

Effective 5/10/2016

7-1-802 Confidentiality of information received by department -- Availability of information.

- (1) The commissioner shall receive and place on file in the department's office all reports required by law and shall certify all reports required to be published.
- (2) Except as provided in this section, the following are confidential, not public records, and not open to public inspection:
 - (a) all reports received or prepared by the department;
 - (b) all information obtained from an institution or person under the jurisdiction of the department; and
 - (c) all orders and related records of the department.
- (3) The following records and information are public and are open to public inspection:
 - (a) reports of condition required by Section 7-1-318;
 - (b) information that is otherwise generally available to the public; and
 - (c) information contained in, and final decisions on, an application filed under Sections 7-1-702, 7-1-703, 7-1-704, 7-1-705, 7-1-706, 7-1-708, 7-1-709, 7-1-712, 7-1-713, or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, excluding:
 - (i) proprietary information, business plans, and personal financial information; and
 - (ii) information for which:
 - (A) the applicant requests confidentiality; and
 - (B) the commissioner grants the request for confidentiality.
- (4) The department may disclose records and information that are not public to the following:
 - (a) to an agency or authority:
 - (i) that regulates:
 - (A) the subject of the record; or
 - (B) an affiliate of the subject of the record, as defined by the commissioner by rule; and
 - (ii) is of:
 - (A) the federal government;
 - (B) the state; or
 - (C) another state;
 - (b) to a federal deposit insurance agency;
 - (c) to an official legally authorized to investigate criminal charges in connection with the affairs of the subject of the record, and to any tribunal conducting legal proceedings resulting from such an investigation;
 - (d) to a person preparing a proposal for merging or acquiring an institution under Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, but only after the department provides notice of the disclosure to the institution;
 - (e) to any other person, if the commissioner determines, after notice to the institution or person that is the subject of the record and opportunity for hearing, that the interests favoring disclosure of the information outweigh the interests favoring confidentiality of the information; and
 - (f) to any court in a proceeding under:
 - (i) Sections 7-1-304, 7-1-320, 7-1-322; or
 - (ii) a supervisory action under Chapter 2, Possession of Depository Institution by Commissioner, or Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.
- (5) The commissioner may limit the use and further disclosure of any information disclosed under Subsection (4):

- (a) to protect the business confidentiality interest of the subject of the record; and
 - (b) to protect the public interest, such as to avoid:
 - (i) a liquidity crisis in a depository institution; or
 - (ii) undue speculation in securities or currency markets.
- (6) The department shall disclose information in the manner and to the extent directed by a court order signed by a judge from a court of competent jurisdiction if:
- (a) the disclosure does not violate applicable federal or state law;
 - (b) the information to be disclosed deals with a matter in controversy over which the court has jurisdiction;
 - (c) the person requesting the order has provided reasonable prior written notice to the commissioner;
 - (d) the court has considered the merits of the request for disclosure and has determined that the interests favoring disclosure of the information outweigh the interests favoring confidentiality of the information; and
 - (e) the court has appropriately limited the use and further disclosure of the information:
 - (i) to protect the business confidentiality interest of the subject of the record; and
 - (ii) to protect the public interest, such as to avoid:
 - (A) a liquidity crisis in a depository institution; or
 - (B) undue speculation in securities or currency markets.
- (7) Notwithstanding the other provisions of this section, the commissioner may provide information from a report of an examination performed by the commissioner of the condition and affairs of a technology service provider to a depository institution serviced by the technology service provider.

Amended by Chapter 288, 2016 General Session