

STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF INSURANCE

1560 Broadway, Suite 850
Denver, Colorado 80202



Bulletin No. B-1.6

Inspection And Copying Of Public Records At The Division Of Insurance

I. Background and Purpose

This Bulletin repeals and replaces Bulletins 9-98, 4-98, 8-94 and 8-00 and is being revised as of July 7, 2008 to comport with the Colorado Department of Regulatory Agencies Open Records Policy, 2008-DORA. The Division of Insurance (Division) maintains many records that fall within the purview of Colorado's open records laws, §§ 24-72-201 to 402, C.R.S. The purpose of this bulletin is to provide information to the public and the industry pertaining to the type of information maintained by the Division that may be available for inspection and copying. This bulletin outlines when and how such records may be inspected; summarizes the key confidentiality restrictions on the right to inspect these documents; and provides the fees associated with the copying of those records.

Bulletins are the Division's interpretations of existing insurance law or general statements of Division policy. Bulletins themselves establish neither binding norms nor finally determine issues or rights.

II. Applicability and Scope

This bulletin applies to regulated entities and consumers.

III. Division Position

Colorado's open records laws permit the custodian of public records to charge a reasonable fee for copies of documents, not to exceed twenty-five cents per page (\$0.25), unless actual costs exceed that amount or a fee not to exceed the actual cost of providing a copy, printout or photograph of a public record in a format other than a standard page. Additional fees for archival records stored off premises may apply.

The custodian of the records may waive the fee if the number of documents being copied is fewer than 20 total pages. Multiple document requests by an applicant will accrue charges for each request and fees will not be waived where the aggregated requests total more than 20 pages.

An individual who has filed a consumer complaint with the Division will not be charged for a copy of the public documents in their complaint file or a request for certification of documents in the file. Consumer complaints are confidential until the investigation of the complaint by the Division is concluded under § 10-1-205(8)(b), C.R.S.

Hours Available for Inspection of Records

The Division is open on weekdays during normal business hours. Whenever possible, arrangements to inspect public records should be made in advance by phone. The Division will, to the extent possible, accommodate persons who are unable to make advance arrangements. Also, please note that the Division provides a considerable amount of information on its website (www.dora.state.co.us/insurance).

The Division generally will make copies of documents requested by an individual at a cost of \$0.25 per page. Pursuant to § 24-72-205(2), C.R.S., all copying will be subject to the supervision of the Division.

If it is impractical to make copies at the Division, the person seeking records may request Division approval to have the documents copied off-site by a recognized photo copy company. The cost of making off-site copies will be borne by the party requesting the copy. Pursuant to § 24-72-205(2), C.R.S., all off-site copying will be subject to the supervision of the Division.

If the public records requested are in the custody and control of the person to whom the request is made but are in active use, in storage, or otherwise not readily available at the time an applicant asks to examine them, the custodian shall immediately notify the applicant of this fact, in writing, if requested by the applicant. If requested by the applicant, the custodian shall set a date and hour at which time the records will be available for inspection. The date and hour for the inspection of records not readily available at the time of the request shall be within a reasonable time frame after the request. A "reasonable time" shall be presumed to be three working days or less. Such period may be extended if extenuating circumstances exist. However, such period of extension shall not exceed seven working days. A finding that extenuating circumstances exist shall be made in writing by the custodian and shall be provided to the person making the request within the three-day period. A list of possible extenuating circumstances may be found at §24-72-203(3)(b), C.R.S. Pursuant to statute, annual financial statements are filed at the Division on or before March 1st of each year. The Division performs a review of all annual statements during the period of March 1st to June 1st of each year. Accordingly, at such time access to annual statements may be limited.

Categories of Information Maintained by the Division

The records maintained by the Division fall into a number of categories. Depending on the pertinent statutory provisions, some or all of this information may not be subject to public inspection. These categories include, but are not limited to:

- A. Corporate Files. These include articles of incorporation, Forms A, B, C & D filed under the insurance holding company statutes, § 10-3-801 to 10-3-814, C.R.S. (Please note that certain forms are confidential under § 10-3-807, C.R.S.)
- B. Financial Records. These include annual, quarterly, and monthly financial statements filed under §§ 10-3-109 & 10-3-208, C.R.S. and premium tax returns filed under § 10-3-209, C.R.S. (Please note that certain information relating to such reports is confidential under § 10-3-208(6), C.R.S.)
- C. Financial Examination Reports. Financial examination reports that have been completed and released under § 10-1-205, C.R.S. are available for inspection and copying and are available on the Division's website. (Please note, working papers and similar documents are confidential under § 10-1-205(8), C.R.S.)
- D. Market Conduct Examination Reports. Market conduct examination reports that have been completed and released under § 10-1-205, C.R.S. are available for inspection and copying and are available on the Division's website. (Please note, working papers and similar documents are confidential under § 10-1-205(8), C.R.S.)
- E. Consumer Complaints. Consumer complaints are confidential until the investigation of the complaint by the Division is concluded under § 10-1-205(8)(b), C.R.S.

- F. Rate and Form Information. Includes, among other things, filings made under § 10-4-401 to 421, C.R.S. (Please note, memoranda and other material in support of actuarial opinions filed under § 10-7-114(1)(g), C.R.S. are confidential. Underwriting rules filed under § 10-4-418(2)(a), C.R.S. are confidential. Credit scoring models and loss experience related to credit scoring, may be confidential if requested by the insurer pursuant to §10-4-116 (5), C.R.S. Health Maintenance Organization (HMO) supporting information and any other additional background information regarding rates requested by the commissioner or required by regulation, are confidential pursuant to § 10-16-107(3)(e)(II), C.R.S.)
- G. Licensing Information. Lists of authorized companies and licensed insurance producers, bail bonding agents, and public adjusters.
- H. Miscellaneous Information. For example, premium comparison studies, company complaint ratios.
- I. Investigation Files. Closed files (excluding confidential information – HIPAA, etc). Open investigations are confidential, under §10-1-205(8)(b), C.R.S. Producer terminations pursuant to §10-2-416.5, C.R.S. are confidential. Antifraud plans and antifraud summaries are confidential pursuant to § 10-1-128(5)(d), C.R.S.

Confidential Documents

The open records laws require the Division to make certain of its records available for public inspection and copying. See § 24-72-204(1)(a). The open records laws also require the Division to deny the right of inspection of certain records, for example, "trade secrets, privileged information, [and] confidential commercial and financial . . . data," and records protected under the common law governmental or "deliberative process" privilege. See § 24-72-204(3)(a), C.R.S.

In addition, the statutes which pertain specifically to the Division require it to maintain the confidentiality of certain records under specific circumstances. These include, but are not necessarily limited, to the following:

- A. Certain Form B filings (§ 10-3-807, C.R.S.);
- B. Consumer complaints until the point at which the complaint is concluded by the Division (§ 10-1-205(8)(b), C.R.S.);
- C. Reports on financial and market conduct examinations prior to the point at which the report is formally released (§ 10-1-205(4), C.R.S.);
- D. The working papers related to financial and market conduct examinations (§ 10-1-205(8), C.R.S.);
- E. Certain information relating to companies placed under supervision by the Division (§ 10-3-414, C.R.S.); and
- F. Underwriting rules (§ 10-4-418(2)(a), C.R.S.).

Colorado also recognizes certain statutory and common law privileges, such as executive privilege, *see e.g.* §§ 24-72-204(3)(a)(XIII), C.R.S., and the deliberative process privilege which may cause certain

types of Division correspondence to be confidential. See § 13-90-107(1)(e), C.R.S. and Martinelli v. District Court, 612 P.2d 1083 (Colo. 1980).

E-mail addresses of the public supplied to the Division are considered confidential pursuant to § 24-72-204(2)(a)(vii), C.R.S.

Microfiche/Microfilm/Electronic Records

The Division uses several methods to store its records. These methods include but are not limited to microfiche, microfilm, and electronic. In addition, certain archived records are housed in storage facilities away from the Division (off premises). Some of these records as well as their method of storage are as follows:

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|----|---------------------------|--------------|
| A. | Producer License Database | Microfiche |
| B. | Form and Rate Filings | Microfilm |
| C. | Corporate Affairs Records | Microfilm |
| D. | Market Conduct Reports | Electronic |
| E. | Archival Records | Off premises |

There is only one microfilm reader/printer at the Division. Accordingly parties seeking to inspect microfilm records should phone in advance to make arrangements to review records. The cost of such records is \$0.25 per page. Please note that microfiche, microfilm, and digital records are subject to the same confidentiality restrictions as those records discussed above.

Archival records are stored off premises. There is a charge of \$1.25 per page copy charge of archived records off premises. To recall each storage box or file from the storage facility the charge is \$20.00 per box or file.

Division Website

Many types of information can be found on the Division website, (www.dora.state.co.us/insurance), such as:

- A. copies of Division regulations and bulletins;
- B. public hearing announcements;
- C. insurance company examination reports;
- D. information about licensed insurance companies and producers; and
- E. news releases, consumer brochures, and consumer education materials.

Fees for Copies and Printouts of Division Records

Effective immediately, fees for copies and printouts of Division records are as follows:

- Statistical reports of Colorado authorized insurance companies \$ 25.00 - per report
- Computer printouts of insurance company complaints or other information \$1.00 per page up to a maximum of \$25.00, per report.
- Retrieval of any document from storage \$ 20.00
- Copies of microfilmed or digital documents \$ 0.25- per page

- Photocopies \$ 0.25 - per page
- Certification of documents \$ 10.00 - per certification

IV. Additional Division Resources

For More Information

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V. History

- Originally issued as bulletin 94-8, April 1, 1994.
- Reissued as bulletin 4-98, July 1, 1998.
- Reissued as bulletin 9-98, October 1, 1998.
- Reissued as bulletin 8-00, March 31, 2000.
- Re-Issue as bulletin 8-00, July 12, 2000.
- Reissued as bulletin 8-00, March 3, 2003.
- Reissued May 8, 2007.
- Reissued May 7, 2008.
- Reissued July 14, 2008.