

By: Smithee

H.B. No. 4461

A BILL TO BE ENTITLED

AN ACT

relating to confidentiality of certain information maintained by the Texas Department of Insurance.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 36, Insurance Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. INVESTIGATION FILES

Sec. 36.251. DEFINITION. In this subchapter, "investigation file" means any information collected, assembled, or maintained by or on behalf of the department with respect to an investigation conducted under this code or other law. The term does not include information or material acquired by the department that is:

(1) relevant to an investigation by the insurance fraud unit; and

(2) subject to Section 701.151.

Sec. 36.252. INVESTIGATION FILES CONFIDENTIAL. (a) Information maintained in an investigation file is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person except:

(1) in a hearing conducted by the commissioner or conducted under this code or another insurance law of this state by the State Office of Administrative Hearings;

(2) on a judicial determination of good cause; or

1           (3) to a governmental agency, political subdivision,  
2 or regulatory body if the disclosure is necessary or proper for the  
3 enforcement of the laws of this or another state or of the United  
4 States.

5           (b) Investigation files are not open records for purposes of  
6 Chapter 552, Government Code.

7           Sec. 36.253. DISCLOSURE OF CERTAIN INFORMATION NOT  
8 REQUIRED. The department is not required to disclose under this  
9 subchapter:

10           (1) information that is:

11                   (A) an attorney-client communication; or

12                   (B) an attorney work product; or

13           (2) other information protected by a recognized  
14 privilege, a statute, an administrative rule, the Texas Rules of  
15 Civil Procedure, or the Texas Rules of Evidence.

16           SECTION 2. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2009.