



July 1, 2010

Administrative Letter 2010-07

To: All Licensed Insurers and Rate Service Organizations Subject to the Provisions of Chapter 19 of Title 38.2 of the Code of Virginia

Re: Requests for Trade Secret Protection of Rates and/or Supplementary Rate Information Pursuant to House Bill No. 531

Effective July 1, 2010, § 38.2-1907 (Filings Open to Inspection) is amended to allow insurers and rate service organizations (RSO) to request confidentiality of rates and supplementary rate information provided that such information constitutes a trade secret pursuant to § 59.1-336. The Bureau of Insurance (Bureau) has established the following procedural requirements for filers to follow when submitting requests for confidentiality of trade secret information:

- Filings are open to the public pursuant to § 38.2-1907. A filing will be held confidential by the Bureau ONLY if the insurer or RSO has requested trade secret protection and submitted the appropriate documentation.
- The request for trade secret protection must be submitted with the filing. If the Bureau disagrees with the assertion that such documents should be protected as a trade secret, the insurer or RSO will be given the opportunity to further justify its position.
- The request for trade secret protection must contain the following information (see sample form attached):
 - Information identifying the insurer or RSO making the request (e.g., name of the individual submitting the request, insurer's or RSO's name and NAIC number, mailing address, e-mail address, phone number, and fax number).
 - A detailed explanation identifying the content of the filing for which confidentiality is requested with sufficient details to demonstrate why the content constitutes a trade secret as defined in § 59.1-336. **Please note that "trade secret" is defined in § 59.1-336 as "...information, including but not limited to, a formula, pattern, compilation, program, device, method, technique, or process that: (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy."**
 - A detailed explanation as to how the release of the information would cause economic injury to the insurer or rate service organization.
 - The names of the states in which trade secret protection has been requested for the filing and the outcome of each request.

- In order to protect the confidentiality of the trade secret documents, filings with requests for trade secret protection should contain ONLY the materials to be protected, and the filing should be clearly designated as “confidential.” For example, do not file rates in the same filing as a trade secret rule. Please provide a cross-reference for any associated companion filing (e.g., SERFF tracking number, company filing number, etc.). **The Bureau will reject SERFF filings and return paper filings that contain a combination of trade secret and public record materials.**
- If a filing under trade secret protection is challenged by a member of the public, the Bureau will notify the insurer or RSO of the challenge. The documents will remain confidential until the matter is resolved.

Any questions related to this administrative letter may be directed to:

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Cordially,



Alfred W. Gross
Commissioner of Insurance

AWG/rn

Attachment

**Request for Trade Secret Protection
Pursuant to § 38.2-1907 of the Code of Virginia**

Requests for the protection of the content of a filing as a trade secret pursuant to § 38.2-1907 must contain the following information. It is your responsibility to claim trade secret protection where it is needed and to demonstrate that the information constitutes a trade secret as defined in § 59.1-336.

1. Identification of the party requesting trade secret protection:

Name of Insurance Company/RSO: _____

NAIC #: _____

Name of Authorized Representative: _____

Title of Authorized Representative: _____

Address: _____

E-mail address: _____

Telephone: _____

Fax: _____

2. Provide a detailed explanation of the content of the filing for which confidentiality is requested and why it constitutes a trade secret as defined in § 59.1-336 (use additional pages as required): _____

3. Provide an explanation as to how the release of the information would cause economic injury to the insurer or rate service organization (use additional pages as required):

4. The names of the states in which trade secret protection has been requested for the filing and the outcome of each request: _____

Signature of authorized representative: _____

Date: _____