

HOUSE BILL 684

By Maggart

AN ACT to amend Tennessee Code Annotated, Title 56,  
relative to insurance investigations conducted by  
the state.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-6-117(g), is amended by deleting subdivision (1) in its entirety and by substituting instead the following language as a new subdivision (1):

(1)

(A) All testimony, documents and other information in the control or possession of the department that is obtained by the commissioner in an investigation pursuant to this section or is furnished by an insurer or producer, or an employee or agent of the insurer or producer on behalf of such insurer or producer, shall, except as provided in subdivision (B) of this subdivision (1), be confidential and absolutely privileged and shall not be subject to:

(i) § 10-7-503 or § 56-1-602;

(ii) Subpoena; or

(iii) Discovery or be admissible as evidence in any private civil action.

(B)

(i) The commissioner is authorized to use the testimony, documents and other information in the control or possession of the department in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

(ii) A producer under investigation pursuant to this section, or counsel for such producer, may discover and obtain from the commissioner a copy of any notice or other information submitted by an insurer or authorized representative of the insurer pursuant to subsections (a), (b), or (d) of this section regarding the termination of the producer and the reason for such termination.

SECTION 2. Tennessee Code Annotated, Section 56-6-120, is amended by deleting the section in its entirety and by substituting instead the following:

(a) The commissioner may make investigations necessary for the proper administration of this part. For the purpose of making the investigations, the commissioner shall have inquisitorial powers and shall be empowered to subpoena witnesses and examine them under oath; provided, however that:

(1) Any investigatory action shall be reasonable in scope and relevant to administration of this part; and

(2) All testimony, documents and other evidence obtained by the commissioner pursuant to this part shall be absolutely privileged and shall not be admissible as evidence in any private civil proceeding.

(b)

(1) Upon issuance by the commissioner of an order initiating an investigation or upon receipt by the department of a complaint against a producer or insurer, the department shall provide the insurer or producer a copy of the order or complaint within fifteen (15) days of issuance of the order or receipt of the complaint.

(2) If the department initiates its own investigation pursuant to this section, then before seeking a statement or records from the insurer or producer

under investigation, the department shall provide the insurer or producer notice of the investigation and all charges brought against that insurer or producer.

(c) Upon receiving notice, the insurer or producer under investigation may obtain a copy of the order, complaint or other notice regarding the charges being investigated; a transcript of any testimony submitted by any officer or employee of the insurer or the producer; and a list of the names and addresses of all persons from whom testimony has been taken during the investigation.

(d) Prior to commencement of a contested case hearing, an insurer or producer under investigation shall have the right to petition the chancery court of Davidson county to modify, quash, or take any other appropriate action relative to a subpoena issued by the commissioner.

(e) Upon completion of the investigation and closure of the file, the commissioner shall provide the insurer or producer that was the subject of the investigation notice of the closure or completion of the investigation within fifteen (15) days of such closure or completion.

(f) All investigations shall be completed within two (2) years of:

(1) The receipt of the initial complaint;

(2) The initiation of an investigation, if the department initiates its own investigation; or

(3) The effective date of this act, if the investigation was commenced prior to the effective date of this act.

SECTION 3. Tennessee Code Annotated, Section 56-8-107(d), is amended by adding the following language at the end of the first sentence of the subsection:

; provided, however, that the privilege shall not be applied against an insurer or producer under investigation. Such insurer or producer may obtain a copy of any

order, complaint, or other notice regarding any charges brought against the insurer or producer and a copy of any statements made by the producer or any officer or employee of the insurer under investigation provided such documentation or statements relate to the claim or defense of the insurer or producer.

SECTION 4. Tennessee Code Annotated, Section 56-8-107, is amended by adding the following language as a new subsection (e):

(e) Any investigation or examination conducted by the commissioner shall be reasonable in scope and relevant to administration of this chapter. Prior to commencement of a contested case hearing, a producer or insurer under investigation shall have the right to petition the chancery court of Davidson county to modify, quash, or take any other appropriate action relative to a subpoena issued by the commissioner.

SECTION 5. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2012, the public welfare requiring it.