



Rules of
Department of Insurance
Division 10—General Administration
Chapter 2—Sunshine Rules (Meetings and Records)

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**Title 20—DEPARTMENT OF
INSURANCE**

**Division 10—General Administration
Chapter 2—Sunshine Rules (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.

Custodian of Records. Pursuant to section 610.023, RSMo, the director is the custodian of records, but s/he has delegated to the director of the Division of Resource Administration the task of acting as the custodian who is to be responsible for the maintenance of the records of the Missouri Department of Insurance (MDI). The director of the Division of Resource Administration is located at the offices of the MDI, P.O. Box 690, 301 West High Street, Jefferson City, MO 65102. Further information regarding the organization of the MDI is contained in 20 CSR 10-1.010.

AUTHORITY: sections 374.045, RSMo Supp. 1995 and 610.023, RSMo 1994. 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.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 610.023, RSMo 1987.*

20 CSR 10-2.200 Release of Information

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

Release of Information. Pursuant to section 610.028, RSMo, the provisions of 20 CSR 10-2 constitute the Missouri Department of Insurance's (MDI) 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.

AUTHORITY: sections 374.045, RSMo 1986 and 610.028, RSMo Supp. 1989. 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.*

**Original authority: 374.045, RSMo 1967 and 610.0289, RSMo 1982, amended 1987.*

20 CSR 10-2.300 Meetings

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

(1) Application of Sunshine Law.

(A) The Missouri Department of Insurance (MDI) is a public governmental body under section 610.010(2), RSMo for purposes of meetings. The MDI is conducting a public meeting and meeting as a public governmental body whenever a majority of the employees of the MDI are allowed, invited or required to attend the meeting. Public meetings of the MDI also include rulemaking hearings and contested case hearings before the MDI in its quasi-judicial capacity. Contested case hearings include only those hearings at which the hearing officer of the case presides and of which all parties to the case have notice.

(B) Neither the director nor any single employee or agent of the MDI 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.

(C) Notwithstanding any other provision of this rule, a public meeting does not include an informal gathering of members of the MDI for ministerial or social purposes when there is no intent to avoid the purposes of Chapter 610, RSMo.

(D) Any meeting of the MDI described 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 meeting open to the public, and its tentative agenda, shall be posted in the reception area to the principal office of the MDI at least twenty-four (24) hours prior to the commencement of the meeting. 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) The provisions of subsections 610.020.2, and 3, RSMo shall apply to any meeting not held at the principal office of the MDI or held upon fewer than twenty-four (24) hours' notice.

(C) 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: sections 374.045, RSMo 1986 and 610.028, RSMo Supp. 1989. 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.*

**Original authority: 374.045, RSMo 1967 and 610.0289, RSMo 1982, amended 1987.*

20 CSR 10-2.400 Records

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

(1) Access. Any member of the public may have access to any open record of the Missouri Department of Insurance (MDI). As used in this rule, MDI includes the director and any employee or agent of the MDI 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 MDI:

(A) Any communication between a member of the MDI or its representatives and its attorneys (see section 610.021(1), RSMo);

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

(C) Any record which relates to leasing, purchase or sale of real estate by the MDI 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 MDI (see section 610.021(7), RSMo). Tests and examinations are repeated indefinitely;

(F) Preparation, including any discussions or work product, on behalf of the MDI 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 MDI 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 MDI once they are employed are not closed records under this subsection. Salaries means the annual wages paid to the officer or employee;

(K) Records which are protected from disclosure by law (see section 610.021(14), RSMo). These records include, but are not limited to, the following:

1. Work product of the director, his/her employees and agents under section 374.070.1, RSMo. There are two (2) types of work product—

A. Work papers of examinations of companies and investigations of companies, agents, brokers and insurance agencies. Work papers means records produced during and pursuant to the examination or investiga-

tion, including any examination or investigation report and any records provided to the examiner or investigator during the course of the examination or investigation. Work papers do not, however, include communications between an examiner or investigator and other employees or agents of the MDI. These communications may be confidential communications, but are not work papers. Work papers shall not become open to public inspection, except as otherwise provided by law.

B. Confidential communications to the Department of Insurance. 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 MDI. The author is presumed to have intended to limit access to employees or agents of the MDI if the communication was directed to him/herself, an MDI file, or another employee or agent of the MDI, 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 MDI. 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; and

2. Trade secret under sections 417.450–417.467, RSMo. The MDI will not disclose information that is trade secret under section 417.453(4), RSMo, where such disclosure would constitute a misappropriation under section 417.453(2), RSMo.

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

4. Court papers, reports and other records relating to any conservatorship action under section 375.565, RSMo, except as the court may otherwise order;

5. Report and recommendations made by the board of directors of the Missouri Property and Casualty Guaranty Association to the MDI upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer (see section 375.776.5(3), RSMo);

6. All information, documents and copies obtained by or disclosed to the MDI 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;

7. Information reported, compiled or summarized pursuant to section 383.060–383.069, RSMo relating to real estate malpractice (see section 383.069, RSMo);

8. Information reported, compiled or summarized pursuant to sections 383.075–383.083, RSMo relating to legal malpractice (see section 383.083, RSMo);

9. 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. 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 a matter of public record (see section 383.115, RSMo);

10. Reports and recommendations of the board of directors of the Missouri Life and Health Insurance Guaranty Association to the director upon any matter germane to the solvency, liquidation, rehabilitation or conservatorship of any member insurer or germane to the solvency of any company seeking to do insurance business in this state (see section 376.743, RSMo); and

11. 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 MDI except to the extent that the MDI 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 MDI has physical custody of these records.

(5) Charges. The MDI will follow the provisions of section 610.026, RSMo in charging fees for providing access and furnishing copies of public records. The MDI 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 MDI 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 MDI.

(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) Information Received from Persons and Entities Other Than the MDI.

(A) Records of others, including duplicates of records of insurance companies, agents, agencies and brokers, in the possession of the MDI will be open records, except as otherwise provided in this section (8).

(B) If a person transmits their record to the MDI and wishes to claim that the record is confidential, the MDI 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 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 confidential and the reason the record is asserted to be confidential, e.g., "Confidential—Trade Secret."

(C) The MDI may grant public access to a record claimed to be 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 MDI 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 MDI 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 MDI will maintain the insurer's or other affected person's record as a closed record, unless and until such time as the MDI 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 MDI 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 MDI 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 MDI 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: sections 374.045, RSMo Supp. 1997 and 610.028, RSMo 1994. This rule was 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.*

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

20 CSR 10-2.500 Votes

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

Votes. The provisions of Chapter 621, RSMo relating to votes do not apply to the Missouri Department of Insurance (MDI) because rules, policies and decisions of the MDI are

decided by its director and a single member body cannot have votes.

AUTHORITY: sections 374.045, RSMo 1986 and 610.028, RSMo Supp. 1989. This rule was previously filed as 4 CSR 190-1.020(2)(C). Original rule filed Nov. 15, 1989, effective Feb. 25, 1990.*

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

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.*