

**RCW 48.74.026 Confidentiality of material submitted under RCW 48.74.025.** (1) (a) The opinion and memorandum in support of the opinion submitted to the commissioner under RCW 48.74.025 are confidential and privileged, are exempt from disclosure pursuant to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action, only if and to the extent that the opinion and memorandum supporting the opinion independently qualify for exemption from disclosure as documents, materials, or information in the possession of the commissioner pursuant to a financial conduct examination.

(b) If independently qualifying for exemption from disclosure, as provided in (a) of this subsection, the provisions of RCW 48.02.065 apply to the opinion and memorandum in support of the opinion to the same extent as documents, materials, and information in possession of the commissioner pursuant to a financial conduct examination.

(2) In addition to the provisions of RCW 48.02.065, (a) through (c) of this subsection apply to the opinion and memorandum in support of the opinion submitted to the commissioner under RCW 48.74.025.

(a) A memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, may be subject to subpoena for the purpose of defending an action seeking damages from the actuary submitting the memorandum by reason of an action required by this section or by rules adopted under this section.

(b) A memorandum or other material may otherwise be released by the commissioner with the written consent of the company or to the American academy of actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

(c) Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum are no longer confidential.

(3) Included in those agencies or organizations with which the commissioner may share the opinion and memorandum in support of the opinion, as provided in this section and RCW 48.02.065, is the office of the attorney general for purposes of investigating any consumer protection or antitrust action. [2016 c 142 s 7.]

**Effective date—2016 c 142:** See note following RCW 48.74.010.