submitted information may be protected by copyright. A custodian of public records must comply with the copyright law and is not required to furnish copies of records that are copyrighted. Open Records Decision No. 180 at 3 (1977). A governmental body must allow inspection of copyrighted materials unless an exception applies to the information. *Id.*; *see* Open Records Decision No. 109 (1975). If a member of the public wishes to make copies of copyrighted materials, the person must do so unassisted by the governmental body. In making copies, the member of the public assumes the duty of compliance with the copyright law and the risk of a copyright infringement suit. As no further exceptions to disclosure are raised, the department must release the submitted information; however, any information subject to copyright may be released only in accordance with copyright law.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Neal', with a stylized, cursive script.

Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 534847

Enc. Submitted documents

c: Requestor

Requestor
(w/o enclosures)

Ohio Security Company
c/o Mr. Robert F. Josey
Mr. Nicholas Canaday, III
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(w/o enclosures)