§6458. Confidentiality and prohibition on announcements

1. Confidentiality. The following constitute information that might be damaging to the insurer if made available to its competitors and must be kept confidential by the superintendent:

A. Risk-based capital reports, with respect to any domestic insurer or foreign insurer, that are filed with the superintendent, to the extent that the information in the reports is not required to be set forth in a publicly available annual statement schedule; and [PL 1993, c. 634, Pt. A, §1 (NEW).]

B. Risk-based capital plans, with respect to any domestic insurer or foreign insurer, that are filed with the superintendent, including the results or report of any examination or analysis of an insurer performed pursuant to this chapter and any corrective order issued by the superintendent pursuant to the examination or analysis. [PL 1993, c. 634, Pt. A, §1 (NEW).]

The information listed in paragraph A or B may be shared on a confidential basis in accordance with section 216, subsection 5 but may not be made public or be subject to subpoena, other than by the superintendent and then only for the purpose of enforcement actions taken by the superintendent pursuant to this chapter or any other provision of the insurance laws of this State.
[PL 2017, c. 169, Pt. F, §2 (AMD).]

2. Prohibition on dissemination of information regarding risk-based capital levels. Except as otherwise required under this chapter, making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing an assertion or representation with regard to the risk-based capital levels of any insurer, or of any component derived in the calculation of risk-based capital levels, by any insurer, agent, broker or other person engaged in any manner in the insurance business would be misleading and is prohibited; provided, however, that if any materially false statement with respect to the comparison between an insurer's total adjusted capital to its risk-based capital levels or an inappropriate comparison of any other amount to the insurer's risk-based capital levels is published in any written publication and the insurer is able to demonstrate to the superintendent with substantial proof the falsity of that statement, or the inappropriateness, as the case may be, then the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.
[PL 1993, c. 634, Pt. A, §1 (NEW).]

3. Prohibition on use in ratemaking. Risk-based capital instructions, risk-based capital reports, adjusted risk-based capital reports, risk-based capital plans and revised risk-based capital plans may not be used by the superintendent for purposes of rate review, considered or used as evidence in any rate proceeding or used by the superintendent to calculate or derive any elements of an appropriate premium level or appropriate rate of return. This subsection does not prohibit the consideration of premium rates and projected or realized rates of return for purposes of company action or regulatory action taken under this chapter.
[PL 2017, c. 169, Pt. F, §3 (NEW).]

SECTION HISTORY

PL 1993, c. 634, §A1 (NEW). PL 2017, c. 169, Pt. F, §§2, 3 (AMD).

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