

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**SESSION LAW 2005-206  
HOUSE BILL 654**

AN ACT TO ENHANCE THE CONFIDENTIAL TREATMENT OF INSURANCE  
MARKET CONDUCT ANALYSIS AND FINANCIAL ANALYSIS FILES.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 2 of Chapter 58 of the General Statutes is amended by adding the following new section to read:

**"§ 58-2-240. Market conduct analysis, financial analysis, and related information not public record.**

(a) Notwithstanding Chapter 132 of the General Statutes, all market analysis, documents arising from market conduct action, and financial analysis documents, ratios, programs, findings, and other information in the custody of the Department are confidential, are not open for public inspection, and are not discoverable or admissible in evidence in a civil action brought by a party other than the Department against a person regulated by the Department, its directors, officers, or employees, unless the court finds that the interests of justice require that the documents be discoverable or admissible in evidence or except as provided in G.S. 58-2-128 and G.S. 58-2-132(g) through (j). The Commissioner, however, may use these documents, materials, findings, or other information in the furtherance of any regulatory or legal action brought as part of the Commissioner's official duties.

(b) As used in this Article:

- (1) 'Market analysis' means a process whereby individuals employed or contracted by the Commissioner collect and analyze information from filed schedules, surveys, required reports other than periodic reports specifically required by statute, and other sources in order to develop a baseline understanding of the marketplace and to identify patterns or practices of insurers that deviate significantly from the norm or that may pose a potential risk to the insurance consumer.
- (2) 'Market conduct action' means any of the full range of activities, other than an examination that the Commissioner may initiate to assess and address the market practices of insurers, beginning with market analysis. Additional market conduct actions, including those taken subsequent to market analysis as a result of the findings of or indications from market analysis include: correspondence with insurer; insurer interviews, information gathering; policy and procedure reviews; interrogatories; and review of insurer self-evaluation and compliance programs, including membership in a best-practice

organization. The Commissioner's activities to resolve an individual consumer complaint or other report of a specific instance of misconduct are not market conduct actions for purposes of this section."

**SECTION 2.** G.S. 58-2-132(f) reads as rewritten:

"(f) All working papers, information, documents, and copies thereof produced by, obtained by, or disclosed to the Commissioner or any other person in connection with an ~~examination~~– examination, market analysis, market conduct action, or financial analysis shall be given confidential treatment, are not subject to subpoena, and shall not be made public by the Commissioner or any other person. The Commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the Commissioner's official duties."

**SECTION 3.** This act becomes effective October 1, 2005.

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of July, 2005.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 1:52 p.m. this 20<sup>th</sup> day of July, 2005