

2026 Regular Session

HOUSE BILL NO. 736

BY REPRESENTATIVE GREEN

INSURANCE: Provides for the transparency of setting insurance rates

1 AN ACT

2 To amend and reenact R.S. 22:1464(D), relative to transparency in rate filing; to provide
3 criteria for determining whether certain information qualifies as a trade secret; to
4 provide for trade secret protection; to require the submission of a notice of a trade
5 secret to the commissioner of insurance; to provide for reporting; to provide for fines
6 and penalties; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:1464(D) is hereby amended and reenacted to read as follows:

9 §1464. Rate filing

10 * * *

11 D.(1) All rates, supplementary rate information, and any supporting
12 information filed pursuant to this Subpart shall be open to public inspection upon
13 expiration of the notification period as applicable pursuant to R.S. 22:1451, or upon
14 disapproval, except for information that is confidential, trade secret, or proprietary.
15 The determination of whether such information is in fact confidential, trade secret,
16 or proprietary shall be made by the commissioner in accordance with the following
17 procedures set forth in this Subsection.

18 (2)(a) ~~If the commissioner receives a request for any information which has~~
19 ~~been marked by the insurer or filer as confidential, trade secret, or proprietary, prior~~
20 ~~to disclosure, the commissioner shall notify the insurer or filer in writing of the~~

1 ~~request and the commissioner's determination of whether or not the information so~~
2 ~~requested is subject to disclosure. Any insurer claiming that documents or~~
3 ~~information filed pursuant to the provisions of this Section contain trade secrets may~~
4 ~~file with the commissioner a notice of request for nondisclosure on the basis of trade~~
5 ~~secret protection. Failure to do so shall constitute a waiver of any claim that the~~
6 ~~document or information is a trade secret.~~

7 ~~(b) Within ten days of receipt of the notification, the insurer or filer may~~
8 ~~request a hearing before the division of administrative law in accordance with R.S.~~
9 ~~22:2191 et seq. In the event of a hearing request, the commissioner's determination~~
10 ~~as to whether the information is confidential, trade secret, or proprietary shall be~~
11 ~~stayed.~~

12 ~~(c) Any action brought pursuant to this Paragraph shall be tried by~~
13 ~~preference and in a summary manner. The court may review the documents in-~~
14 ~~camera before reaching a decision.~~

15 ~~(3) Nothing in this Subsection precludes the public examination or~~
16 ~~reproduction of any record or part of a record which is not confidential, proprietary,~~
17 ~~or trade secret. A claim that information is subject to non-disclosure on the grounds~~
18 ~~that it is a trade secret shall meet all of the following conditions:~~

19 ~~(a) It must be information, including a formula, pattern, compilation,~~
20 ~~program, device, method, technique, or process that derives independent economic~~
21 ~~value, actual or potential, from not being generally known to and not being readily~~
22 ~~ascertainable by proper means or by other persons who can obtain economic value~~
23 ~~from its disclosure or use; and is the subject of efforts that are reasonable under the~~
24 ~~circumstances to maintain its secrecy.~~

25 ~~(b) Each page of the document or a specific portion of the document claimed~~
26 ~~to be a trade secret shall be clearly marked as "trade secret".~~

27 ~~(c) All material marked as a trade secret shall be separated from all non-trade~~
28 ~~secret material and submitted in a separate envelope or document clearly marked as~~
29 ~~"trade secret".~~

1 (d) In submitting a notice of trade secret to the commissioner, the submitting
2 party shall include a sworn affidavit that states the basis for the claim that the
3 submission qualifies as a trade secret and attest to the truth of all of the following:

4 (i) The affiant considers this information to be a trade secret that has value
5 and provides an advantage or an opportunity to obtain an advantage over those who
6 do not know or use it.

7 (ii) The affiant has taken measures to prevent the disclosure of the
8 information to anyone other than those who has been selected to have access for
9 limited purposes and the affiant continues to take such measures.

10 (iii) The information is not and has not been reasonably obtainable by other
11 persons by use of legitimate means without the affiant's consent.

12 (iv) The information is not publicly available elsewhere, and the public
13 release of the information would cause actual, demonstrable harm to the affiant.

14 (e) It must include a summary prepared for the general public describing the
15 nature of the submission claimed to be a trade secret without disclosing the protected
16 details of the submission.

17 (4) The following shall not be considered a trade secret and shall be subject
18 to public disclosure:

19 (a) Any financial information, including data, models, or assumptions, used
20 in the calculation or justification for insurance rates.

21 (b) All transactions between an insurer and any affiliate, including but not
22 limited to, fees, commissions, payments, or profit-sharing agreements with managing
23 general agents, claims handlers, reinsurers, or third-party administrators.

24 (c) Office and employee compensation.

25 (d) Dividends paid to shareholders.

26 (e) Any information contained in rate filings.

27 (f) Any information used to support or oppose proposed legislation.

28 (g) The summary prepared in accordance with Paragraph (3)(e) of this
29 Section.

Proposed law repeals present law instead provides that any insurer that claims documents or information filed contain trade secrets may file a notice of request for nondisclosure on the basis of trade secret protection with the commissioner.

Present law allows the insurer or filer to request a hearing before the division of administrative law in accordance with present law (R.S. 22:2191), within 10 days of receipt of the notification to determine whether information is confidential, trade secret, or proprietary.

Proposed law repeals present law.

Present law provides that any action brought pursuant to present law shall be tried by preference and in a summary manner. Present law further provides that the court may review the documents in-camera before reaching a decision.

Proposed law repeals present law.

Present law provides that nothing in present law shall preclude the public examination or reproduction of any record or part of a record which is not confidential, proprietary, or trade secret.

Proposed law repeals present law and instead provides that a claim that information is subject to non-disclosure on the grounds that it is a trade secret shall meet all of the following requirements:

- (1) It must be certain information as provided in present law that derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means or by other persons who can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
- (2) Each page of the document or a specific portion of the document claimed to be a trade secret shall be clearly marked as a trade secret.
- (3) All material marked as a trade secret shall be separated from all non-trade secret material and submitted in a separate envelope or document clearly marked as trade secret.
- (4) The submitting party includes a sworn affidavit that states the basis for the claim that the submission qualifies as a trade secret.
- (5) It must include a summary prepared for the general public describing the nature of the submission claimed to be a trade secret without disclosing the protected details of the submission.

Proposed law provides that the aforementioned affidavit shall attest to the truth of certain criteria as listed in proposed law .

Proposed law provides that the following information shall not be considered a trade secret and, thus, shall be subject to public disclosure:

- (1) Any financial information, including data, models, or assumptions used in the calculation or justification for insurance rates.
- (2) All transactions between an insurer and any affiliate.
- (3) Office and employee compensation.

- (4) Dividends paid to shareholders.
- (5) Any information contained in rate filings.
- (6) Any information used to support or oppose proposed legislation.
- (7) The summary prepared in accordance with proposed law (R.S. 23:1464(D)(3)(e)).

Proposed law requires the commissioner to review all claims of trade secret protection submitted.

Proposed law provides that if the commissioner determines that the information does not meet the standard of a trade secret or falls within the categories provided for in proposed law, the claim shall be denied. Proposed law requires the department, upon the denial, to issue a written notice of denial to the submitting party.

Proposed law requires the commissioner, at least once every year, to contract with an independent third-party entity with expertise as required by proposed law to conduct an independent review of trade secret claims.

Proposed law imposes fines on any person who knowingly and falsely asserts a claim of trade secret protection in order to conceal unlawful financial practices.

(Amends R.S. 22:1464(D))