



Rules of
Department of Insurance,
Financial Institutions and
Professional Registration
Division 10—General Administration
Chapter 2—Public Meetings and Records

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**Title 20—DEPARTMENT OF
INSURANCE, FINANCIAL
INSTITUTIONS AND
PROFESSIONAL REGISTRATION**

**Division 10—General Administration
Chapter 2—Public Meetings and Records**

20 CSR 10-2.100 Custodian of Records

PURPOSE: This rule complies with sections 610.023 and 610.028, RSMo regarding appointing a custodian of records.

(1) Records of the director and the consumer affairs, insurance market regulation, insurance company regulation and resource administration divisions. Pursuant to section 610.023, RSMo, the director is the custodian of records of the department, except those records that are required by statute to be maintained by the director of finance, director of credit unions, director of professional registration, or any agency, board or commission assigned to those divisions. The department director has delegated to the director of the Resource Administration Division the task of acting as the custodian who is to be responsible for the maintenance of the records of the department relating to the director's powers and duties under Chapters 354, and 374 through 385, RSMo, or any other provision relating to the business of insurance, or duties, powers or functions delegated to the Consumer Affairs Division, the Insurance Company Regulation Division, the Insurance Market Regulation Division, or the Resource Administration Division. The director of resource administration is located at PO Box 690, Truman Building, Room 530, 301 West High Street, Jefferson City, MO 65102. Further information regarding the organization of the department is contained in 20 CSR 10-1.010.

(2) Division of Finance Records. Pursuant to section 610.023, RSMo, the director of finance is the custodian of records of the Division of Finance and the State Banking Board. The director of finance is located at PO Box 716, Truman Building, Room 630, 301 West High Street, Jefferson City, MO 65102.

(3) Division of Credit Union Records. Pursuant to section 610.023, RSMo, the director of credit unions is the custodian of records of the Division of Credit Unions and the Credit Union Commission. The director of credit unions is located at PO Box 1607, Truman Building, Room 720, 301 West High Street, Jefferson City, MO 65102.

(4) Division of Professional Registration Records. Pursuant to section 610.023, RSMo, the director of professional registration is the custodian of records of the Division of Professional Registration. Each board and commission assigned to the Division of Professional Registration may designate an executive director in the division as the custodian of records for that particular board or commission. The director of professional registration is located at PO Box 1335, 3605 Missouri Boulevard, Jefferson City, MO 65102.

*AUTHORITY: section 374.045, RSMo 2000. * This rule was previously filed as 4 CSR 190-1.020(1). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed April 25, 1996, effective Dec. 30, 1996. Amended: Filed Oct. 15, 2007, effective May 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 10-2.200 Release of Information

PURPOSE: This rule complies with sections 610.023 and 610.028, RSMo regarding release of information.

(1) Release of Information. Pursuant to section 610.028, RSMo, the provisions of 20 CSR 10-2 constitute the department's reasonable written policy in compliance with sections 610.010–610.030, RSMo, open to public inspection, regarding the release of information on any meeting, record or vote. This policy must be applied in a manner consistent with other state and federal laws placing restrictions on the records of the department and its divisions, boards and commissions.

*AUTHORITY: section 374.045, RSMo 2000. * This rule was previously filed as 4 CSR 190-1.020(2). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed Jan. 15, 1992, effective June 25, 1992. Amended: Filed Oct. 15, 2007, effective May 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 10-2.300 Meetings

PURPOSE: This rule complies with sections 610.023 and 610.028, RSMo regarding open meetings.

(1) Public Governmental Bodies.

(A) Department. The department is a public governmental body under section 610.010(2), RSMo, for purposes of meetings. The department is meeting as a public governmental body and conducting a public meeting whenever a majority of the employees of the department are allowed, invited or required to attend the meeting for the purpose of discussing or deciding the department's functions. Public meetings do not include social gatherings where there is no intent to avoid the purposes of Chapter 610, RSMo. Public meetings of the department also include rulemaking hearings and contested case hearings before the director in the director's administrative or adjudicative capacity. Contested case hearings include only those hearings at which the director or an appointed hearing officer presides and of which all parties to the case have notice.

(B) Divisions. The divisions of the department are each public governmental bodies under section 610.010(2), RSMo, for purposes of meetings. A division is conducting a public meeting and meeting as a public governmental body whenever a majority of the employees of the division are allowed, invited or required to attend the meeting for the purpose of discussing or deciding the department's functions. Public meetings do not include social or ministerial gatherings where there is no intent to avoid the purposes of Chapter 610, RSMo. Public meetings of the division also include rulemaking hearings and contested case hearings before a division director in the director's administrative or adjudicative capacity. Contested case hearings include only those hearings at which the director or an appointed hearing officer presides and of which all parties to the case have notice.

(C) Boards, Commissions, and Advisory Committees. The various boards, commissions and advisory committees, whether created by statute or by executive order of the governor are each public governmental bodies under section 610.010(2), RSMo, for purposes of meetings.

(D) Sections and Other Organizational Units. Other organizational units within the department are not public governmental bodies under section 610.010(2), RSMo. Neither the director nor any single employee or agent of the department shall be considered a public governmental body under section 610.010(2), RSMo for purposes of meetings because a single member body cannot have meetings.



(E) The department, division, board, commission or committee official leading the public meeting shall ensure public notice of the meeting is given under section 610.020, RSMo, whether the meeting remains open or by vote may be closed. Such official shall also ensure minutes of the meeting are created and maintained.

(F) In addition to any meetings that are public by law, any meeting of the department or one of its divisions, boards, commissions or committees that has been announced as a public meeting shall be open to the public, except to the extent of any applicable provision of section 610.021, RSMo. No meeting which is not described in this rule as a public meeting shall be open to the public.

(2) Notice.

(A) Except as otherwise set forth in this rule, notice of the time, date and place of any public meeting open to the public, and its tentative agenda, shall be posted in the reception area to the principal office of the department and the relevant division at least twenty-four (24) hours prior to the commencement of the meeting, unless circumstances under section 610.020, RSMo, dictate otherwise. Copies of the notice shall be made available to any representative of the news media who requests notice of a particular meeting at least twenty-four (24) hours prior to the commencement of the meeting.

(B) Notice of any hearing on a proposed rulemaking shall be given by publication in the *Missouri Register* under section 536.021.2(6), RSMo.

AUTHORITY: section 374.045, RSMo 2000. This rule was previously filed as 4 CSR 190-1.020(2)(A). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed Jan. 15, 1992, effective June 25, 1992. Amended: Filed Oct. 15, 2007, effective May 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995.*

20 CSR 10-2.400 Records

PURPOSE: This rule complies with sections 610.023 and 610.028, RSMo regarding public records.

(1) Access. Any member of the public may have access to any open record of the department. As used in this rule, the department includes the director, deputy director, division directors, and any employee or agent of

the department acting in his/her official capacity. Written request must be made of the custodian of records before access will be granted. Telephone requests may be granted at the discretion of the custodian of records.

(2) Open Records. Any public record, as that phrase is defined in section 610.010(4), RSMo, shall be an open record unless it is described as a closed record under section (3) of this rule.

(3) Closed Records. Any closed record is not subject to disclosure. The following list is the exclusive list of closed records of the department and its divisions:

(A) Any communication relating to current or contemplated administrative, civil or criminal regulatory or enforcement action whatsoever, between the director, deputy director, division directors, general counsel, any member of the department or a division within the department or its representatives and its attorneys (see section 610.021(1), RSMo);

(B) Work product of any attorney for the department or its representatives (see section 610.021(1), RSMo);

(C) Any record which relates to leasing, purchase or sale of real estate by the department where public knowledge of the transaction might adversely affect its legal consideration (see section 610.021(2), RSMo);

(D) Personnel records relating to specific employees which are maintained for the purpose of hiring, firing, disciplining or promoting (see section 610.021(3), RSMo). These records include, but are not limited to, any record which discloses information about a specific employee, such as the time spent by an employee on particular tasks, the amounts of travel expenses charged by an employee or the amounts of travel expenses charged by an examiner for specific examinations. Any record which merely identifies an employee as its author or as the person to whom the record was directed is not a record maintained for the purpose of hiring, firing, disciplining or promoting;

(E) Testing and examination materials prepared by or under contract with the department (see section 610.021(7), RSMo). Tests and examinations are repeated indefinitely;

(F) Preparation, including any discussions or work product, on behalf of the department or its representatives for negotiation with employee groups (see section 610.021(9), RSMo);

(G) Software codes for electronic data processing and documentation (see section 610.021(10), RSMo);

(H) Specifications for competitive bidding, until either the specifications are officially approved by the department or the specifications are published for bid (see section 610.021(11), RSMo);

(I) Sealed bids and related documents, until the earlier of either when the bids are opened or all bids are accepted or all bids are rejected (see section 610.021(12), RSMo);

(J) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment (see section 610.021(13), RSMo). These records include, but are not limited to, personnel files and records which identify an individual employee or applicant and state any information about the employee or applicant, such as time spent on particular tasks or performance appraisals. Records which merely identify an employee as its author or as the person to whom the record was directed are not closed records under this subsection. The names, positions, salaries and lengths of service of officers and employees of the department once they are employed are not closed records under this subsection. Salaries means the annual wages paid to the officer or employee;

(K) Records protected from disclosure by law. Records of the department and its divisions, which are closed by operation of section 610.021(14), RSMo, and other statutory provisions including, but are not limited to, the following:

1. Insurance examination and investigation records under section 374.070.1, RSMo.

A. Work product and work papers of examinations of companies and investigations of companies and insurance producers are closed. "Work papers" means records produced by the director, his/her employees or agents in the course of the author's duties, during and pursuant to the examination or investigation, including any examination or investigation report. "Work papers" do not, however, include communications between an examiner or investigator and other employees or agents of the department. These communications may be confidential communications, but are not work papers. Except as otherwise provided in this rule or by applicable law, work papers shall not become open to public inspection.

B. Confidential communications to the department are closed. "Confidential communications" means any communication produced by the director, his/her employees or agents in the course of the author's duties, which communication is intended by the author to be accessible only by employees or



agents of the department. The author is presumed to have intended to limit access to employees or agents of the department if the communication was directed to him/herself, a department file, or another employee or agent of the department, with no indication that it was directed or that a copy was provided to anyone who was not then an employee or agent of the department. A confidential communication becomes an open record if and only if the director so decides in writing with reference to the specific communication under consideration;

2. Trade secret of persons under sections 417.450–417.467, RSMo. Records containing any trade secret under section 417.453(4), RSMo are closed records if the trade secret has been reasonably designated as such. If the trade secret can be redacted from a record that is otherwise open, the record may be open. The director may employ reasonable procedures to evaluate claimed trade secrets under paragraph (3)(L)8. of this rule, and may open records determined to not contain trade secrets under those procedures;

3. Insurance producer registry under section 375.022, RSMo. Any information filed by an insurance company or obtained by the department pursuant to section 375.022, RSMo and any document, record or statement required by the department under the provisions of section 375.022, RSMo;

4. Insurance examination records under section 374.205, RSMo. All working papers, recorded information, documents and copies thereof in the course of an examination are confidential;

5. Insurance investigation records under sections 374.071 and 374.190, RSMo. All records, books, papers, documents obtained pursuant to an inquiry into or investigation of an insurance company or producer under section 374.190, RSMo are closed;

6. Report of the Missouri Property and Casualty Guaranty Association under section 375.776.5(3), RSMo. Any report or recommendation by the guaranty association to the department upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or to the solvency of any company seeking to do insurance business in this state is confidential under section 375.776.5(3), RSMo;

7. Reports of the Missouri Life and Health Insurance Guaranty Association under section 376.743, RSMo. Any report or recommendation by the guaranty association to the director upon any matter germane to the solvency, liquidation, rehabilitation or con-

servation of any member insurer or to the solvency of any company seeking to do insurance business in this state is confidential under section 376.743, RSMo;

8. Insurer registration and examination records under section 382.230, RSMo. All information, documents and copies obtained by or disclosed to the department or any other person in the course of an examination or investigation made pursuant to section 382.220, RSMo, and all information reported pursuant to section 382.100, RSMo. The director in his/her sole discretion may make any record under this paragraph an open record by following the provisions of section 382.230, RSMo;

9. Real estate malpractice insurance reporting under section 383.069, RSMo. Information reported, compiled or summarized relating to real estate malpractice is closed under section 383.069, RSMo;

10. Legal malpractice insurance reporting under section 383.083, RSMo. Information reported, compiled or summarized relating to legal malpractice is closed under section 383.083, RSMo;

11. Medical malpractice insurance reporting under section 383.115, RSMo. Information submitted pursuant to section 383.105.2(1), (3) and (6), RSMo, relating to medical malpractice, except as provided in section 383.125, RSMo is closed under section 383.115, RSMo. Statistics in summary form of the information submitted pursuant to sections 383.100–383.125, RSMo, except as otherwise provided in this paragraph shall be an open record;

12. Insurance consumer complaints under section 374.071, RSMo. Consumer complaint records in their entirety are closed under the open records law, but are subject to disclosure pursuant to subpoena. The department does offer consumers submitting a complaint the option to pre-authorize the release of a copy of the consumer's complaint upon request to any interested person, thereby creating an open record. Pursuant to section 374.071.3, RSMo, the department shall also provide on request the following open records pertaining to consumer complaints:

A. Incident reports which summarize the facts and circumstances surrounding each consumer report or complaint without identifying the name or identifying characteristics of the consumer unless authorized by the consumer; and

B. Publish complaint data without identifying consumer information, so other consumers are able to make informed decisions in selecting an insurer;

13. Financial institution and company examination records under section 361.080, RSMo. Examination and investigative work papers and records of bank or trust companies or small loan businesses are confidential;

14. Professional registration investigation records under section 620.111, RSMo. Complaint files, investigation files and investigative reports concerning persons regulated by the Division of Professional Registration or boards or commissions assigned to that division are confidential and therefore closed records. At the discretion of the agency, a record may be released in some circumstances;

15. Accountant investigation reports under section 326.134, RSMo. Complaint files, investigation files and investigative reports concerning accountants are confidential and therefore closed records; and

16. Any other record expressly protected from disclosure by applicable law of this state or of the federal government; and

(L) Public records relating to scientific and technological innovations in which the owner has a proprietary interest (see section 610.021(15), RSMo).

(4) Records of the Missouri Property and Casualty Insurance Guaranty Association, Missouri Life and Health Insurance Guaranty Association, Missouri Basic Property Insurance Inspection and Placement Program, and the joint underwriting association formed under section 303.200, RSMo are not public records of the director except to the extent that the department has physical custody of these records. These records cannot be obtained by making a request to the custodian of records, except to the extent that the department has physical custody of these records.

(5) Charges. The department and its divisions will follow the provisions of section 610.026, RSMo, in charging fees for providing access and furnishing copies of public records. The department or its divisions will furnish a bill for any charges either prior to or concurrently with providing access or furnishing copies. The charges for furnishing copies of records maintained on computer facilities may include charges for programming the computer to furnish the records in the format requested if the department or division does not otherwise maintain the records in the format requested.



(6) Format of Records. Copies of open records maintained on computer facilities will be furnished in any format requested which can be produced by the computer. Copies of open records not maintained on computer facilities will be provided only in the format maintained by the department or its divisions.

(7) Partially Closed Records. A request for access to records which are closed in part and open in part will be granted if possible by deleting those parts which are closed. If the request cannot be granted in part without disclosing a closed record, the entire request will be refused and the entire record will be a closed record.

(8) Procedure for Trade Secrets under Paragraph (3)(K)2. of this Rule.

(A) Records of others, including duplicates of records of insurance companies and insurance producers in the possession of the department will be open records, except as otherwise provided by law or in this rule.

(B) If a person transmits their record to the department and wishes to claim that the record is closed or confidential, the department will maintain the record as closed, except as otherwise provided in subsection (C) of this section (8). In order to be effective, a claim of a closed record or confidentiality of a record must state in bold or other clearly distinguishable type on the face of the record or on the face of the cover letter accompanying the record, that the record is closed or confidential and the reason the record is asserted to be closed or confidential, e.g., “Confidential—Trade Secret.”

(C) Except as otherwise provided by law, the department may grant public access to a record claimed to be closed or confidential under subsection (B) of this section (8), but only if on a case-by-case basis the director applies the following procedures and standards:

1. The department shall notify in writing the insurer, or other person which provided the record, of the possible public release of such record. The written notice from the department shall state—

A. That the insurer or other affected person shall have an opportunity to submit information to demonstrate that such record should still be considered a closed record; and

B. A specific date, not less than ten (10) days from the date of the notice, until which the insurer or other affected person shall have an opportunity to file such information;

2. Upon the filing of information in the form described in paragraph (8)(C)1., the department will maintain the insurer’s or other affected person’s record as a closed record, unless and until such time as the department provides the insurer or other affected person with written prior notice to the contrary. Any such prior notice will be provided at least ten (10) days prior to public access being granted to the data and will include a statement substantially as follows: Unless otherwise ordered by a court of competent jurisdiction, the department will make your record available to the public on and after the following date: (month, date, and year);

3. The filing of information in the form described in paragraph (8)(C)1.—

A. Shall not create any substantive rights; and

B. May be considered by the department as evidence of, but shall create no presumption regarding, confidentiality of the record at issue; and

4. If an insurer or other affected person filing information described in paragraph (8)(C)1. believes such information would itself contain confidential material, the department will maintain such information as a closed record if the insurer identifies such information as containing confidential material and simultaneously files a redacted version of such information for public access.

AUTHORITY: section 374.045, RSMo 2000 and section 610.028, RSMo Supp. 2007. This rule previously filed as 4 CSR 190-1.020(2)(B). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed Jan. 15, 1992, effective June 25, 1992. Amended: Filed June 15, 1995, effective Jan. 30, 1996. Amended: Filed Dec. 1, 1997, effective June 30, 1998. Amended: Filed Oct. 1, 1998, effective April 30, 1999. Emergency amendment filed Aug. 18, 2005, effective Aug. 28, 2005, expired Feb. 23, 2006. Amended: Filed Aug. 18, 2005, effective Feb. 28, 2006. Amended: Filed Oct. 15, 2007, effective May 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 610.028, RSMo 1982, amended 1987, 2004.*

20 CSR 10-2.500 Votes

PURPOSE: This rule complies with sections 610.023 and 610.028, RSMo regarding release of information.

(1) Department Administration. The provisions of Chapter 621, RSMo, relating to votes do not apply to administrative decisions made in the department which relate to the director’s executive powers and duties because rules, policies and decisions of the department and its divisions are decided by the department director or the division directors individually and a single member body cannot have votes.

(2) Boards and Commissions. The provisions of Chapter 621, RSMo relating to votes apply to decisions of various boards and commissions in the department.

AUTHORITY: section 374.045, RSMo 2000 and section 610.028, RSMo Supp. 2007. This rule was previously filed as 4 CSR 190-1.020(2)(C). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed Oct. 15, 2007, effective May 30, 2008.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 610.028, RSMo 1982, amended 1987, 2004.*

20 CSR 10-2.600 Effective Date

PURPOSE: This rule complies with sections 610.023 and 610.028, RSMo regarding release of information.

Effective Date. As a written policy under section 610.028, RSMo, the provisions of 20 CSR 10-2 are effective November 15, 1989. As rules, the provisions of 20 CSR 10-2 are effective February 25, 1990.

AUTHORITY: sections 374.045, RSMo 1986 and 610.028, RSMo Supp. 1989. This rule was previously filed as 4 CSR 190-1.020(3). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990. Amended: Filed Jan. 15, 1992, effective June 25, 1992.*

**Original authority: 374.045, RSMo 1967 and 610.028, RSMo 1982, amended 1987.*