



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 18, 1997

Ms. Mary Keller
Senior Associate Commissioner
Legal and Compliance, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104

OR97-2088

Dear Ms. Keller:

You ask this office to reconsider our decisions in Open Records Letter Nos. 97-0521 (1997), 97-1080 (1997), 97-1126 (1997), 97-1127 (1997), and 97-1128 (1997). Your request for reconsideration was assigned ID# 107853.

In Open Records Letter Nos. 97-0521 (1997), 97-1080 (1997), 97-1126 (1997), 97-1127 (1997), and 97-1128 (1997), we concluded that information which is submitted to the Commissioner of Insurance in his capacity as receiver of specified insurance companies is subject to the Open Records Act. We concluded that the receiver did not hold the information on behalf of the receivership court but on behalf of the Department of Insurance. We based our decisions, in part, on *El Paso Electric Co. v. Texas Department of Insurance*, 937 S.W.2d at 436 (Tex. 1996). You now contend, among other things, that amendments to the Insurance Code made by the Seventy Fifth Legislature, specifically the changes made by H.B. 1476, require a different conclusion regarding insurance company records held by a receiver. We have reviewed your arguments for withholding the information and the relevant amendments to the Insurance Code and overrule the above enumerated open records letter rulings to the extent they are in conflict with this ruling.

The Seventy Fifth Legislature amended section 11 of article 21.28 of the Insurance Code by adding subsection (f) which provides that

Chapter 552, Government Code, shall not apply to any records of a receivership estate, or to the records of an insurance company prior to its receivership, held by the receiver or by a special deputy receiver under this article.

Act of May 26, 1997, H.B. 1476, § 5, 75th Leg., R.S. (1997). You contend that insurance company records turned over to a receiver pursuant to Insurance Code article 21.28, section 4(e), and insurance company records filed with the Department of Insurance by special deputy receivers are not subject to required public disclosure under this new provision. We agree. The plain language of subsection (f) clarifies that the Open Records Act does not apply to insurance company records held by a special deputy receiver or submitted to the department by a special deputy receiver. Therefore, Open Records Letter Nos. 97-1080 (1997), 97-1126 (1997), 97-1127 (1997), and 97-1128 (1997) are overruled to the extent they conflict with this conclusion.¹

We note, however, that insurance company records were not at issue in Open Records Letter No. 97-0521 (1997). The information at issue in that ruling involved bid proposals submitted to the department and department evaluations of the proposals. As you focus your request for reconsideration solely on our conclusions regarding the status of insurance company records held by the department and special deputy receivers, we affirm our decision in Open Records Letter No. 97-0521 (1997).

If you have any questions about this ruling, please contact our office.

Yours very truly,



Sandra L. Coaxum, C.P.A.
Chief, Open Records Division

SLC/JDB/rho

Ref: ID# 107853

Enclosures: Submitted documents

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¹As we conclude that insurance company records are not subject to the Open Records Act pursuant to Insurance Code article 21.28, section 4(e), we do not address your other arguments for withholding the information.

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